

MEMBERS OF THE INDUSTRIAL COMMISSION.

Senator JAMES H. KYLE.

Senator BOIES PENROSE.

Senator STEPHEN R. MALLORY.

Senator JOHN W. DANIEL.

Representative JOHN J. GARDNER.

Representative WILLIAM LORIMER.

Representative L. F. LIVINGSTON.

Representative JOHN C. BELL.

Representative THEOBOLD OTJEN.

Mr. LEE MANTLE.

Mr. ANDREW L. HARRIS.

Mr. S. N. DEXTER NORTH (till
July 1, 1899).

Mr. ALBERT CLARKE (after July
1, 1899).

Mr. ELLISON A. SMYTH.

Mr. JOHN M. FARQUHAR.

Mr. EUGENE D. CONGER.

Mr. THOMAS W. PHILLIPS.

Mr. CHARLES J. HARRIS.

Mr. M. D. RATCHFORD.

Mr. JOHN L. KENNEDY.

UNITED STATES INDUSTRIAL COMMISSION,
Washington, D. C., March 1, 1900.

SIR: In pursuance of an act of Congress approved June 18, 1898, I have the honor to transmit to you the Preliminary Report of the Industrial Commission, with accompanying documents.

I have the honor to transmit also a compilation of the laws of the United States and of the States and Territories affecting large industrial combinations, and the decisions under them, which has been prepared under the supervision of the Industrial Commission.

Respectfully,

JAMES H. KYLE,
Chairman.

THE SPEAKER OF THE HOUSE OF REPRESENTATIVES.

TABLE OF CONTENTS.

PART I.

	Page.
REPORT OF THE COMMISSION	5
REVIEW OF EVIDENCE	9
CHARTS SHOWING EFFECTS OF COMBINATIONS ON PRICES, WITH COMMENTS, BY JEREMIAH W. JENKS	39
TOPICAL DIGEST OF EVIDENCE—	
Sugar combinations	59
Whisky combinations	74
Standard Oil combinations	93
American Tin Plate Company	173
National Steel Company	190
American Steel Hoop Company	192
Federal Steel Company	194
American Steel and Wire Company	199
National Shear Company	205
International Silver Company	207
Glucose Sugar Refining Company	212
General aspects of combinations	213
INDEX OF DIGEST	255

PART II.

TESTIMONY BEFORE THE COMMISSION—	
General aspects of combinations	3
Sugar combinations	43
Whisky combinations	167
Standard Oil combinations	261
Sugar combinations (resumed)	801
Whisky combinations (resumed)	813
Tin plate combination	849
National Steel Company	943
American Steel Hoop Company	958
Tin plate and steel companies	959
Federal Steel Company	969
American Steel and Wire Company	1005
National Shear Company	1041
International Silver Company	1049
State corporation laws, transfer companies, etc	1077
Legislation—public control	1139
Appendix—charters and by-laws	1221
LIST OF WITNESSES	1263
INDEX OF TESTIMONY	1265
INDEX—STANDARD OIL COMPANY	1307

PRELIMINARY REPORT OF THE INDUSTRIAL COMMISSION.

To the Senate and House of Representatives, Fifty-sixth Congress:

The act of June 18, 1898, creating the Industrial Commission, authorizes it to "report from time to time to the Congress of the United States." As the subject of "Trusts," or Industrial Combinations, seemed to be one upon which there was pressing demand for trustworthy information, your Commission gave it early attention. Although we have examined sixty-two witnesses on trust topics, whose testimony is herewith submitted, our inquiry has been limited to eleven of the more prominent, but typical, combinations. This leaves quite a large field for further investigation, but the urgent demand for information leads us to submit what we have in hand at this time. As a result of our investigation of industrial combinations thus far, your Commission are of opinion that certain evils in connection with them should be checked by appropriate legislation. Experience proves that industrial combinations have become fixtures in our business life. Their power for evil should be destroyed and their means for good preserved. As a result of further investigation on our part, or of further development on the part of the combinations, it may be possible later to propose additional measures for relief without running the risk of increasing the evils. At present we propose the following, which, if severally adopted by the States, or so far as possible by the Federal Government, we are confident will be of great service and will not endanger business prosperity.

To prevent the organizers of corporations or industrial combinations from deceiving investors and the public, either through suppression of material facts or by making misleading statements, your Commission recommend:

(a) That the promoters and organizers of corporations or industrial combinations which look to the public to purchase or deal in their stocks or securities should be required to furnish full details regarding the organization, the property or services for which stocks or securities are to be issued, amount and kind of same, and all other material information necessary for safe and intelligent investment;

(b) That any prospectus or announcement of any kind soliciting subscriptions, which fails to make full disclosures as aforesaid, or which is false, should be deemed fraudulent, and the promoters, with their associates, held legally responsible;

(c) That the nature of the business of the corporation or industrial combination, all powers granted to directors and officers thereof, and all limitations upon them or upon the rights or powers of the members, should be required to be expressed in the certificate of incorporation, which instrument should be open to inspection by any investor.

The affairs of a corporation or industrial combination should be carried on, without detriment to the public, in the interest of its members, and under their lawful control. To this end the directors or trustees should be required:

(a) To report to the members thereof its financial condition in reasonable detail, verified by a competent auditor, at least once each year;

(b) To inform members regarding the method and conduct of business by granting them, under proper restrictions, access to records of directors' meetings, or otherwise;

(c) To provide for the use of members, before the annual meetings, lists of members, with their addresses and their several holdings; and

(d) To provide, in whatever other ways may be named in the certificate of incorporation, means whereby the members may prevent the misuse of their property by directors or trustees.

The larger corporations—the so-called trusts—should be required to publish annually a properly audited report, showing in reasonable detail their assets and liabilities, with profit or loss; such report and audit under oath to be subject to Government inspection. The purpose of such publicity is to encourage competition when profits become excessive, thus protecting consumers against too high prices and to guard the interests of employees by a knowledge of the financial condition of the business in which they are employed.

From the testimony given before the Commission, and herewith submitted, it has been proved that, before the passage of the Interstate Commerce Act, discriminating freight rates were frequently secured by large shippers. Other evidence herewith submitted, to be supplemented by additional testimony which will be laid before the Congress shortly, seems to show that like discriminating favors are even now granted. Believing that these discriminations clearly tend toward the control of business by large combinations, your Commission further recommend:

(a) That the Interstate Commerce Commission be given authority, not only to prescribe the methods of keeping accounts of the railroads and to demand reports in such detail as it may require, but also to inspect and audit said accounts;

(b) That the Interstate Commerce Law be so amended as to make the decisions of the Commission operative at a day fixed in the decisions and until reversed by the United States courts, on appeal;

(c) That the Interstate Commerce Commission be authorized to prescribe classifications of freight articles, and to make rules and regulations for freight transportation, throughout the United States; and

(d) That penalties for violations of the Interstate Commerce Act should be appropriate fines against the carrier, and not imprisonment of officials.

JAMES H. KYLE, *Chairman*.

BOIES PENROSE.

J. J. GARDNER (as to trusts).

* WM. LORIMER.

L. F. LIVINGSTON.

JNO. C. BELL.

THEO. OTJEN.

LEE MANTLE.

A. L. HARRIS.

ELLISON A. SMYTH.

JOHN M. FARQUHAR.

EUGENE D. CONGER.

THOS. W. PHILLIPS.

C. J. HARRIS.

M. D. RATCHFORD.

JOHN L. KENNEDY.

† ALBERT CLARKE.

* I concur in the recommendations of the commission on industrial combinations, but withhold my judgment on transportation corporations until testimony now being compiled by commission is submitted to Congress, with recommendations.

WM. LORIMER.

† I concur in all except paragraph marked (b), page 7. It seems to me better that rates fixed by Interstate Commerce Commission should not go into effect in case of appeal until affirmed by court, and that trial on appeal should be expedited.

ALBERT CLARKE.

REVIEW OF EVIDENCE.

INTRODUCTION.

The Industrial Commission has taken a mass of evidence regarding industrial combinations—facts regarding their organization and methods of work, opinions from all points of view regarding their effects, good and evil, upon business and society, and suggestions regarding legislation.

As, in the first instance, the most important task was to learn the facts regarding them, most of the witnesses summoned were either persons connected with the combinations—hence those inclined to see their favorable side—or their rivals, who were naturally led to see and speak of their evil aspects. An inevitable result has been that the evidence, even on questions of fact, has often been contradictory, and in some instances it has been impossible from the testimony so far taken to reach any positive conclusion. On the whole, however, a careful weighing of the evidence will lead to some conclusions regarding the nature of industrial combinations and their effects which seem fairly well justified. It should be kept clearly in mind through all the discussions that great capital or a great combination of capital has no necessary relation to monopoly, though it seems to be established that a virtual monopoly may at times be secured through the influence that comes merely from great capital.¹

COMPETITION THE CHIEF CAUSE.

Among the causes which have led to the formation of industrial combinations, most of the witnesses were of the opinion that competition, so vigorous that profits of nearly all competing establishments were destroyed, is to be given first place. Even Mr. Havemeyer said this, though, as he believed that in many cases the competition was brought about by the fact that the too high protective tariff had tempted many rivals into the field, he named the customs tariff law as the primal cause.² Many of the witnesses say that their organization was formed to make economies, to lessen competition and to get higher profits—another way of saying that competition is the cause without conceding that the separate plants were forced to combine.³ One or two witnesses simply mention the higher profits wanted or some like ambition, as when Chairman Gates asserts that the American Steel and Wire Company was formed because its organizers “wished to be the wire manufacturers of the world.”⁴

The methods by which the combinations hope to effect savings so as to keep new competitors from coming into the field will be mentioned under the advantages of combination, but it may be noted that they usually assert that they expect the increased profits to come from savings and lessened cost of production, and not from higher prices.

¹ Archbold, p. 569; Havemeyer, p. 118.

² Reid, p. 806; Havemeyer, p. 109; Clarke, pp. 168, 169; Luyties, 255; Thurber, p. 21; Atkins, p. 811.

³ Dodd, p. 1069; Griffiths, p. 808.

⁴ Page 1068.

THE FORM OF ORGANIZATION.

While the form of organization of the industrial combinations is not of so great importance, perhaps, as their effects upon prices and wages and society at large, it is nevertheless of consequence to see what legal form has been taken by those that from the point of view of their managers are most successful, especially if an effort is to be made to legislate regarding them.

The form of organization that has given them their name "trusts" was the one started by the Standard Oil Trust in 1882, afterwards followed by the Whisky combination—the Distillers and Cattle Feeders' Trust—and by the Sugar Trust—the American Sugar Refineries Company. The plan of that organization was as follows: The stockholders of the different corporations entering the combination assigned their stock in trust to a board of trustees without the power of revocation. That board of trustees then held the voting power of the stocks of the different companies, and was thus enabled, through the election of directors, to control them absolutely. In place of the stock thus received the trustees issued trust certificates upon which the former holders of the stock drew their dividends, these being paid upon the certificates regardless of what disposition was made of the plants of the different corporations. Owing largely to hostile legislation and to the bitter feeling against the trusts above named, these trusts, after some adverse decisions of the courts, went out of existence, reorganizing as single corporations in most cases, and none at the present time remain.

A somewhat similar form of organization, however—the voting trust—is found at times. In this form of trust the holders of at least a majority of stock of a single corporation put their stock into the hands of trustees for the purpose of voting it, retaining for themselves all the privileges of drawing dividends and making transfers. Such a voting trust has been formed, it is claimed, in the case of the Pure Oil Company—an organization of the independent oil interests—for the sake of protecting a majority of the stock against purchase by the Standard Oil Company. The Standard had bought large blocks of stock before in another independent company with the probable purpose of securing control. It will be observed that the purpose of such a trust is not to unite various corporations under one management, but to secure in perpetuity an agreed-upon policy without danger of interference through sales of individual shareholders.¹ Some profess to find danger in this form of voting trust, while others think it decidedly beneficial. It is, however, true that this form of trust may put the direction of a company into the hands of a comparatively few members, the trustees, who are in this way able to manage the affairs of the company and to secure it a permanent policy (whatever later wishes of stockholders may be) such as could not be secured under the ordinary corporate management with so great certainty.² At any rate, as a form of corporate combination for the sake of securing monopolistic control, the voting trust does not seem to be now in vogue.

The form of organization that seems most common at the present time is that of the single large corporation, which owns outright the different plants. A combination of this kind is formed by the purchase of all of the plants of the different corporations or individuals who enter into it, the corporations then dissolving as separate corporations. Often payments for the plants are made largely in stock of the new corporation, so that many of the former owners maintain their interest in the business. The affairs are then managed entirely by the stockholders of the one corporation through their board of directors, elected in the ordinary way. It is usual for these larger corporations to choose a very liberal form of charter.

A third form of organization, which is in many particulars quite like the original trust form, is that which has been taken by the Federal Steel Company, by the Dis-

¹ Phillips, pp. 581-598; Boyle, pp. 464-466; Archbold, pp. 508-513; Emery, pp. 657, 658.

² Dos Passos, p. 1174; Myers, p. 1181.

tilling Company of America, and others. In this form the central company, instead of purchasing the plants of the different corporations which it is proposed to unite, simply buys a majority of the stock, or possibly the entire stock of each one of the corporations. The separate corporations keep in separate corporate existence, but a majority of the stock being held by the one larger corporation, its officers, of course, elect the boards of directors of all of the separate corporations, and in this way hold ultimately complete control. It is usually true that the separate corporations manage their own affairs practically independently, although they are furnished information regarding the workings of the other establishments in the combination through the central officers, and are doubtless largely directed in their policy in this way.¹

In the case of the Standard Oil Company, when the original trust was dissolved, there were issued to the holders of trust certificates proportional amounts of stocks of each of the constituent companies, and since the trustees themselves had held a majority of the certificates, they retained as individuals a majority of the stock in each one of the companies that had formerly been in the trust. The separate corporations were named as separate corporations, but the majority of the stock of all being held in the same hands, the directors of the different companies were largely the same men, and their affairs were managed in unison in substantially the same way as had been the case before. The new Standard Oil Company of New Jersey has recently been formed with the intention of transferring the stocks of the different corporations into the stock of the new company, so that when the transfer has been finally made, one single corporation, the Standard Oil Company of New Jersey, will own outright the property now owned by the separate companies which are commonly known and mentioned together under the name of the Standard Oil Company. This combination at present has no formal unity. It has a practical unity as great as it will have probably after the complete change into the New Jersey company is effected.²

As most of the larger corporations have, within the last few years, been organized in New Jersey, it will be worth while to note the special advantages given by the corporation laws of that State.³ The advantages that seem to be brought out most clearly are:

First, taxation. The organization tax is considerably lower than that of most of the States, while the annual tax is fixed upon the amount of capital paid in, so that it is an absolutely certain quantity and can be determined by anyone, thus leaving no opportunity for corruption on the part of either the corporation itself or of State officials. The rate of the tax is moderate, and decreases as the amount of capital increases.

Second. Perhaps a greater advantage is to be found in the liberal form of the New Jersey charter. The amount of capital is unlimited, the period of organization is unlimited, the amount of indebtedness is not limited, the powers that are granted to corporations are also practically unlimited, with the exception that an ordinary business corporation is forbidden to engage in banking. The Federal Steel Company would have found it impossible to organize for the purpose of engaging in the various enterprises which it has undertaken had it incorporated in the State of Illinois or of Pennsylvania.⁴ The same thing holds also with reference to the American Steel and Wire Company.⁵

Third. There is less liability on the part of the stockholders than in several other States.⁶

Fourth. The directors have also less liability. In case of issuance of stock for property the judgment of the directors is conclusive as to the value of the property taken,

¹ Stetson, p. 970; Gary, pp. 985, 996; Rice, p. 837; Bradley, pp. 814, 821.

² Archbold, p. 574, 575; Rogers, p. 583, 587; Dodd, p. 799.

³ Dill, pp. 1081, 1086; Gary, p. 996; Fam, pp. 1035-1037; Stetson, pp. 971, 976.

⁴ Stetson, p. 971; Gary, p. 996.

⁵ Fam, pp. 1085, 1087.

⁶ Stetson, p. 975.

12 THE INDUSTRIAL COMMISSION:—INDUSTRIAL COMBINATIONS.

unless there is evidence of fraud. Stock issued thus for property is considered fully paid up, and the stockholders can not be held further liable in case the property proves to have been taken at less than its cash value. The directors are not personally liable for the debts of the corporation if they fail to file reports or to conform with certain other requirements.

On the other hand, some of the witnesses, notably Mr. Dill, called attention to the somewhat rigid provisions of the New Jersey corporation law regarding the making of reports and the keeping of a registered office in the State, where could be learned the leading facts regarding the corporation. It is the purpose of the registration companies, which act as representatives of most of the large corporations organized in the State, to secure the filing of the annual reports and to have the stock and transfer books of the corporation always kept up to date and accessible to stockholders who may wish to find out who their fellow-stockholders are and the extent of their holdings. It was, however, brought out in the evidence that these provisions with reference to registration offices are not fully carried out in practice by the attorneys and others who act as agents usually of the smaller corporations, while there are violations of the law probably in the case of a large majority of the small corporations as regards the filing of the annual reports.¹

The laws of Delaware and West Virginia were also explained at considerable length. They are even more liberal in some particulars, especially as regards taxation, than those of New Jersey. Neither of these States requires that shareholders' meetings be held within the State, while West Virginia does not even require a permanent office to be kept in the State, although it does insist upon the payment of an annual fee, and limits the capitalization to \$5,000,000.²

OVERCAPITALIZATION.

GENERAL STATEMENTS REGARDING THE EVIL.

During the past few years the total capitalization of the new industrial combinations has reached an enormous sum, well into the billions, and in many cases at least the nominal capitalization of the corporations far exceeds the cash value of their property. The impressions among different people regarding the effect of this overcapitalization vary. Some of the witnesses who have appeared before the Commission are of the opinion that the question of the capitalization of any corporation is of slight consequence. They think that if the amount of stock issued is only three or four times in par value more than the cash value of the plants themselves, no especial harm is done. If the plant shows that its earning capacity is sufficient to pay dividends on the large capitalization, the stock will hold its value fairly well, and the capitalization is justified. If the earning capacity of the establishment is not sufficient to pay dividends, this condition will show itself in the value of the stocks. While some individuals who are careless about their methods of doing business may be injured by the purchase of stock through misrepresentation, that is not a matter that concerns materially the general public. People who deal in stocks are likely at times to lose. The State, it is said, can not act as guardian for foolish individuals. It is not believed by these witnesses that overcapitalization has any effect upon prices which is injurious to the public.³

Other witnesses believe that this overcapitalization is a serious injury to the public. Not merely do the misrepresentations of the promoters of these corporations, and perhaps also of the underwriters of their stocks, mislead prospective buyers of stock, but it is thought also that the attempt to pay dividends on the inflated capitalization

¹ Dill, pp. 1079, 1080; officers of registration agencies, pp. 1089-1099; Ryan, pp. 1099-1106; Edgerton, pp. 1123-1125.

² Dill, pp. 1077-1079; Nevins, pp. 1111 ff.; Smith, pp. 1119 ff.; Sawyer, pp. 1125 ff.

³ Stetson, p. 976; Dos Passos, pp. 1149, 1150, 1166; Gates, p. 1021; Moore, p. 967.

seriously affects the prices of the products to consumers and the wages of employees. These witnesses are inclined to believe that possibly the chief evil of the great industrial combinations comes at the time of their organization, when private bankers and others acting as financial agents or underwriters, together with promoters, make huge profits from floating the new corporations, which will afterwards find themselves unable to pay dividends to stockholders and which must within a comparatively short time go through a process of reorganization to the great loss of those who have invested their money in good faith. Some of the witnesses are inclined to think that this overcapitalization has been so prevalent within the past two or three years that the result must inevitably be a financial crisis which will prove injurious to the public at large, aside from those who have foolishly, perhaps, invested their money in these stocks.¹

The position seems well taken that the methods of promotion and financiering are often decidedly against public interest and ought to be checked. The overcapitalization, too, is probably felt somewhat in increased prices at times.

THE FACTS FROM THE TESTIMONY.

1. *Capitalization.*—Regarding most of the combinations concerning which testimony has been taken the facts appear quite clear.

None of the witnesses believe that the Standard Oil Company is on the whole overcapitalized, as compared with the present value of the plants. Its opponents believe that its profits are enormous on the capitalization.² The witnesses representing the Standard Oil Company itself, while admitting very large profits and presenting no very definite facts regarding the capitalization, still give the same impression from their testimony.³

The American Sugar Refining Company seems to be, beyond question, capitalized at a sum twice as large at least as the cost of reconstruction of the plants themselves. The capitalization was shown to be several times the original capitalization of its constituent members, the testimony taken before the Lexow Committee on this point being confirmed in terms, although the capitalization of some of these constituent members had little relation to their actual value.⁴ Much more direct was the testimony regarding the present capitalization as compared with the present cost of reproducing the plants. The present capacity of the American Sugar Refining Company is substantially 40,000 barrels per day. On the basis of estimates given by Mr. Doscher,⁵ Mr. Jarvie,⁶ Mr. Post,⁷ and Mr. Havemeyer,⁸ these refineries could be built at a cost of from twenty to thirty-five millions, it being conceded by them all that the present cost of building (June, 1899) is very much higher than it would have been a little earlier. This sum would show that a capitalization of probably not over half the present one (\$75,000,000) would be ample to handle the business satisfactorily. Mr. Havemeyer, however, contends that the value of the brands owned by the American Sugar Refining Company and the good will must not be overlooked. The Havemeyer and Elder brand especially is in itself, he thinks, worth thirty-five or forty millions, and is at least equal in value to the plants.⁹ The dividends by the American Sugar Refining Company for some years past, 7 per cent on the preferred stock and 12 per cent on the common, together with the sum set aside for surplus, would seem to show that, while the capitalization may be far above the cost of the plants, it is not above the earning capacity of the establishments at the range of prices which has prevailed for the past few years. This raises the question whether the power of the combination has not enabled it to keep prices up so that

¹ Dill, p. 1099; Myers, p. 1133.

² Monnett, pp. 301, 309; Lee, p. 269; Phillips, p. 591; Emery, p. 630.

³ Archbold, pp. 531, 582, 575, 579; also list of dividends, Dodd, p. 799.

⁴ Havemeyer, pp. 111, 123; Doscher, p. 100.

⁵ Page 91.

⁶ Page 139.

⁷ Pages 151, 180.

⁸ Pages 111, 117.

⁹ Page 131.

14 THE INDUSTRIAL COMMISSION:—INDUSTRIAL COMBINATIONS.

its earnings could pay dividends on an excessive capitalization, and whether the high capitalization has not been an added temptation to hold prices high.

According to the testimony of several witnesses, the first stable whisky combination, the Distillers and Cattle Feeders' Trust, was capitalized at an amount far beyond the cash values of its plants. The clearest testimony on this subject was given by Mr. Clarke,¹ who asserted that he was paid in trust certificates four times the agreed-upon fair cash value of his plant. He believes that other distillers who went into the combination were paid on substantially the same basis. Probably some of the more influential trustees secured even more than the other members.² The trust certificates received dividends of 6 per cent per annum for some years. On the basis, also, of late offers which were made him for the plant of which he was in control, Mr. Clarke believes that the Standard Distilling and Distributing Company was capitalized at probably six times the actual cash value of the plants.³ Other witnesses, while not giving testimony in such definite figures, nevertheless confirm the fact of large overcapitalization of the whisky combinations.⁴ In fact, the testimony of Mr. Cook⁵ would tend to show that the present capacity of the new whisky combination could be reproduced at but a small fraction of the present capitalization.

Perhaps the clearest testimony on this subject of capitalization came from the witnesses connected with some of the iron and steel companies. The witnesses regarding the tin-plate combination were in substantial agreement in stating that the owners of most of the plants gave an option on their plants at what they considered was the fair cash value, although, owing to the good times and to the fact that, in many cases, the industries were quite prosperous, the prices were high. They were then given, by the promoter, the option of taking this valuation of their property in cash, or of taking instead the same amount in preferred stock with a like amount of common stock added as bonus. The witnesses who appeared before the Commission had chosen to take stock instead of cash, believing that the business could carry that capitalization, and the price of stock on the market shows that the common and preferred together have so far ranged above the cash valuation.

One of the witnesses, at least, conceded that the total amount of stock thus paid for the plants, since the cash option was taken in prosperous times and included not merely the value of the plant but also the good will of the running business, probably amounted in some instances to three or four or even five times the cash cost of the plants at that time. Owing, however, to the greatly increased value of material and the increased wages of labor, some of the witnesses were of the opinion that the preferred stock alone of the tin-plate company would probably not equal the cost of reproduction of its plants at the present time.⁶

Exactly the same system seems to have been followed in the capitalization of the National Biscuit Company,⁷ the National Steel Company,⁸ and the American Steel Hoop Company.⁹ In all these cases there was a clear understanding that the common stock represented simply bonus or anticipated profits. The fact that the cash options taken on the plants included also in the minds of the sellers the good will, and were presumably at a fairly high price, considering the prosperous times and the added advantage which was expected to be obtained from the combination itself, would seem to show that the capitalization, including both preferred and common stock, was considerably more than double the cost of reproducing the plants themselves.

In the case of the American Tin Plate Company there was also added ten millions of common stock, which was issued to the promoter for his services and for the cost of organization. It is presumed, of course, that not a little of this ten millions had to

¹ Pages 169, 170, 187.

² McNulta, p. 200.

³ Pages 175, 177.

⁴ Bradley, pp. 819-821; Rice, pp. 832-834.

⁵ Pages 246, 249.

⁶ Reid, pp. 883, 884, 886; Graham, pp. 850, 851; Moore, pp. 960-963; Griffiths, pp. 909-912.

⁷ Moore, p. 959.

⁸ Moore, p. 959; Reis, p. 944.

⁹ Moore, p. 959; Guthrie, p. 953.

be paid out in commissions, etc., to those who aided in securing the required amount of capital, including cash furnished for working capital.¹ The amount of extra common stock issued for purposes of promotion in the American Steel Hoop Company and in the National Steel Company was \$5,000,000 in each case.

In all these cases the capital seems not to have been beyond the earning capacity during the prosperous times of the last year, the question again arising as to whether the prices have been pushed beyond normal rates in order to pay dividends on watered stock.

The International Silver Company, according to the testimony of its president, has from 45 to 50 per cent of its capitalization represented by plants, machinery, merchandise, etc., and the rest by brands or "good will."²

Mr. Gates, president of the American Steel and Wire Company, estimates that of their \$80,000,000 of capital stock, some \$10,000,000 to \$15,000,000 are considered good will, the rest plants and material.³ It is to be noted, however, that the valuation of the plants given by Mr. Gates is based on the great increase in cost of all iron material for the last year, and not on the value at the time the organization was capitalized. Forty million dollars would come more nearly the cash value at the time, 1897-98, when Mr. Morgan's estimate was made of \$28,000,000 for some 70 per cent of the value of all the plants.

The National Shear Company was clearly capitalized at far beyond its cash value. Mr. Wiss was of the opinion that the stock issued was five times more than the cash value of the plants; and the fact that the stock was practically unsalable would seem to justify his conclusion, even though there were difficulties in connection with the management of the establishments which would tend to lower the value of the stock.⁴

2. *Promoters' profits.*—As was intimated above,⁵ one of the chief causes of this over-capitalization comes from the high profits that are secured by the promoters and by the underwriters of the stock when the combinations are made. Mention has just been made of the ten millions of common stock paid to the promoter of the American Tin Plate Company, and of the five millions paid in each case to the promoter of the National Steel Company and of the American Steel Hoop Company.

According to the testimony of Mr. Clarke,⁶ when the Standard Distilling and Distributing Company was organized, for each \$100,000 of cash advanced to buy the plants the underwriters received \$100,000 in preferred stock and \$150,000 in common stock, while the promoter likewise received \$150,000 in common stock.

According to the agreement made with the organizers of the Distilling Company of America, they were to turn over all the stock of the constituent companies at a ratio agreed upon, and were then to furnish \$1,500,000 cash as working capital and two distilleries which, it was testified, cost \$2,000,000. After full exchange in stock at the agreed ratios was made, there would be left in their hands, with which to secure the \$3,500,000 cash needed, \$10,710,000 of preferred stock and \$13,360,000 of common. At the average market price of the stocks during the month after the company was organized, July, 1897, 56½ and 21, respectively, these stocks would have been worth \$8,856,750, although, of course, they would not have realized this if thrown on the market. Promoters' profits seemed thus very large. By December, however, the stock had so fallen that it was worth less than \$4,000,000; so that the ultimate gains were possibly not so large as they at first appeared.

Mr. Pearson, who acted as banker for the National Shear Company, testified⁷ that he was to receive \$30,000 in preferred stock and \$225,000 in common stock for discounting the notes of the company to the amount of \$200,000 and continuing this rediscounting for a period of 18 months. In case he withdrew from his bargain

¹ Moore, pp. 960, 962; Reid, p. 866.

⁴ Pages 1044-1047.

⁵ Page 177.

² Dodd, pp. 1064, 1061.

⁶ Dill, p. 1080.

⁷ Pages 1041-1043.

³ Page 1021.

after 9 months, he was to receive a little less than half. Being dissatisfied with the way the company was doing business, at the end of 9 months he withdrew from this arrangement. The stock due to him in accordance with the contract had not yet been paid when he testified. This combination seems practically to have been organized on borrowed money, even in part for payments for plants. The liberality of the organization with the banker was clearly brought out. The profits of the promoters did not appear from the testimony.

According to the testimony of Mr. Gary¹ the Federal Steel Company was capitalized at almost precisely the actual value of the plants, estimated by a board of appraisers, together with the actual cash put in. Considerable has been allowed for increased values of lands, and, of course, the exact basis of the appraisal did not appear. He testified also that J. P. Morgan & Co., the bankers who effected the exchange of the stocks of the constituent companies for that of the Federal Steel Company, received some \$200,000 for their services. He admitted, however, that before this arrangement was made by J. P. Morgan & Co. for the syndicate that was organizing the Federal Steel Company, J. P. Morgan & Co. already controlled a majority of the stock of all the constituent companies. The price paid by them for this stock did not appear, so that their real profits are not clearly in evidence.²

On the whole, from the testimony given before the Commission, the inference seems a fair one that the capitalization of these combinations is usually a sum considerably above the value of the plants together with patents, but exclusive of brands and good will, of the companies that enter into the combination. In cases that are considered fairly conservative, the amount of stock issued, including both preferred and common stock, is from two to three times more than this value, while in not a few instances—for example, the one cited by Mr. Dill³ where value of possibly \$500,000 was capitalized for \$8,000,000—the capital stock seems to bear little relation to actual value of plants and patents.

PRICES.

RAW MATERIAL.

The statement is frequently made that owing to the fact that a large combination becomes a principal buyer of raw material it has great influence in decreasing its price. Thus it is said that, as the chief purchaser of raw sugar, the American Sugar Refining Company is able to get a certain advantage.⁴ Mr. Havemeyer concedes that the fact that he is a very large buyer gives him some advantage in selecting his markets.⁵ All seem to be agreed, however, that this advantage probably does not on the average amount to more than one-sixteenth of a cent per pound.

In the case of the American Tin Plate Company it was said that owing to the fact it was a very large buyer of steel it could at times get contracts at better rates than smaller buyers, although apparently it could not get any better rates than several other large buyers of steel doing different classes of business. Especially, however, does the fact that the directors of the American Tin Plate Company are in large part the same as the directors of the National Steel Company, that the business conditions of each are known to the other, and that their interests are closely allied, enable the Tin Plate Company at times to secure rather better rates from the National Steel Company than would be given by that company to an outsider. Similar statements are made regarding the American Steel Hoop Company, which is similarly associated with the National Steel Company.⁶

Nearly all of the opponents of the Standard Oil Company who appeared before the commission testified that owing to the fact that the Standard had control of the main

¹ Pages 986, 987.

⁴ Post, pp. 153, 156; Thurber, pp. 12, 13, 22.

² Gary, pp. 986, 1008.

⁵ Page 107.

⁶ Page 1080.

³ Rees, pp. 947, 948; Guthrie, p. 957; Graham, pp. 858, 868; Reid, p. 875; Griffiths, pp. 594, 602.

pipe lines and was the chief refiner of petroleum it could practically fix the price of crude oil, and had done so for many years, often to the detriment or even financial ruin of the producer.¹ By virtue of its control over the pipe lines the Standard Oil Company, when in competition with smaller pipe lines in certain localities, had frequently put premiums upon the oil produced there, thus paying more than the regular market rate for it. Sometimes through this practice the competing pipe lines found themselves deprived of oil, were financially ruined, and were at length bought up by the Standard Oil Company, which then recouped itself by removing the premium, and perhaps making a general reduction in the price of crude oil.² The opponents of the Standard Oil Company seem to be of the opinion that this payment of premiums has been almost altogether for the sake of forcing the competitors out of the business. The Standard Oil witnesses, on the other hand, asserted that the premiums were often, perhaps usually, and at present only, made because of the better quality of the oil from these special localities; but they also conceded that at times the Standard has paid premiums for the sake of forcing a competitor out of the business, and that under similar circumstances it would do it again.³

It is charged also that where the Standard Oil Company has had exclusive control of the pipe lines in certain territory it has frequently held the price of crude oil so low that it could at length buy up the wells or the oil lands from the producers and owners, after which the price of crude oil would be raised again to a fair price.⁴ There can be little doubt that when a company is the owner of the only pipe line in any district, this gives it great control over the price of oil, and in consequence over the welfare of the producers themselves.

Owing to this control (which seems to be in the main conceded by the witnesses on behalf of the Standard Oil Company), some of the witnesses assert that the tables and charts of prices of crude and export refined oil, which show also the ratios or margins between them, misrepresent in many cases the real state of the business. If the prices of crude oil are fixed arbitrarily for the purposes of buying up oil territory, of buying out competing pipe lines, or of raising the cost to independent refiners, or if losses on refined export oil are recouped by raising the price of American refined, such figures can hardly be an indication of the real condition of the business.⁵ On the other hand, the testimony of Mr. Lee in explaining the course of prices of crude oil over a series of years seems to show that he also believes that the amount of the output has, in spite of many arbitrary acts of the Standard, in the long run and on the whole been certainly a very important if not the chief cause in determining its variations in price.⁶

It is asserted by the Standard Oil Company itself that its prices for crude petroleum, as of late years announced through the Seep Purchasing Agency, are fixed on the world demand and supply, and that in the main these prices have been fair to the producers.⁷ It is probably true in general that the extent of the output has been the main factor in determining prices, though the fact of very many individual cases of arbitrary shifting of prices to a degree ruinous, in certain localities, to the competitors and to the producers, may also be considered established.

PRICES OF PRODUCT.

1. *Control of output.*—Several of the combinations, as appears from the testimony of their officers, control a large proportion of the entire output of the country. The American Sugar Refining Company was selling at the time of the testimony about 90

¹ Lockwood, pp. 402, 408; Rice, p. 689; Lee, pp. 279-283, 298, 294; Phillips, p. 592.

² Lee, p. 275.

³ Phillips, p. 592; Lockwood, pp. 388, 394, 395.

⁴ Pages 279, 281, 283.

⁵ Archbold, p. 576, 577; Rogers, p. 582.

⁶ Archbold, pp. 538-540, 571; Boyle, pp. 483-499.

⁷ Lockwood, pp. 402, 408; Phillips, p. 592.

18 THE INDUSTRIAL COMMISSION:—INDUSTRIAL COMBINATIONS.

per cent of the output.¹ The American Tin Plate Company was probably also, at the time when its representatives appeared, controlling something more than 90 per cent.² The whisky combination has controlled at times as high as 95 per cent of the production of spirits, and has probably during most of the time for the past 12 years controlled more than 80 per cent of the output.³ Most of the iron and steel companies claim, on the other hand, that they make no attempt to control so large a percentage of the output, and that they make no approach to monopolistic power, but secure their advantages by bringing together different branches of the industry which insures them a steady supply of raw material or, on the other hand, a sure customer for part of the product. Thus the Federal Steel Company controls possibly some 30 per cent of the output of its main products, and carries the processes from the mines to the finished product. The National Steel Company controls about 18 per cent, and it also operates mines, fleets, and mills.⁴ In the case of the American Steel and Wire Company, however, the combination at the time of the testimony was selling from 75 to 80 per cent of the total output of steel rods, the same percentage of smooth wire, and 65 to 90 per cent of wire nails. Moreover, the American Steel and Wire Company has practically a monopoly of barbed-wire and woven-wire fencing through the patents which it holds, and not merely by virtue of its large capital. With the exception of the monopoly secured through these patents Mr. Gates, chairman of the company, thinks it does not control competition.⁵

The proportion of refined petroleum produced by the Standard Oil Company has varied materially at different times, but during the past few years has, as stated by its own officers, increased gradually from 81.4 per cent in 1894 to 83.7 per cent in 1898.⁶ Opponents of the combination are inclined to put the figures as high as 90 or 95 per cent.⁷ The control of the crude petroleum field by the combination is much less, but is, nevertheless, considerable. It is not claimed, however, that the Standard fixes the price of crude petroleum by virtue of the fact that it is the greatest producer, but rather by the fact that it owns the pipe lines and is the chief buyer.

2. *Control of prices.*—A manufacturer who controls so large a proportion of the product as do some of these combinations can, beyond question, to a considerable degree control the price.⁸ Throwing into the market a large amount of goods at one time tends to lower the price. Likewise, one who controls plants enough to supply the entire normal demand of the country can, evidently, by closing some of these plants, readily raise the price.

The custom has regularly been for some years for the Standard Oil Company to announce from day to day the price which it would pay for crude petroleum and the price at which it would sell refined petroleum. This price is generally accepted as the market price, and competitors follow.

Likewise, the American Sugar Refining Company first posts the prices for the day, and is then followed by its competitors, who post theirs. Generally they take the prices fixed by the American Sugar Refining Company; but at times, if they have a little surplus stock on hand, or if it is difficult for them to secure a customer, they will cut the price perhaps one-sixteenth of a cent per pound. One or two of the chief competitors seem to be forced to put their prices quite frequently at one-sixteenth of a cent below that of the American Sugar Refining Company.⁹ In spite of its control over the output it is said by Mr. Post that the American Sugar Refining Company has not, in his judgment, unduly restricted the output.¹⁰ It is probable, he thinks, that had that company not been formed the competitive system would have ruined many

¹ Havemeyer, p. 107; Jarvie, p. 141.

² Reid, pp. 882, 883; Graham, pp. 858, 861.

³ McNulta, pp. 215, 217; Clark, pp. 171, 176; Cook, pp. 244-248; Rice, p. 835; Bradley, p. 814.

⁴ Gary, p. 965; Reis, p. 945.

⁵ Gates, pp. 1005, 1008, 1009.

⁶ Archbold, p. 560.

⁷ Lee, pp. 272, 286; Lockwood, p. 401.

⁸ Havemeyer, p. 125.

⁹ Smith, p. 57; Jarvie, pp. 138-142; Dogher, pp. 95, 96; Post, pp. 149, 150.

¹⁰ Pages 154, 160.

established refineries, so that as many would have been closed as is now the case and the output would have been fully as small, probably even less. Practically all of the witnesses, both members of the combination and their opponents, concede that while there is a certain arbitrariness in fixing the prices it has been exercised in most cases only within comparatively narrow limits, and then mainly to meet competition or stifle it.

While prices may be kept at rates sufficient, by virtue of the economies of combination, to pay reasonable, even considerable, profits, though still largely excluding competition, any attempt, it is claimed by many witnesses, to secure extortionate prices defeats itself by provoking competition. Thus the whisky combination, in the days of the Distillers and Cattle Feeders' Trust and the Distilling and Cattle Feeding Company, in certain instances put up the prices to an excessively high point. The result was that numerous competitive distilleries were built, so that either the trust was forced to buy them out at high figures or else the competitors secured enough control of the market so that the prices were comparatively soon forced down.¹

It seems to be conceded by all parties that the whisky combination might, if it would adopt that policy, hold its prices at profitable rates, and at the same time so low that no one would care to compete, its present leading competitors being willing to buy whatever product they need for compounding purposes from the trust at a fixed price based upon that of corn.²

The officials of the American Tin Plate Company recognize that their price is to be considered the American price, although they, with all of the other representatives of combinations, deny that they possess a monopoly, and show that there are some competitors in the field. The company fixes the price, which its competitors in the main follow, but its officers realize that if they push their profits too high they will simply call in competitors to so great an extent that it will hurt their own business and prevent their control of the conditions. The same argument is presented in general terms by several witnesses regarding the control over prices by the combinations.³

In some cases, notably in the iron and steel and allied industries, there has been within the last year or two an almost marvelous increase in the demand for products of all kinds. In consequence, prices have advanced very rapidly. While it is probably true that the combinations have been able to seize the advantages of the situation better than could smaller manufacturers, there can be no doubt that the main increase in price has come from the most unusual demand. Mr. Gates testified⁴ that in his judgment the new output of steel cars, steel vessels, and steel frames for buildings and bridges constituted as large a tonnage as the total tonnage of the United States in iron and steel fifteen or twenty years ago. All the witnesses in those lines seemed to agree as to the increase in demand and as to the fact that it, with the corresponding increase in price of basic materials, was the chief cause of the increase in price of finished product. Hardly any of the companies could meet present demand and all were taking contracts for months ahead.

The fact, however, that in the main the great combinations fix the prices and their competitors follow would seem to show a certain element of monopoly. When they make a cut in the price the others must follow, and their action is substantially an arbitrary one. They, on the other hand, having so large a control of the market, need not follow the cut of a competitor in a comparatively small market, although, of course, they can not permit the competitor to widen his market materially, provided they wish to hold the control. So, on the other hand, this monopolistic element is

¹ McNulta, p. 217; Clarke, pp. 171, 176; Cook, pp. 241-246; Bradley, pp. 814, 815.

² Cook, pp. 241-246; Luyties, pp. 251-256; McNulta, pp. 237-240; Rice, pp. 845, 847; Bradley, pp. 814, 827.

³ Reid, p. 886; Clarke, pp. 171, 176, 187; Dos Passos, pp. 1144, 1150, 1151; Thurber, pp. 14, 17; McNulta, pp. 237, 240.

⁴ Page 1028.

⁵ Gates, p. 1027; Reid, p. 881; Reis, pp. 945, 950.

shown by the fact that the increased price fixed at any time by a combination must be taken, at least temporarily, by most consumers, since the combination is, substantially, at the moment the chief source of supply, its competitors being utterly unable to meet the needs of the market. This is true in spite of the fact that if the prices are made unreasonably high, competitors would, in the long run, deprive the combination of its trade.

The success of great combinations as chief manufacturers depends, their officers claim, upon a cheaper cost of production than that which their competitors possess. If they can not effect this, the witnesses maintain that the combinations will comparatively soon lose their control, unless they can succeed in bringing some other element, like a patent, into the problem.¹ On the other hand, it has been conceded by one or two of the witnesses that the fact merely that the combinations possess so large a capital and can exert so much power tends to frighten their actual or would-be competitors, and this enables them to secure or keep a certain element of monopolistic control, aside from the greater cheapness of production which they may or may not possess. Of course, this latter monopolistic element, depending upon the deterrent effect which their power exerts upon their competitors, is, these witnesses claim, comparatively slight.²

A more accurate discussion of the course of prices in these special lines can be made from a study of the charts appended. The figures in these charts are in every case conceded by the managers of the combinations to be as nearly accurate as any that can be secured.

3. *Cuts in local markets.*—From the standpoint of the competitors of the combinations, the greatest evil perhaps is not the fixing of prices too high, although assertions against the monopolies are not infrequently made on this ground, but rather that they cut prices to an unreasonable extent in certain localities, and even to individuals at certain times for the sake of driving out their rivals. This practice has been most frequently charged against the Standard Oil Company. Doubtless, too, in order to get into new fields, the competitors will at times cut the price, and to hold its market the Standard follows, or makes still lower prices; or again, to prevent a competitor from entering a market which he seems to be threatening, a first cut is made by the Standard. Witnesses disagree as to the side which usually makes the first cut, and doubtless all depends upon the circumstances of the special case in question.³ The same policy has also been followed by the American Sugar Refining Company, at any rate in its earlier days, and of late since it has been competing against the new refineries of Arbuckle Brothers and Doscher.⁴

The opponents of the Standard Oil Company do not hesitate to charge it with employing competitive methods which they consider dishonorable. They assert that persons are engaged to follow wagons of competitors to learn who their customers are, and that then they make lower offers to those customers; and it is still further asserted that at times the employees in the offices of rivals are bribed to disclose the business to the Standard Oil Company.⁵

The Standard Oil Company denies authorizing or approving any such methods of learning its competitors' business, although it is acknowledged that it takes practically every honorable means of finding out what its competitors are doing in order that it may properly meet the competitors on their own field.⁶ The methods of competition charged, it is said, may rarely be followed by an overzealous employee, but such action would be discountenanced in every case by the company.

¹ Reid, p. 886; Archbold, pp. 569, 580; Havemeyer, pp. 105, 135; Gates, p. 1022; Thurber, p. 4.

² Havemeyer, pp. 119, 120; Archbold, p. 569.

³ Lee, pp. 265, 277; Monnett, p. 317; Westgate, pp. 366 ff.; Emery, p. 329; Lockwood, p. 402.

⁴ Thurber, p. 14; Havemeyer, pp. 107, 108; Jarvie, pp. 140, 145; Doscher, pp. 58, 80.

⁵ Davis, pp. 356, 357; Monnett, p. 316; Gall, p. 664; Westgate, p. 266; Emery, pp. 614, 615; Clark, pp. 233-241.

⁶ Mathews, p. 505; Archbold, p. 573.

THE FACTOR SYSTEM.

Several of the industrial combinations have adopted the plan of selling their goods to wholesalers at a certain fixed price and at the same time naming a price at which they were to furnish them to the retailers. After an interval of from thirty days to six months, provided the wholesaler would make affidavit that he had maintained the prices given him, and, sometimes, that he had sold only the goods of the combination, he would receive a rebate from the manufacturer. From this rebate came his only profits. It has been thought by many that this factor system was a means employed by the combination to hold its monopolistic control over the wholesaler.

In the case of the sugar combination, however, the testimony seems to show that competition among the wholesalers had resulted in depriving them of any profits whatever, and had even, in many cases, forced them to sell at a loss. In order to avoid this difficulty the wholesalers themselves petitioned the American Sugar Refining Company to adopt the factor plan, and after a consideration of the matter, as an accommodation to the wholesaler, the plan was adopted. The sugar refining company itself claims that it receives no advantage from the system, but adopted it only at the request of the wholesalers. The other refineries have likewise adopted the same system.¹ Mr. G. Waldo Smith, president of the American Grocers' Association, explained the system in detail and told how important it was to the grocers. He is strongly in favor of it, not merely as applied to sugar, but to any product which is uniform in quality, so that special brands have little influence in fixing the prices, and has himself proposed plans for its more general adoption. He believes that this is the wisest method for grocers and one that is perfectly legitimate; in fact, without some such system grocers would be compelled to handle sugars and similar commodities at a loss.²

The system of requiring affidavits from the wholesalers has been given up by the sugar refiners, and it is expected that they will keep the agreement as to prices among themselves without special effort on the part of the manufacturers to force them to do so. Experience, however, shows that considerable cutting takes place.³ The grocers in the States of Ohio and Illinois have adopted a modification of the system, by which they have agreed among themselves to maintain prices of sugar within certain districts. If it is found that anyone has lowered his prices the entire number of jobbers in the district immediately lower theirs to the place in question, so as to prevent his securing any advantage.⁴

This system is perhaps best known in connection with rebates on sugar, but for a time, while the Distilling and Cattle Feeding Company was in existence, a somewhat similar rebate system was employed in the sale of spirits. The larger distributors and rectifiers received a rebate of 2 cents a gallon, and the wholesalers, after an interval, provided they had sold only the goods of the company, received a rebate of usually 5 cents a gallon, though the amount of the rebate varied somewhat at different times.

In the case of the whisky combination the company failed to keep on hand a sufficient amount of cash to pay these rebates promptly, and this delay in payment was one of the causes which led to throwing this company into the hands of a receiver.⁵

A similar system is found in the selling of soap, baking powders, etc., but the general principles vary in no essential particulars from the ones just given.⁶

More evidence will probably be taken on this subject later.

¹ Havemeyer, pp. 126, 127; Jarvie, p. 147; Post, p. 154.

² Smith, pp. 50-55, 63.

³ Smith, pp. 57-59; Thurber, p. 12; Havemeyer, p. 128.

⁴ Post, pp. 155-157.

⁵ McNulta, pp. 206-211; Rice, p. 331; Cook, pp. 241-244; Clarke, pp. 171-173; Luyties, pp. 250, 251.

⁶ Smith, pp. 59, 65.

EXPORT TRADE.

The representatives of many of the combinations assert that they have made especial efforts to increase the export trade, and they consider the development of that trade one of the chief advantages to the country from the combinations. They believe that it would be impossible for this trade to be secured to anything like the same extent without the power that comes from large concentration of capital in the hands of one managing body.

The representatives of the Standard Oil Company furnished much evidence to show how extensive their export trade has become, and they urged repeatedly that this trade could not have been secured without the expenditure of large sums of money such as only a great combination could control.¹

Some of the rivals of the Standard Oil Company were of the opinion that without a great combination sufficient capital could readily have been furnished by others to secure and carry on an export trade no less imposing than that of the Standard Oil Company. They also show that the Pure Oil Company, perhaps at present the chief rival of the Standard, has secured a large export trade in Germany, and at the present time is making most of its profit from this export trade.² The total exportation of the independent refiners, however, is only a small fraction of that of the Standard. The assertion, however, that the export trade of the Standard has been built up at the expense of the domestic trade³ is vigorously contradicted by members of the Standard Oil Company. The chart of prices of crude and refined oil seems to show clearly that the regular prices at Bremen, Germany, are considerably higher than the prices in the United States, although there has been at least one and perhaps other exceptional times when the American price has been above the export price. This has been true especially in the far East on account of Russian competition.⁴ The explanation of this given by Mr. Archbold is that it was necessary to cut foreign prices for a time in order to secure the market.

The manufacturers of spirits are of the opinion that they could easily supply a large part of the foreign market with spirits were they not hampered by the provisions of the laws of the United States regarding the packages in which spirits shall be shipped, and also regarding bonding and payment of the tax.⁵ These witnesses, however, do not urge that the large capital controlled by the combinations would be necessary for this export business. They believe that our advantages in manufacture are so great that the export business would develop as a natural outgrowth of the situation, provided the restraints of the law were removed.

A somewhat similar line of argument is followed by those engaged in the iron and steel industries. Mr. Guthrie, president of the American Steel Hoop Company, believes that, owing to our superior natural advantages, under ordinary circumstances, it would even now be possible for a large part of our product to be sent abroad. At the present time comparatively little is exported owing to the enormous home demand, but he believes that we have the opportunities and facilities for manufacture which should enable us to export large quantities. At the same time the large capital of the combinations makes it possible to employ agents all over the world, and to spend large sums in pioneering.⁶ A similar opinion was expressed by Mr. Gates, chairman of the American Steel and Wire Company.⁷

As regards the relation of export prices to domestic prices, the statement is at times made that the two have comparatively little relation one to the other, inasmuch as

¹ Archbold, pp. 562-568; Rockefeller, p. 796; Dodd, p. 800.

² Emery, pp. 617, 628; Phillips, pp. 600, 601; Lee, pp. 273-278.

³ Lee, p. 273.

⁴ Archbold, pp. 571, 572; Page, p. 791.

⁵ Bradley, pp. 824, 828; Rice, pp. 846, 847; McNulta, p. 228.

⁶ Pages 955, 956.

⁷ Pages 1014-1017.

different conditions are met with in the different lines of trade. It is conceded that it is frequently true that export prices are made lower than domestic for the sake of securing the trade. It is claimed, however, that no disadvantage has come to the American consumers, nevertheless, because when the foreign market has been once secured the continuous full operation of the plants with the increased output reduces the cost of the entire product. Were it not for the export trade there might at times, it is conceded, be somewhat lower prices for the domestic market, but only under conditions that would result in a temporary check to production and, on the whole, the result would be a higher average of domestic prices.¹ In certain instances the export trade comes from the peculiar character of the product itself and has little to do with the matter of prices or with the power of a large combination.² The fact seems established that great capital aids much in extending the export trade. Great capital does not necessarily imply monopoly.

TRUSTS AND THE TARIFF.

Most of the witnesses who so far have been heard before the Industrial Commission on the subject of trusts have been directly connected with the industries concerned as manufacturers. Practically all of them testify in favor of the tariff upon the industry represented, whether they be members of the combination or its opponents.

The tariff, of course, has practically no influence in connection with the Standard Oil Company, except indirectly in its manufacture of tin cans and other collateral industries.

Mr. Havemeyer, president of the American Sugar Refining Company, asserts with much vigor that he believes the customs tariff law to be the mother of all trusts—except the Sugar Trust. When the protection is very high, instead of fighting one another he thinks the manufacturers get together to take all the profit possible. If this is not their attitude at first, vigorous competition among themselves, brought about by the great number tempted into the industry by the tariff itself, is likely to force them to see what they are losing, and combination follows. He is strongly inclined to the belief that the tariff on all industries should be kept as low as 10 per cent, thinking that to afford sufficient protection against foreign countries, while at the same time it is low enough so that trusts would not be encouraged, as he believes they are now, by the “inordinate protection” granted. He has particularly in mind, apparently, the steel and iron industries, although he also concedes that had it not been for the high protective tariff existing at the time the original Sugar Trust was formed he would probably not have taken the risk of putting his refineries into the trust.³

As regards the present tariff on sugar, Mr. Havemeyer thinks that the differential in favor of refined sugar, one-eighth of one cent per pound, is too low, and is of the opinion that it should be as high as one-fourth of a cent. In this particular Mr. Jarvie,⁴ of Arbuckle Bros., is inclined to agree with him, as are also Mr. Post,⁵ Mr. Buynitsky,⁶ and Mr. Doscher,⁷ but all concede that with the present low range of prices brought about by the vigorous competition no refined sugar can be imported.

Mr. Buynitsky, while favoring a protective tariff on the whole, is nevertheless inclined to think that it may be high enough to encourage the formation of industrial combinations to an injurious extent. He therefore would give to the President of the United States power to reduce the tariff on any particular monopolized article by Executive order to an extent not less than 5 per cent nor more than 20 per cent, for a period of not more than 5 years.⁸

¹ Gates, p. 1017; Gary, p. 1001; Guthrie, p. 955.

² Rogers, p. 1074.

³ Pages 101, 118, 133, 137.

⁴ Havemeyer, 115, 118, 119, 130; Jarvie, 143, 145.

⁵ Page 157.

⁶ Pages 46-49.

⁷ Page 98.

⁸ Pages 49, 50.

Judge Gary, President of the Federal Steel Company,¹ while admitting that protection may sometimes perhaps permit monopolistic prices, does not think the plan of reducing it by Executive order practicable. That would injure firms and individuals outside the combination. It would be justifiable only in case the combination were distinctly illegal, and in that event the present laws are sufficient to suppress the monopoly. He believes that some tariff is still needed for the proper protection of the various steel industries, and does not believe that at the present time there is any monopoly in them.

President Reis, of the National Steel Company, does not believe that the tariff has had much effect on the iron and steel business during later years, and thinks that so far as his especial branch of the industry goes, the tariff would not be needed,² though he concedes that in other branches, perhaps, such as the manufacture of steel rods and black plates for tinning, it may still be needed.

President Guthrie, of the American Steel Hoop Company,³ thinks that without the present tariff on steel, his company could not compete, for example, in Galveston, Tex., on account of the extremely low freight rates from abroad. Protection is needed, in his judgment, to offset transportation rates, even though we have at the present time, and are likely to have still more in the near future, the possibility of exporting American steel.

Chairman Gates, of the American Steel and Wire Company⁴ believes also that the tariff is needed in order to enable us to pay transportation rates. It is still more needed because, as he asserts, the Germans get a subsidy on steel exported and are doing all they can to push their export business.

Regarding the tariff on tin plate there seems to be no difference of opinion among the witnesses. Mr. Graham testifies that there would have been no tin plate industry had it not been for the tariff.⁵ Mr. Reid⁶ says also that the industry was created by the tariff, and that while the tariff at present gives efficient protection, the removal of the duty would destroy the industry. He believes, however, that at the time he testified the price of tin plate might go 50 cents a box higher before it would meet with effective competition from abroad. Mr. Taylor, an independent dipper of tin plates, is inclined to the same opinion,⁷ while Mr. Griffiths, perhaps the most active opponent of the combination,⁸ testifies that the tariff is in no sense the father of the combination further than that the entire industry was created by the tariff. He also does not believe that the industry at the present time could exist without it, and thinks that certainly few, if any, would be bold enough to attempt to carry on the business without it.

FREIGHT DISCRIMINATIONS.

One of the chief causes, in the opinion of some of the witnesses, of industrial combinations, and at any rate one of the greatest evils in connection with them, is the discriminations which it is claimed they have received in the freight rates given by the railroads. In other investigations carried on by the Industrial Commission, especially that on transportation, it has been quite generally conceded by railroad men and shippers that even up to the present time discriminating rates are made in favor of large shippers.

So far as this especial investigation is concerned, discriminations have been emphatically denied by the manufacturers of sugar, both Mr. Havemeyer, of the American Sugar Refining Company, and one of his opponents.⁹ Apparently all of these refineries receive the advantage of free storage of sugar in the railroad warehouses at the distributing points, but there seems to be no discrimination in this regard. Sugar

¹ Pages 999, 1000.

² Page 947.

³ Page 955.

⁴ Page 1012-1017.

⁵ Page 854.

⁶ Pages 878, 879.

⁷ Pages 924-925.

⁸ Page 912.

⁹ Doscher, p. 90; Havemeyer, pp. 112, 113.

freights out of New York are divided among the different railroads in a certain proportion which has been agreed upon.¹

In the case of iron, steel, and tin-plate shipments, while discriminations were not acknowledged, there was hesitation on the part of the officers of two of the companies, at any rate, in denying directly that favors were received.² Outsiders knew of no discriminations.³

On the other hand, charges of the most emphatic and unequivocal nature were made by the opponents of the Standard Oil Company with reference to freight discriminations received by it.

I. BEFORE THE INTERSTATE-COMMERCE LAW.

It was charged by most of the leading opponents of the Standard Oil Company⁴ that the chief reason for the rapid growth of the Standard, and its apparent great success in underselling rivals and winning markets, was the special advantages that it had received from the railroads. It was claimed that the company not merely received discriminating rates on its own shipments, but that it was frequently paid rebates on the shipments of its competitors. It was conceded by representatives of the Standard Oil Company⁵ that before the passage of the interstate-commerce act special freight rates and rebates were frequently received.

It was asserted, however, that this was the usual custom on the part of all railroads with all large shippers, and that competitors of the Standard had received similar favors. Cases were referred to in which Mr. George Rice, an independent refiner, had received special rates, and it was asserted by Mr. Page that in one case at least Scofield, Shurmer, and Teagle had received a lower rate than the Standard Oil Company was able to secure. Mr. Rockefeller further asserted that the profits of the Standard Oil Company had not been accumulated from this source, but that whatever advantage it had received in this way had been given to the consumer in the way of lower prices.⁶

Mr. Page asserted that in no case within his knowledge had the Standard Oil Company received payments on oil shipped by its opponents. He admits, however, that his experience as to the period before the interstate-commerce act is not extensive. Mr. Rockefeller made the same assertion, stating that the only exception was in one case, where a small sum was received during a short time on shipments by Mr. Rice, though after complaints had been made all of the money so received was refunded before any action was brought in the courts. A like explanation of this case was made by Mr. Archbold.⁷

II. AFTER THE PASSAGE OF THE INTERSTATE-COMMERCE LAW.

Much greater differences of opinion exist with reference to the condition of affairs since the passage of the interstate-commerce act. It has been charged as a matter of general belief on the part of almost all of the opponents of the Standard Oil Company that these discriminations in various forms have been continually received, even up to date. On the other hand, these charges have been denied in toto and most emphatically by every representative of the Standard Oil Company with reference to all cases excepting one, which they claim was a mistake, the amount of freight due being promptly paid on discovery of the error. The Standard Oil Company not merely challenged the opponents to bring forth proof of any case, but

¹ Havemeyer, p. 113.

² Graham, p. 856; Gates, p. 1091.

³ Griffiths, p. 913; Taylor, p. 942.

⁴ Lee, p. 264; Lockwood, p. 384; Emery, pp. 609, 644; Rice, p. 638, and *passim*; Phillips, p. 498.

⁵ Archbold, pp. 526, 580; Page, pp. 756, 789, 790; Rockefeller, p. 795.

⁶ Rockefeller, p. 796.

⁷ Archbold, pp. 556-559; Rockefeller, p. 796; Page, p. 790.

produced many letters from leading officials of railroads to show that the company had in no case received any favors or asked for them.¹

1. *Commissions*.—Certain opponents of the company claimed that the Standard Oil Company received commissions for shipping freight over railroads, which commissions amounted to rebates. This charge is emphatically denied by the Standard Oil Company and no positive proof on the subject has been offered.²

2. *Lubricating oil*.—Several of the witnesses have asserted that they found it practically impossible to sell lubricating oil to the railroads, and that they believe the railroads purchase their lubricating oil from the Standard Oil Company at high rates, and in that way give to the Standard Oil Company what is equivalent to a rebate in freight.³ This was denied emphatically by the vice-president of the Standard Oil Company of New York;⁴ and Mr. Page, vice-president and manager of the Union Tank Line, who has charge of the chief shipments of the Standard Oil Company, explained in detail the selling of lubricating oil to the railroads by the Standard Oil Company, asserting that in every case it guaranteed to the railroads as low a cost per train mile as could be or would be furnished by any of its opponents.⁵

3. *Logan, Emery & Weaver case*.—In one case brought by the firm of Logan, Emery & Weaver against the Pennsylvania Railroad, although Mr. Lee and Mr. Emery differ somewhat in their statements of details, evidence appears to have been given by accountants of the railroad showing that rebates had been paid to the Bear Creek Oil Refining Company for at least several months after the passage of the interstate-commerce act. These rebates were at the rate of from 3 or 8 to 20 cents per barrel, and amounted altogether to about \$24,000. The suit was never finally decided by the court, but the railroad compromised by paying the plaintiffs \$30,000 or \$35,000.⁶ Mr. Archbold testifies that in this case "the Standard Oil Company was in no way involved," and the opponents do not make that charge in this case.

4. *Shipments in tank cars*.—It has been charged that the Standard Oil Company receives advantages from the railroads, equivalent to rebates, through special privileges given to shippers in tank cars over shippers in barrels.⁷

It is true that for a year or two after the passage of the interstate-commerce act, up to 1888, lower rates were made per hundredweight on oil shipped in tank cars than on that in barrels. The Interstate Commerce Commission made a ruling against the practice in 1888, and there is no evidence to show that it has since continued. This first decision did not forbid charging for the weight of barrels themselves, but a later ruling, made in 1891, held that the weight of barrels, like that of tank cars, should be disregarded. From this ruling, and from the award of damages later made on the basis of it, an appeal was taken to the courts, and the question has not yet been finally settled. Whatever the outcome of the case may be, there can be no claim that the Standard Oil Company received special discriminating rates in this particular, as the same rates were offered to all shippers by tank cars.

It is, of course, true that the Standard Oil Company shipped far more by tanks than did any other shipper, but it is likewise true that the Standard Oil Company shipped also more by barrels than any other shipper, and Mr. Page intimates that the largest part of its shipments, if one takes into account the final distribution of the oil to the consumer, is by barrels. Whatever the truth may be with regard to the advantages derived by the Standard Oil Company through this method of shipping, it can hardly be charged that the company was receiving any discriminating rates that were illegal, inasmuch as all shippers were treated alike, including even Mr. Rice himself, who

¹ Lee, p. 292; Davis, p. 352; Phillips, p. 601; Westgate, p. 372; Archbold, pp. 516-528; Page, p. 778; Rockefeller, p. 795.

² Rice, p. 727; Page, p. 769.

³ Lee, pp. 268, 292; Davis, p. 359; Monnett, p. 323; Rice, pp. 699, 700.

⁴ Archbold, p. 516.

⁵ Page, pp. 756-759.

⁶ Lee, p. 287; Emery, pp. 694, 695; Archbold, p. 516.

⁷ Rice, pp. 711, 715, 749; Lee, p. 287; Lockwood, p. 388; Emery, p. 696.

makes the most emphatic charge. Moreover, the witnesses of the Standard argue with considerable force that payment of freight on the weight of the barrels is no more than just.¹

5. *Changes in rates.*—It was charged further by Mr. Rice² that the railroads, particularly in through shipments from Chicago to California, have at times made changes in their schedule rates after giving notice to the Standard Oil Company, and indeed by the instigation of that company, thus enabling the Standard to stock up while the freight rates were low, and in that way avoid the payment of the higher rates which its opponents, not knowing of the intended change, were compelled to pay. Mr. Rice submitted a series of letters and telegrams between officers of the railroads and the Standard Oil Company, dated during 1888, which confirms this statement. Mr. Page,³ in replying to Mr. Rice, denies any knowledge of the case cited, but makes the assertion that since 1891, at any rate, the freight rates to the Pacific coast have remained absolutely unchanged, so that this custom has not existed since that year.

6. *Underbilling.*—Several of the witnesses were of the opinion that underbilling of Standard Oil Company shipments was a frequent practice, the tank cars being often, or in the case of some roads, uniformly billed at the minimum weight of 24,000 pounds, instead of the actual weight depending upon the capacity of the car, which in many cases would amount to more than 40,000 pounds. Mr. Westgate claimed that he had seen 3 freight receipts for shipments of tanks from Olean, N. Y., at the 24,000-pound rate, when the true charge would have been on from 44,000 to 46,000 pounds for each tank. He was, however, unable to produce the freight receipts themselves, so that the numbers could be secured and the investigation made directly. Mr. Archbold denied these statements and produced affidavits from the general freight agents of the two railroads reaching Olean that shipments had not been underbilled for the Standard Oil Company from Olean, but that the company had invariably paid full rates as determined by the Tank Gauge Handbook.⁴

It was charged by Mr. Rice⁵ that shipments of naphtha had been made from Boston to Newport over the New York, New Haven and Hartford Railroad, during the year 1897, when the tank cars had been billed at 24,000 pounds instead of at their proper weight. The statement was further made that the facts as asserted had been proved before the Interstate Commerce Commission. Mr. Page went into this case in detail. In the testimony taken before the Interstate Commerce Commission it was proved that out of 16 cars shipped 7 had been underbilled. The statement was upheld by the testimony of railroad officials themselves that the underbilling was not at the instance of the Standard Oil Company, but was made by mistake of the railroad agents, the proper charge being afterwards made and promptly paid by the Standard Oil Company. One case of an overcharge in rate was also shown, which overcharge had to be refunded to the Standard.

The evidence seems to be to the effect that on none of these roads was any advantage granted to the Standard Oil Company in the way of underbilling on interstate shipments, except by the errors described. Witnesses, however, either admitted or refused to deny specifically that the Standard Oil Company sometimes, perhaps regularly, have cars billed at 24,000 pounds over the Boston and Albany road when the shipments are entirely within the State of Massachusetts.⁶

7. *Discriminations in Canada.*—It seems to have been established by the testimony of Mr. Gall⁷ that in Canada special local discriminations between Canadian and American oil over the same routes have been made within the last year or two. Mr. Gall claims that this is in favor of the Standard Oil Company, inasmuch as that company has bought up the Canadian refineries and thus gets an advantage from supplying the

¹ Archbold, p. 516; Page, pp. 765-767, 788, 789.

² Page, pp. 719-727.

³ Page, p. 769.

⁴ Westgate, p. 878; Archbold, p. 550.

⁵ Pages 751, 752.

⁶ Pages 770-775.

⁷ Pages 678, 675.

Canadian market with Canadian oil instead of American oil. Mr. Archbold¹ and Mr. Page² did not deny that these discriminating rates were made, nor did they make clear the extent of the control which the Standard Oil Company has of the refining interests in Canada, nor the relation of the Standard Oil Company to the railroads. These conspicuous local discriminations have been ordered discontinued by the Canadian government. It is shown also by several witnesses that the freight rates on oil exported from the United States into Canada have been very decidedly increased within the last year.³ Mr. Gall claims that this is in the interest of the Standard Oil Company for the reasons before given.

Mr. Page,⁴ in reply, claims that the Standard Oil Company has paid these advanced rates, and that it is by all odds the largest shipper into Canada, and, furthermore, that the shipments of the Standard Oil Company into Canada have increased since the increased freight rates went into effect. The witnesses on this point do not seem exactly to have joined issue, and the advantage or disadvantage which the Standard Oil Company receives in these freight rates is not clearly brought out.

8. *Agreements between pipe lines and railroads.*—The opponents of the Standard Oil Company claim further that, owing to agreements which exist between the railroads and the pipe lines in which the Standard Oil Company has controlling interest, the Standard Oil Company is benefited. By such agreements freight rates are kept fully as high as pipe-line charges, and the latter, it is claimed by opponents of the Standard, are several times greater than the actual cost of transportation in pipe lines. The Standard thus gains an advantage on its own oil transported through pipe lines.⁵

The agreement regarding which most was said was furnished in detail by Mr. Archbold, and will be found on page 663, in connection with Mr. Emery's testimony.

9. *Location of refineries.*—There can be no question from the testimony, but that the Standard Oil Company in certain sections of the country, particularly in New England, receives decided advantages from the location of its refineries in or near those sections. The more distant location of independent refiners places them at a disadvantage, while in certain cases at least the railroads refuse to give the shippers into that territory through rates on petroleum, such as are granted on almost every other kind of freight, but compel shippers of petroleum to pay the arbitrary local rates.

For example, shippers of goods from Titusville, Pa., to points in Vermont, Rhode Island, Connecticut, and other New England States, on most articles pay Boston rates; on petroleum the rate is arbitrary, a local rate being added to the through rate. In consequence refiners of petroleum in Titusville and Bradford, Pa., and other places, find it impossible to ship oil to such points as they think they could easily reach, provided Boston rates obtained. The Standard Oil Company, on the other hand, by shipping its oil into this territory from its refineries on the seaboard, either directly by rail or by tank steamers and rail, pays lower rates and in this way is enabled to control the oil market in that whole territory.

A somewhat similar condition of affairs seems to exist as regards the freight rates on Standard Oil shipments from its large refinery at Whiting, near Chicago, to southern and western points, as compared with rates from Cleveland and other points somewhat farther east. It is not claimed by anyone that the railroads in making these rates are doing anything illegal, or that the Standard Oil Company is receiving any illegal advantage. It pays exactly the same rates as its competitors pay when they make shipments in the same way; its only advantage comes from the fact that, considering the way the tariffs are made up, its refineries are more favorably situated. When one considers the way in which the railroads make up their freight schedules, naturally the opponents of the Standard Oil Company think they are arranged with

¹ Pages 572, 575.

² Page 788.

³ Gall, pp. 675-686; Westgate, pp. 375, 378.

⁴ Page 728.

⁵ Emery, pp. 663-667; Rice, pp. 700-703, 729; Monnet, pp. 322, 323; Page, pp. 759-763.

special reference to the Standard Oil Company's interests. The Standard Oil Company certainly gains from this custom of the railroad companies, in refusing to give through rates.¹

10. It is charged that railroads again favor the Standard Oil Company by rules regarding the stoppage of tank cars at certain places for the distribution of their contents without payment of local rates, by the special rates that are charged upon tanks filled with oil which are intended as permanent stations, and other similar arrangements. These charges are made especially by Mr. Rice,² and are replied to in part by Mr. Page.³

EFFECTS OF COMBINATIONS ON LABOR.

1. *Employment.*—Several of the witnesses who have appeared before the Commission say that one effect of the combinations is to lessen the cost of production by lessening the number of laborers needed in certain departments.

The witness who was most insistent upon this view, Mr. Dowe, president of the Commercial Travelers' National League, estimated that large numbers of commercial travelers were out of work, owing to the new methods of business adopted by the combinations, and that many more had had their wages decidedly lessened. The lack of competition brought about by the combinations had made it, in his judgment, possible to employ a less skilled class of commercial travelers than was required under the former competitive system, as well as greatly to diminish the number. He believes common workmen are also displaced by combination.

Other witnesses, heads of industrial combinations, agreed with Mr. Dowe in part. Mr. Bradley, one of the directors of the Distilling Company of America, thought there was a decided lessening in the number of salesmen; his combination will be able to dispense with about 300 altogether.⁴ Others, like Mr. Clarke,⁵ were of the opinion that few employees had been discharged as a consequence of the combination; and that in all probability had the combination not been formed an equal number, or perhaps more, would have been discharged on account of the failures that certainly would have resulted from the competitive system. In the whisky business, however, both Mr. Clarke and Mr. Rice⁶ testified that common labor is, relatively speaking, an unimportant factor.

Mr. Gates, of the American Steel and Wire Company, testified that it had dispensed with the services of all but 15 or 20 out of 200 or 300 traveling men, as well as with those of about 50 per cent of its high-priced men—superintendents, officers, etc.⁷

While Mr. Lee was inclined to believe that the closing of refineries by the Standard Oil Company has worked, on the whole, against the interest of the workingman,⁸ he nevertheless agreed with practically all the other witnesses who gave evidence on this point that the Standard Oil Company pays good wages and gives steady employment to its men. Mr. Archbold, of the Standard Oil Company, said that he was a believer in combinations of labor, as he was in combinations of capital, and thought that the interests of the two were not opposed.⁹

In the sugar combination not many men, though possibly a few, have been thrown out by the absorption of competing refineries, and those remaining have received, on the whole, probably better wages than before.¹⁰

The officers of several of the large combinations, particularly those in the iron and steel industries, testified that there had been no lessening, but rather, owing to the great demand for the product, with the consequent enlarged output, a decided increase

¹ Lee, p. 286; Monnet, pp. 309, 316; Westgate, pp. 373-379; Page, pp. 768, 770, 776-778.

² Pages 716-718.

³ Page 769.

⁴ Dowe, pp. 27-37; Bradley, p. 580.

⁵ Pages 190, 191.

⁶ Page 648.

⁷ Gates, pp. 1012, 1018, 1080.

⁸ Pages 289, 290.

⁹ Page 565.

¹⁰ Post, p. 161; Havemeyer, pp. 122, 129.

of the number of laborers employed in the ordinary branches of the business. On the other hand, the services of presidents, superintendents, and other high officials of the individual plants had been dispensed with when the combination was formed. Judge Gary, president of the Federal Steel Company,¹ testified to this saving, as did also Chairman Gates, of the American Steel and Wire Company,² President Guthrie, of the American Steel Hoop Company,³ and others.

2. *Wages.*—On the other hand, these men state that in the steel manufacture and its allied industries there has been a very decided increase, both in the number of men employed and in the rates of wages, since the formation of these corporations. For example, the Tin Plate Company has advanced the wages of its employees from 15 or 20 per cent upward, some few of the men receiving advances as high as 50 per cent.⁴ Mr. Reid furnished details of wages for some years tending to confirm his statements. In the National Steel Company wages have advanced from 15 to 20 per cent,⁵ while the American Steel and Wire Company has advanced wages, on the average, perhaps 40 per cent, and is employing from 30 to 40 per cent more labor.

In the Federal Steel Company also there has been an average increase of some 11 per cent, common labor being advanced about 16 per cent, while high officers and clerks at headquarters have had their pay lessened more than 6 per cent. President Gary furnished a table showing advances in wages in the different classes of employment, as well as the increased number employed.⁶ The American Steel Hoop Company had also advanced wages from 15 to 25 per cent.⁷ It should be remembered, in connection with all of these steel companies, that there has been a very decided improvement in business during the last year or two, and prices as well as wages have therefore gone up enormously. Part of the increase in certain cases is in fact to be explained by the operation of the sliding-scale system, although the base prices of the scales have also been advanced.

Mr. Griffiths, while recognizing that there has been an advance of wages by the American Tin Plate Company, testified that the feeling among the laborers was not at all in favor of the combination. While the workingmen knew that there had been some increase in their wages, they felt that on the whole they were more within the power of their employers than before. Some of the plants were closed down, for a time at least, early in the winter 1899-1900, and the men believed that the formation of the combination would help the employers in an attempt to lower wages in 1900. He based these statements largely on a letter from one of the workingmen employed by the American Tin Plate Company.⁸ Mr. Greer, the district superintendent of the American Tin Plate Company for the New Castle district, explained the reasons for the closing of the plants temporarily, and denied generally the statements of Mr. Griffiths.⁹

The opinion was general that when plants were closed in any industry there might and probably would be at least a temporary displacement of labor, though in many cases men would be simply transferred to other establishments.

In the case of the International Silver Company, the workingmen have also received an advance in wages since the combination of from 5 to 10 per cent.; there are no unions among the men employed in its establishments and the employees are dealt with individually. Many of the laborers are fairly well off, being permanent residents of the place where the works are established and owning their own homes.¹⁰

3. *Labor organizations.*—Nearly all of the combinations whose representatives appeared before the Commission manifest no hostility to labor organizations, but are on the whole inclined to favor them. As has been said, the Standard Oil Company believes in trade unions. The National Steel Company, the American Steel

¹ Pages 983, 991.

² Page 1030.

³ Page 954.

⁴ Graham, p. 853; Reid, pp. 869-874.

⁵ Reis, p. 946.

⁶ Page 901.

⁷ Guthrie, p. 955.

⁸ Pages 904-907.

⁹ Pages 924, 928, 929.

¹⁰ Dodd, pp. 1052, 1056; Watrous, pp. 1064, 1066.

Hoop Company, the American Tin Plate Company, and the Federal Steel Company all employ union labor largely, although not exclusively. They deal regularly with the Amalgamated Association of Iron, Steel, and Tin Workers, and pay as a rule to the nonunion men wages that are substantially based upon the Amalgamated scale.¹

Chairman Gates, of the American Steel and Wire Company, asserted that his company did not recognize union labor as such, although it employs large numbers of men belonging to the Amalgamated Association. The various employers meet with committees of the men to agree upon rates of wages, but do not deal with the unions as such. In all of their establishments they expect to pay good rates; those which prevail in the locality for those grades of labor.²

Some of the witnesses were of opinion that in case of a conflict between employers and employees the large organization would have a decided advantage by virtue of its great wealth, perhaps chiefly from the fact that having a number of establishments in different sections of the country it would be possible to close two or three without materially affecting the prosperity of the organization.³

The great combination might also, if it controlled practically all of the establishments in the country, carry out an effectual boycott against individual employees who had opposed its policy.⁴

In some of the testimony that has been given before the Industrial Commission in other lines of investigation, leaders of labor organizations have testified that they do not fear the industrial combinations on the ground that has been mentioned, but that they believe that the unions are able to hold their own as effectually against the combinations as they could against the individual employers. They are further of the opinion that if the combinations are able, by virtue of their savings, to increase the profits of the industry, the laborers can perhaps, by pressure, maintain or increase their wages quite as readily as before the combinations were made. On this subject more testimony is expected.

Strikes.—The testimony is practically universal that the combinations have had little or no trouble in the way of strikes,⁵ although Mr. Griffiths testifies as regards the tin-plate workers that they have been dissatisfied,⁶ and that there has been some tendency at least toward strikes.

SOCIAL EFFECTS OF COMBINATIONS.

The opponents of the large industrial combinations believe that one of the most injurious effects to the country from such organizations is that people are deprived thereby of the opportunities for independent management of business enterprises, and that in consequence the mental and moral fiber of the community is weakened.⁷ Even witnesses who assert that combinations in certain lines of industry are on the whole advantageous and desirable speak with not a little feeling on this evil effect of them.⁸

Witnesses on the other side, however, believe that under the combinations there is every opportunity for individual initiative and independent activity that could be found outside the combinations, while the benefits in the way of greater financial profits, greater stability of business conditions, and potential lowering of prices would, at any rate in the long run, more than compensate for any possible disadvantage that might arise. Attention is called to the fact that when the combinations are effected, men well advanced in years, who would perhaps find it difficult to withdraw from business under other circumstances, seize the opportunity to withdraw from

¹ Guthrie, p. 955; Reis, p. 946; Gary, pp. 983, 991.

² Pages 1012, 1013.

³ Dowe, p. 35; Havemeyer, p. 121; Lee, p. 289.

⁴ Mas, p. 85.

⁵ Reid, p. 876; Archbold, p. 565; Gary, p. 983.

⁶ Page 907.

⁷ Lockwood, p. 391; Rice, pp. 746, 747; Dowe, p. 36.

⁸ Clarke, p. 181; Luyties, p. 258; Jarvie, p. 146; Lee, p. 295.

active management of affairs, while younger men of greater energy, who are glad to take up the burden, are put in their stead. The fact that the combination is managed by a board of directors mostly made up of men themselves actively engaged in the business, while the superintendents in charge of the separate plants, often their former owners, have large discretionary powers and responsibility, seems to these witnesses to show that there is no lack of incentive to individual activity or possibility of weakened individual judgment.¹

The power which such combinations exert over persons whom they supply with goods or who are in any way dependent upon them brings out in a somewhat startling light this social effect. As laborers have, it is said, often been coerced by employers upon whom they were dependent, so some persons feared to give evidence or to let it be publicly known that they objected to the methods of business of some of the trusts, lest they be driven out of business by them.²

SUMMARY OF ADVANTAGES AND EVILS.

I. ADVANTAGES.

Those who advocate the formation of large industrial combinations claim that they possess over the system of production on a smaller scale by competing plants the following advantages:

1. *Concentration.*—By closing individual plants less favorably located or less well equipped and concentrating production into the best plants most favorably located a great saving can be effected, both in the amount of capital necessary for the production of a given product and the amount of labor required.³

Another advantage of the concentration of industry is that the plants which are kept employed can be run at their full capacity instead of at part capacity, and can largely be run continuously instead of intermittently, so far as the combination happens to control the larger part of the entire output—a material source of saving in certain lines of industry.⁴ A still further advantage of this concentration comes in the selling of the product, from the fact that customers, being always sure of ready supply whenever it is wanted, more willingly buy from the large producer, and that there is less loss from bad debts⁵. This readiness to buy from trusts, however, is denied, some witnesses holding that dealers prefer to buy from independent producers.⁶

In certain lines of industry much greater economy can be practiced, especially in the way of using by-products to better advantage in a large establishment than in a small one. Much difference of opinion exists among witnesses in most lines of industry as to the size of plant that can secure the most economical division of labor and use of by-products, without making adequate supervision too difficult.⁷

2. *Freights.*—Where the product is bulky, so that the freight forms an essential element of the cost, much can be saved by an organization which has plants established at favorable locations in different sections of the country so that purchasers can be supplied from nearest plants, thus saving the cross freights, which, of course, must be paid where customers are supplied from single competing plants.⁸

3. *Patents and brands.*—Where different establishments, selling separate brands, are brought together into one combination, the use of each brand being made

¹ Guthrie, p. 954; Reid, p. 877; Gary, p. 983; Thurber, p. 18; Greer, p. 926, 929.

² Griffiths, p. 993.

³ McNulta, pp. 208, 216; Rice, p. 832; Clarke, pp. 170, 185, 190; Havemeyer, p. 110; Dodd, pp. 1049, 1050; S. C. T. Dodd, p. 798; Thurber, p. 5.

⁴ Havemeyer, pp. 109, 110; Doscher, p. 99; Bradley, p. 816; Luyties, pp. 254, 255.

⁵ Gates, pp. 1024, 1080.

⁶ Cook, p. 245; Luyties, p. 258; Clarke, p. 184.

⁷ Doscher, pp. 88-91; Reid, p. 877; Griffiths, 915; Lee, p. 294.

⁸ Reid, p. 877; Graham, p. 856; Havemeyer, p. 110; Page, p. 788; Taylor, p. 942; Gates, p. 1080.

common to all, a great saving is often effected, since the most successful can be more efficiently exploited.

The control also of substantially all patents in one line of industry sometimes enables the combination to secure a monopoly which it could not otherwise secure.¹

4. *Single management.*—The great completeness and simplicity of the operation of a single great corporation or trust is also a source of saving. Where each of the different establishments which are united had before a president, a complete set of officers, and a separate office force, the combined establishment need have but its one set of chief officers, and subordinates at lesser salaries may take the places of the heads of separate establishments. In this way a material saving is often made in the salaries of the higher officials; while a considerable reduction of the total office force is also possible. It is likewise true that this same form of organization enables one set of traveling salesmen to sell all of the brands or all classes of goods for the separate establishments, and in that way much labor is saved. This is considered a great saving from the standpoint of the producer and consumer, but is likewise naturally considered an evil from the point of view of those who are thus thrown out of work.²

The more complete organizations also will distribute the work among the different plants in such a way that to each is given the particular kind of product for which it is specially adapted, and in many cases changes in machinery and changes of workmen from one kind of product to another are avoided, a source often of great saving.³

5. *Skilled management.*—The bringing into cooperation of leading men from the separate establishments, each having different elements of skill and experience, makes it possible to apply to the business the aggregate ability of all, a factor in many instances doubtless of great advantage.⁴ To some degree there may be a finer specialization of business ability, each man being placed at the head of the department for which he is specially fitted, thus giving, of course, the most skilled management possible to the entire industry, whereas before the combination was effected only a comparatively few of the leading establishments would have managers of equal skill.⁵

But this advantage, some think, is limited. The chief managers at the central office are likely to be large stockholders, and thus to have a strong direct interest in the success of the enterprise. This may hold also of many of the superintendents of departments. But others will be hired managers, and, it is claimed, a hired superintendent will not take the same interest in the establishment or be able to exert the same intelligent control as the owner of a comparatively small establishment. Moreover, minute supervision can not well be exercised in a very large combination.⁶

6. *Export trade.*—The control of large capital also, it is asserted, enables the export trade to be developed to much greater advantage than could be done by smaller establishments with less wealth at their disposal.

II. EVILS.

Among the evils of the great combinations those most frequently mentioned are:

1. *Employees discharged.*—When different establishments come together into one, it is often the case that certain classes of employees are needed in much less numbers than by the independent plants. This is specially true in the case of commercial travelers, and, also, perhaps in the case of superintendents and clerks in the offices. While this is generally admitted, it is considered by many to be an inevitable condi-

¹ Gates, p. 1081; Dodd, pp. 1049, 1050; S. C. T. Dodd, p. 796; Rogers, pp. 1070, 1073.

² Bradley, pp. 829, 831; Gary, pp. 983, 991; Guthrie, pp. 953, 954; Gates, p. 1030.

³ Guthrie, p. 953; Reid, p. 877.

⁴ Havemeyer, p. 110; Guthrie, pp. 954, 956; Gary, pp. 983-986; Gates, p. 1084; Rockefeller, p. 796.

⁵ Reid, p. 877; Guthrie, pp. 956, 957; Greer, pp. 926, 929.

⁶ Griffiths, pp. 899, 900; Lee, p. 271.

tion of progress and only a temporary hardship which, like that resulting from the introduction of a new machine, will ultimately result in a greater gain.¹

2. *Methods of competition.*—The large establishments, by cutting prices in certain localities, while maintaining the prices in the main, have a decided advantage over the smaller competitors whose market is limited to the one field in which the prices are cut, and consequently can often succeed in driving their rivals out of the business.²

Connected with this method of competition is also the use of unfair methods, such as following up rivals' customers, bribing employees of rivals to furnish information, etc.

The sudden raising and lowering of prices by the combinations, without notice and apparently arbitrarily to embarrass their opponents, is also considered a great evil.

3. *Increased prices.*—When the combinations have sufficient strength, or for any reason get monopolistic control more or less complete, it is thought that they often raise prices above competitive rates, to the great detriment of the public.

4. *Speculation and overcapitalization.*—Another evil often charged against these newer combinations is that the promoter, by virtue of misrepresentations or by the concealment of material facts, is frequently able to secure very large profits for himself at the expense of the people at large who buy the stocks, and that in this way undue speculation is encouraged.

Connected with this evil which comes with the modern method of promotion is that of overcapitalization. Stock is frequently issued to four or five, or even more, times the amount of the cash value of the plants that are brought into the combinations. These stocks then placed upon the market go into the hands of persons ignorant of the real value of the property, who afterwards are likely to lose heavily. Pools are sometimes made to control the stock market, or other of the common ways of disposing of the stock by unfair methods are employed.³

At times also the officers and directors of the large combinations seem to have taken advantage of their inside knowledge of the business to speculate on the stock exchange in their own securities to the great detriment of the other shareholders.⁴

5. *Freight discriminations.*—Among the chief evils mentioned are those of freight discriminations in favor of the large companies, which many assert are the chief cause for the growth of the great combinations.

6. *Monopoly; its social effects.*—The fact that an organization possesses a practical monopoly and can in that way direct its operations at the expense of its rivals, thereby preventing competitors from coming into the field, it is thought, takes away from the individual initiative of business men and prevents particularly the younger men from going into business independently. The formerly independent heads of establishments entering the combinations are also, it is said, reduced to the position of hired subordinates. By these means, witnesses claim, the trusts are in reality sapping the courage and power of initiative of perhaps the most active and influential men in the community. This evil is denied by many of the members of the large corporations, who think that within those corporations are found opportunities for the exercise of judgment and enterprise and for rising in life which do not exist outside.⁵

¹ Dowe, p. 27; Reid, pp. 876, 877; Bradley, pp. 829-831; Clarke, pp. 184, 190; Gary, pp. 988, 991; Gates, p. 1036.

² Lee, pp. 265, 266; Westgate, pp. 365-370; Lockwood, p. 402; Emery, pp. 629-632; Monnett, p. 817; Atchbold, pp. 569-570; Page, p. 792; Mathews, p. 506.

³ Dill, p. 1080; Dodd, pp. 1058, 1060, 1061; Rogers, p. 1067; Myers, p. 1138; Dos Passos, p. 1166; Stetson, p. 978; Thurber, p. 20.

⁴ McNulta, pp. 198, 287; Clarke, pp. 174, 186; Rice, p. 882; Luyties, p. 257.

⁵ Clarke, pp. 181, 190; Dowe, pp. 25, 34; Lee, p. 295; Lockwood, pp. 391, 398; Griffiths, p. 911; Guthrie, p. 954; Thurber, pp. 7, 8, 18; Moore, p. 967.

REMEDIES.

1. *Let-alone policy.*—Several of the witnesses are of the opinion that any evils connected with the industrial combinations will be remedied in the ordinary course of business, and that any attempt at regulation by law would be likely to result in more harm than good. Competition, either active or potential, is believed by these witnesses to be a sufficient preventive of monopoly and extortionate prices, while stockholders and investors are believed to be already sufficiently protected by statute and common law, especially in view of the fact that the State can not guarantee to these persons immunity from carelessness and ignorance on their own part. It is also urged that, under the common law alone, the courts have always held as illegal any monopoly or combination distinctly shown to be in restraint of trade.

While making this general expression of opinion, some of these witnesses afterwards admitted that certain measures tending toward giving the public, and particularly the stockholders, more information regarding the nature of the business might be advisable.¹

2. *Direct suppression of monopolistic combinations.*—A few witnesses are inclined to favor the more general enactment of statutes along the lines of those already adopted by numerous States, directly prohibiting the transaction of business by combinations seeking to restrain trade or to control prices. Some witnesses believe that the present statutes, in regard to the States where they have been enacted, in conjunction with the national antitrust law of 1890, and the interstate commerce law, would, if vigorously enforced, be all the legislation necessary.²

Perhaps a greater number of witnesses, however, directly expressed themselves as opposed to so-called "antitrust" legislation, while others distinctly imply a similar opposition. These witnesses, including some opponents of individual combinations, as well as lawyers, hold that combination is a natural outgrowth of modern conditions, and that it is practically impossible to suppress it. If any legislation is needed, it should be in the form of regulation and publicity only.³

3. *Prohibition of destructive competition.*—Two or three witnesses testifying in opposition to the Standard Oil Company advocate legislation to prohibit "destructive competition." The witnesses have in mind especially the cutting of prices in local markets, while retaining them at high figures in other parts of the country. A requirement that, freight rates being considered, prices should be made uniform in all markets is advocated. It is also suggested that general cutting of prices below actual cost of production for the purpose of driving out competitors should, perhaps, be prohibited. No criticism upon these suggestions is offered directly by other witnesses.⁴ In connection with this Senator Lee advocated limiting capitalization.⁵

4. *Publicity.*—Many of the witnesses, including even representatives of combinations, are of the opinion that a much greater publicity regarding the affairs of such combinations than is now customary would tend to remove many of the evils. As regards the general public, the knowledge thus secured would avail to prevent the maintenance of extortionate prices as well as unfair methods and conditions of competition. Stockholders and investors would also be protected against abuses by promoters and officers of corporations.

How this publicity should be brought about and the degree to which it should extend is a matter upon which no general agreement existed among the witnesses. Some are inclined to think that it would be wise if somewhat detailed balance sheets

¹ Dos Passos, pp. 1140-1158; Stetson, pp. 972, 973, 980; Clarke, p. 187; Thurber, pp. 6, 14; Smith, pp. 68-70.

² Dowe, pp. 28, 36; McNulta, p. 237; Rice, pp. 730, 746; Allen, pp. 1193-1197.

³ Lee, p. 294; Westgate, p. 938; Lockwood, p. 384.

⁴ Pages 294, 295.

of the accounts of the larger combinations could be made public. More of the witnesses, including especially lawyers and officers of corporations, seem rather of the opinion that when the corporation is first organized the details regarding its organization, the values at which plants and other property are taken in, the profits of the promoters, etc., should be made public. After the corporation has been engaged in business, however, while the details of its management should be made known with considerable fullness to the stockholders, the outside public should be given little more information than at present, lest thereby competitors may secure an advantage.

Many of the witnesses believe that publicity, if properly established and enforced, would prove a very efficient remedy. Others think that, while it might be useful, it would not alone be sufficient. At least one of the witnesses is of the opinion that this publicity should be enforced upon all public corporations, such as railways, street railways, etc., but not upon ordinary manufacturing or mercantile corporations.¹

Strong differences of opinion exist among the different witnesses as to whether legislation along any of the lines suggested, or additional legislation, should be by the individual States or by the Federal Government. The witnesses also disagree as to the constitutionality of various forms of legislation, both in the case of the States and in the case of the Federal Government. Some witnesses were of the opinion that State legislation would be of little service unless practically all of the States adopted uniform laws, and this is considered an impossibility. Others seem to think that legislation, even by a few of the States, if of the right kind, would be very useful. There is perhaps, however, a rather general expression of opinion among those who favor any legislation at all that Federal legislation, if constitutional, is desirable, at least to supplement State legislation as to combinations, if not, perhaps, to take entire jurisdiction regarding them.

5. *State legislation.*—The chief specific suggestions regarding State legislation were:²

(a) The classification of corporations should be made much stricter than at present, and each class should be confined closely to the exercise of its specified powers.

(b) There should be strict inspection of corporations by State officials, and publicity should be enforced through reports. This, of course, applies primarily to action by the States as regards their own domestic corporations. (See also above, under *Publicity*.)

(c) Combinations, in whatever form (even if it be that of a single corporation), between different corporations, where monopolistic intent can be shown, should be prohibited. (See also above, under *Suppression*.)

(d) Foreign corporations should be forbidden by each State to do business within its borders unless conforming to its laws. As to this last suggestion, the powers of States over foreign corporations, so far as their interstate business is concerned, would be very limited. It appears that the courts would be likely to hold that the States would require a special authorization from Congress to enable them to act with any considerable effectiveness in this regard, even if the power could be secured in that way.³

6. *Federal legislation.*—The lines of Federal legislation suggested fall mainly under the following heads:

(a) Creation of Federal corporations under strict Federal laws. Some would favor incorporation under Federal laws only in case of very large corporations, while from the legal standpoint some others would fix the distinction between State and Federal corporations along the line of commerce within the States as distinguished from interstate commerce. The representatives of combinations favoring such Federal

¹ Lee, p. 296; Luyties, p. 258; Thurber, pp. 15, 16, 20; Havemeyer, pp. 123, 136-138; Gary, pp. 996, 1001, 1002; Dos Passos, pp. 1162-1170, 1176, 1177; Stetson, pp. 975, 980; Moore, pp. 964, 966; Dill, pp. 1082, 1083; King, pp. 1108-1110; Allen, 1193, 1194.

² Allen, pp. 1193-1197.

³ Pam, p. 1085; Dos Passos, pp. 1173, 1174; Allen, pp. 1187, 1188, 1193-1195, 1207; Huffcut, pp. 1212-1216.

laws consider that one of their chief advantages would be to prevent unwarranted interference with the business of the corporations by individual States. Some of the witnesses, however, consider that the creation of Federal corporations would be harmful as well as unconstitutional.¹

(b) In connection with Federal incorporation, or apart from it, certain witnesses favor a considerable degree of regulation of corporations on the part of the Federal Government. In this connection, publicity, through reports and inspection, is advocated. A Bureau of Industry is suggested by one witness, having powers somewhat similar to those of the Interstate Commerce Commission. The reports to be made to this body should be of such a nature as to disclose the condition of the business of the corporation, especially as to whether it possessed or was likely to acquire a monopoly or not.¹

(c) *Strengthen Interstate Commerce Commission.*—Some of the witnesses complain of the inefficiency of the Interstate Commerce Commission. Others urge that it be given greater power, even judicial power, and that pooling among railroads be permitted under its supervision. Especially is it recommended in the testimony taken before the subcommission on transportation that its hands be strengthened by giving it power of audit of railway accounts, power of enforcing its decisions, etc., it being urged that in this way freight discriminations in favor of the large shippers, the combinations, could be prevented.

(d) Two witnesses are inclined to the opinion that unless Congress in some way assumes full control of corporations the United States Government should remove, by specific act of Congress, the limitations which now are likely to be laid by the courts, on the basis of the Federal Constitution, upon the powers of the States over monopolistic combinations, so far as their interstate business is concerned. It was thought, on the whole, that such an act of Congress would probably be upheld as constitutional by the courts.²

(e) *Removal or lowering of tariff.*—Several of the witnesses, though not objecting in the main to the principle of a protective tariff, were of the opinion that in some cases the tariff encouraged, or, even, as one said, was the chief cause of the trust. In such cases they thought it should be lowered or abolished. Mr. Havemeyer expressed himself most strongly in favor of a low horizontal tariff of not over 10 per cent, while Mr. Buynitsky proposed that if there were shown to be a monopoly in any protected industry the President might be empowered to lower the tariff on the products of that industry, by executive order, not more than 20 per cent, nor for a longer period than five years.

(f) *Powers of Congress.*—Much discussion was presented before the Commission as to the constitutional powers of Congress to enact legislation along any of the lines above suggested. It is admitted that Congress has exclusive control over interstate commerce, and the preponderance of opinion seems to be that it has power to create corporations to carry on such commerce, although this is disputed. Congress is admitted to have no power over purely manufacturing corporations not engaged in interstate business. There is much doubt, however, as to the precise line where business ceases to be domestic and becomes interstate. Professor Huffcut, at least, is inclined to think that the courts, even under the present Constitution, would uphold quite general control over the general business of corporations carrying on a widespread business among the several States, on the ground that a large portion, at least, of that business—perhaps most of it—is interstate in character. The control of that would practically control all. In this connection this witness suggests that Congress could probably constitutionally compel such large corporations to submit to Federal

¹ Thurber, p. 14; Arehbold, pp. 565, 560; Rogers, p. 585; Havemeyer, pp. 186-138; Gary, pp. 1000, 1008; Gates, p. 1022; Pam, pp. 1087, 1088; Myers, pp. 1133, 1138; Dill, pp. 1087, 1088; Moore, p. 665; Stetson, p. 981; Dos Passos, pp. 1159-1161, 1174; Allen, pp. 1194, 1206, 1209.

² Huffcut, pp. 1211, 1215, 1216; Allen, pp. 1194, 1208.

legislation, and perhaps to incorporate under Federal laws, by one of the three following methods:

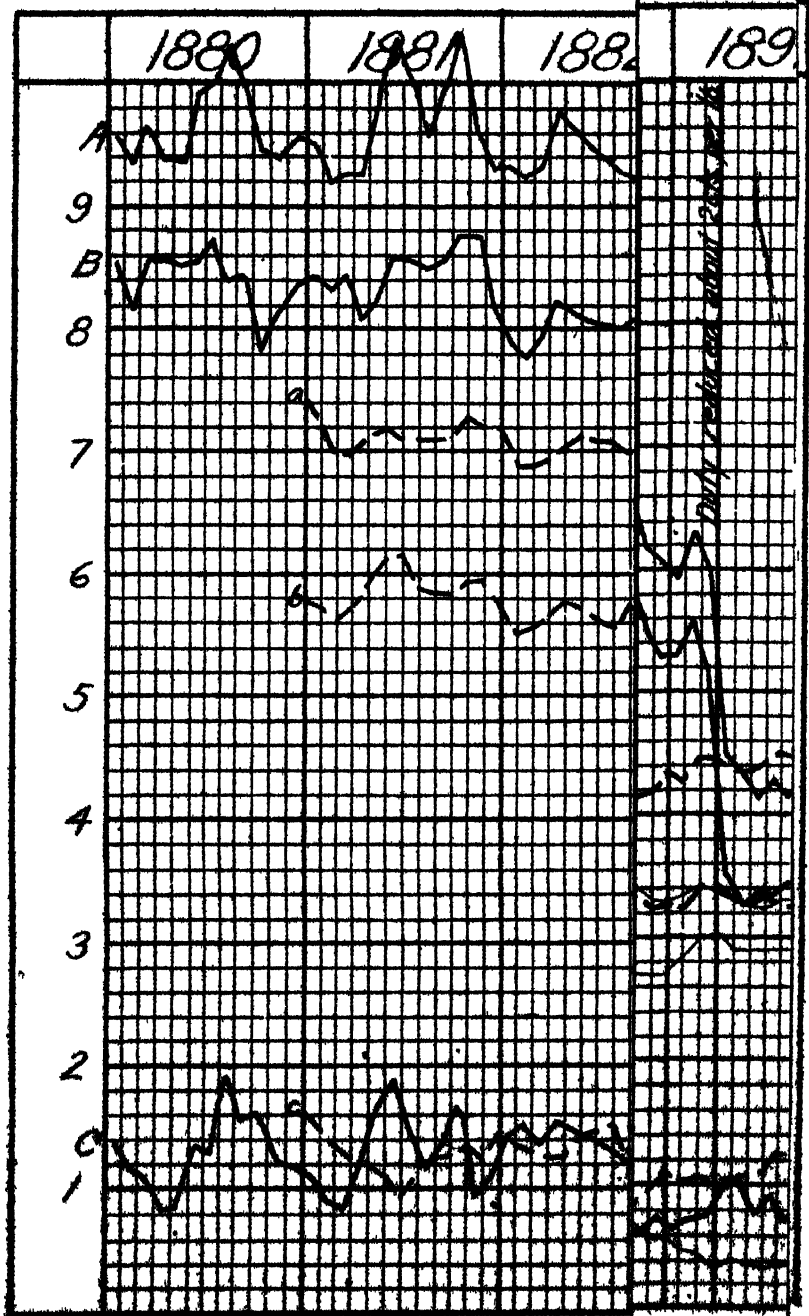
(a) By forbidding the use of the mails to State corporations engaged in interstate commerce, especially so far as they are shown to be monopolistic and therefore subject to the police power.

(b) By levying a practically prohibitive tax upon State corporations engaged in interstate commerce, as has been done with note issues of State banks. Other witnesses suggest that the Government can acquire jurisdiction, in order to compel reports and publicity, by imposing taxes, and some are inclined to suggest that these taxes should be made progressive.

(c) By directly prohibiting State corporations from engaging in interstate commerce.¹

¹ Stetson, p. 981; Gary, pp. 1000, 1008; Pam, p. 1037; Gates, p. 1022; Huffcut, pp. 1211-1219; Allen, pp. 1194-1196, 1207-1209.

S



Integrated

INDUSTRIAL COMBINATIONS AND PRICES.

By JEREMIAH W. JENKS.

The effects of the industrial combinations upon prices form certainly one of the best tests of their usefulness or disadvantage to society. The popular impression seems to be that these combinations very greatly increase prices to the consumers. On the other hand, the trust managers and their advocates are in the habit of claiming that, owing to economies of management, the trusts lower prices to consumers, while at the same time they increase the wages of their employees.

It is of course comparatively easy by the selection of statistics at certain chosen periods to show either of these results. It has, in consequence, seemed wisest to secure as far as possible average monthly prices of the leading raw materials and finished products of several of the larger combinations for a series of years, and to plot these on charts in such a way that the relations at all times between the two can be most readily seen. Wherever it has been practicable, European prices have been compared with American, in order that the influence of the trust itself might more clearly be brought out.

The differential or "margin" between the price of the raw materials and that of the finished product should show, other things equal, the cost of manufacture plus the profit. Unless one is somewhat guarded, however, one is likely to reach false conclusions if this assumption is made without qualification. In nearly all processes of manufacture there is a considerable element of waste of raw material. As the price of the raw material increases, the value of this waste is also correspondingly increased. In consequence, in order that the profits may be the same, the margin between the price of the raw material and that of the finished product should increase slightly with the increase in price of the raw material. Again, when the raw material has to be held in large quantities, so that it involves the investment of considerable capital, it can be readily seen that the interest charge for carrying this raw material is not a little increased as the price of the raw material rises. This, of course, is a factor of less importance than the other, but nevertheless is worthy of consideration.

So far as the manufacture of wire rods and nails is concerned, the necessity of increase of margin as price rises is brought out clearly by Mr. Gates in his testimony;¹ but the same fact holds with reference to the manufacture of tin plate, of wire and nails, and of refined sugar from raw, as well as in most other lines of business. Special attention will be called to this fact in the comment upon each individual chart.

SUGAR.²

The lines on the chart represent standard raw and refined sugars in the United States, England, and Germany. For America raw sugar is represented by 96° centrifugal, and refined by granulated. The English raw sugar, Java Afloat, corresponds closely with the American 96° centrifugal; but the English refined sugar, Tate's Cubes, is a special grade, which normally brings somewhat more than the regular price of granulated sugar—at times, probably, nearly half a cent more. The consequence is that we should expect the margin between the raw and refined in England to be somewhat greater than the American margin between 96° centrifugal and granulated.

¹ Page 1908.

² The prices from which the chart has been made were taken from Willett and Gray's Statistical Sugar Trade Journal as noted in the tables on pages 40-44. In the Journal English and German prices were given in shillings and pence per hundredweight of 112 pounds. They have been reduced to cents per pound in order that comparisons might be more readily made, and the chart more easily plotted. The convenient rule for reduction given in the Journal of January 4, 1900, from which the prices of foreign sugars are taken, has been followed.

40 THE INDUSTRIAL COMMISSION:—INDUSTRIAL COMBINATIONS.

I.—Comparative quotations of raw and refined sugars in New York, 1880-1899.

[From Willett & Gray's Weekly Statistical Sugar Trade Journal, Feb. 8, 1894, for prices through 1893; later prices from Journal of Jan. 4, 1900.]

	1880.			1881.			1882.		
	96° centrif- ugal.	Granu- lated.	Differ- ence.	96° centrif- ugal.	Granu- lated.	Differ- ence.	96° centrif- ugal.	Granu- lated.	Differ- ence.
January	8.550	9.587	1.037	8.421	9.515	1.094	7.875	9.300	1.425
February	8.187	9.343	1.156	8.297	9.187	0.890	7.781	9.218	1.537
March	8.546	9.625	1.079	8.420	9.250	0.830	7.987	9.312	1.375
April	8.575	9.387	0.812	8.062	9.250	1.188	8.212	9.775	1.563
May	8.500	9.350	0.850	8.234	9.875	1.641	8.152	9.630	1.478
June	8.578	9.921	1.343	8.600	10.475	1.875	8.062	9.484	1.422
July	8.725	10.000	1.275	8.550	10.000	1.450	8.025	9.380	1.355
August	8.406	10.340	1.934	8.500	9.556	1.156	8.000	9.250	1.250
September	8.425	9.987	1.562	8.575	9.950	1.375	8.075	9.203	1.128
October	7.813	9.437	1.624	8.705	10.450	1.685	8.012	9.187	1.175
November	8.156	9.375	1.219	8.750	9.615	0.985	7.984	8.006	0.922
December	8.362	9.550	1.188	8.187	9.287	1.100	7.690	8.725	1.035
Yearly averages	8.401	9.650	1.249	8.447	9.715	1.268	7.983	9.280	1.297
Net cash	8.206	9.602	1.396	8.251	9.667	1.426	7.797	9.234	1.437

	1883.			1884.			1885.		
	96° centrif- ugal.	Granu- lated.	Differ- ence.	96° centrif- ugal.	Granu- lated.	Differ- ence.	96° centrif- ugal.	Granu- lated.	Differ- ence.
January	7.700	8.637	0.937	6.775	7.812	1.037	5.487	6.162	0.675
February	7.625	8.843	1.218	6.734	7.593	0.859	5.546	6.156	0.610
March	7.750	8.859	1.109	6.437	7.300	0.863	5.362	6.000	0.638
April	7.635	8.712	1.077	6.265	6.968	0.703	5.375	6.062	0.687
May	7.812	8.815	1.003	6.109	7.187	1.077	5.890	6.687	0.797
June	7.640	8.859	1.219	5.700	6.650	0.950	6.162	6.737	0.575
July	7.625	8.850	1.224	5.906	6.750	0.844	5.988	6.453	0.465
August	7.562	8.656	1.094	5.075	6.587	0.912	6.062	6.750	0.688
September	7.568	8.710	1.142	5.563	6.484	0.921	6.187	6.906	0.719
October	7.687	8.587	0.900	5.609	6.390	0.781	6.093	6.546	0.453
November	7.530	8.109	0.579	5.608	6.141	0.533	6.000	6.593	0.593
December	7.065	7.937	0.879	5.336	5.912	0.586	6.250	6.625	0.375
Yearly averages	7.600	8.548	0.948	5.997	6.814	0.817	5.865	6.473	0.608
Net cash	7.423	8.506	1.083	5.857	6.780	0.923	5.729	6.441	0.712

	1886.			1887.			1888.		
	96° centrif- ugal.	Granu- lated.	Differ- ence.	96° centrif- ugal.	Granu- lated.	Differ- ence.	96° centrif- ugal.	Granu- lated.	Differ- ence.
January	6.125	6.625	0.500	5.200	5.825	0.625	5.950	7.125	1.175
February	5.703	6.140	0.437	5.125	5.687	0.562	5.513	6.800	1.287
March	5.562	6.225	0.663	5.150	5.725	0.575	5.435	6.750	1.315
April	5.796	6.810	0.014	5.171	5.689	0.518	5.500	6.750	1.250
May	5.484	6.343	0.859	5.125	5.734	0.609	5.480	6.750	1.270
June	5.437	6.186	0.748	5.187	5.850	0.663	5.500	6.808	1.305
July	5.390	6.196	0.795	5.265	5.935	0.670	5.893	7.625	1.732
August	5.237	6.065	0.828	5.312	6.037	0.775	6.245	7.560	1.305
September	5.296	5.955	0.650	5.390	6.078	0.688	6.490	7.656	1.166
October	5.187	5.825	0.638	5.640	6.406	0.766	6.187	7.490	1.303
November	5.166	5.690	0.524	5.387	6.630	0.693	6.240	7.250	1.010
December	5.175	5.725	0.550	5.940	6.875	0.965	6.200	7.250	1.050
Yearly averages	5.463	6.147	0.684	5.370	6.043	0.678	5.886	7.150	1.264
Net cash	5.386	6.117	0.781	5.245	6.013	0.768	5.749	7.007	1.258

I.—Comparative quotations of raw and refined sugars in New York, 1880-1899—Cont'd.

	1889.			1890.			1891.		
	96° centrifugal.	Granulated.	Difference.	96° centrifugal.	Granulated.	Difference.	96° centrifugal.	Granulated.	Difference.
January	5.650	7.050	1.400	5.688	6.475	0.787	5.276	5.930	0.654
February	5.563	7.000	1.437	5.625	6.312	0.687	5.590	6.320	0.730
March	6.112	7.255	1.143	5.497	6.262	0.765	5.200	5.968	0.768
April	7.375	8.406	1.031	5.484	6.132	0.648	3.516	4.500	0.984
May	7.312	8.550	1.238	5.437	6.140	0.703	3.250	4.326	1.076
June	8.025	9.100	1.075	5.449	6.437	0.988	3.375	4.137	0.762
July	7.937	9.062	1.125	5.437	6.220	0.783	3.357	4.265	0.908
August	6.912	8.300	1.388	5.609	6.142	0.533	3.424	4.154	0.730
September	6.375	8.000	1.625	5.987	6.600	0.613	3.428	4.337	0.909
October	6.046	7.235	1.189	5.968	6.592	0.624	3.349	4.233	0.884
November	5.734	6.890	1.156	5.501	6.187	0.686	3.485	4.137	0.652
December	6.000	6.750	0.750	5.287	6.050	0.763	3.485	4.072	0.581
Yearly averages	6.586	7.799	1.213	5.587	6.296	0.709	3.894	4.698	0.804
Net cash	6.433	7.640	1.207	5.451	6.171	0.720	3.863	4.691	0.828

	1892.			1893.			1894.		
	96° centrifugal.	Granulated.	Difference.	96° centrifugal.	Granulated.	Difference.	96° centrifugal.	Granulated.	Difference.
January	3.476	3.980	0.504	3.470	4.600	1.130	2.875	3.983	1.058
February	3.432	3.920	0.487	3.424	4.553	1.129	3.237	4.114	0.877
March	3.366	4.222	0.856	3.443	4.534	1.091	3.087	4.102	1.015
April	3.125	4.230	1.105	3.444	4.915	1.472	2.828	3.978	1.150
May	3.090	4.220	1.130	4.118	5.110	0.992	2.844	3.905	1.061
June	3.123	4.256	1.133	4.375	5.220	0.846	3.094	3.930	0.836
July	3.083	4.190	1.097	4.170	5.257	1.087	3.136	4.148	1.011
August	3.232	4.320	1.088	3.650	5.080	1.430	3.437	4.544	1.107
September	3.611	4.862	1.251	3.740	5.080	1.340	3.750	4.597	0.847
October	3.470	4.720	1.250	3.938	5.080	1.142	3.625	4.313	0.688
November	3.375	4.630	1.255	3.170	4.472	1.302	3.500	4.034	0.534
December	3.401	4.600	1.099	2.925	4.204	1.279	3.250	3.755	0.505
Yearly averages	3.311	4.346	1.035	3.689	4.842	1.153	3.250	4.034	0.784

	1895.			1896.			1897.		
	96° centrifugal.	Granulated.	Difference.	96° centrifugal.	Granulated.	Difference.	96° centrifugal.	Granulated.	Difference.
January	3.024	3.740	0.716	3.800	4.646	0.846	3.180	4.040	0.860
February	3.054	3.720	.666	4.031	4.685	.654	3.220	4.070	.850
March	3.000	3.835	.835	4.162	4.801	.639	3.273	4.229	.956
April	3.000	3.872	.872	4.296	5.148	.852	3.387	4.290	.903
May	3.261	4.411	1.150	4.125	4.993	.868	3.290	4.257	.967
June	3.311	4.350	1.039	3.637	4.634	.997	3.494	4.453	.959
July	3.250	4.350	1.100	3.359	4.429	1.070	3.625	4.648	1.023
August	3.280	4.268	.988	3.375	4.512	1.137	3.750	4.720	.970
September	3.327	4.317	.990	3.092	4.412	1.320	3.908	4.824	.916
October	3.578	4.432	.854	3.062	3.920	.858	3.842	4.807	.965
November	3.377	4.254	.877	3.300	4.117	.817	3.842	4.720	.878
December	3.562	4.442	.880	3.215	4.100	.885	4.079	4.870	.791

	1898.			1899.		
	96° centrifugal.	Granulated.	Difference.	96° centrifugal.	Granulated.	Difference.
January	4.120	4.920	0.800	4.290	4.706	0.416
February	4.167	4.960	.793	4.331	4.720	.389
March	4.087	4.852	.765	4.384	4.820	.436
April	4.156	5.009	.853	4.541	4.920	.379
May	4.220	5.097	.877	4.656	5.080	.424
June	4.280	5.080	.800	4.617	5.190	.573
July	4.125	5.080	.955	4.454	5.210	.756
August	4.275	5.094	.819	4.530	5.137	.607
September	4.342	5.178	.836	4.387	4.889	.502
October	4.287	4.740	.453	4.510	4.795	.285
November	4.411	4.888	.477	4.260	4.795	.535
December	4.391	4.817	.426	4.250	4.795	.545

II.—*English prices of sugar.*

RAW—JAVA AFLOAT, NO. 15 AND 16 D. S., UNITED KINGDOM TERMS.

[Willet & Gray's Weekly Statistical Sugar Trade Journal, January 4, 1900.]

	1881.	1882.	1883.	1884.	1885.	1886.	1887.	1888.	1889.
January	5.78	5.72	5.24	4.85	3.05	3.71	2.97	3.82	3.73
February	5.72	5.51	5.18	4.63	3.11	3.51	2.94	3.57	3.57
March	5.61	5.56	5.16	4.63	3.32	3.38	2.78	3.44	3.71
April	5.72	5.67	5.56	4.36	3.32	3.27	2.94	3.40	4.15
May	5.97	5.78	5.50	3.82	3.38	3.38	2.97	3.38	5.13
June	6.11	5.72	5.47	4.08	4.09	2.94	2.92	3.35	5.13
July	6.16	5.61	5.34	3.76	3.98	2.97	3.02	3.46	5.45
August	5.89	5.56	5.29	3.65	3.66	2.89	3.02	3.43	4.80
September	5.83	5.78	5.23	3.49	3.98	2.89	3.11	3.60	3.65
October	5.83	5.61	5.29	3.16	3.87	3.00	3.05	3.49	3.38
November	5.96	5.45	5.16	3.44	3.76	2.86	3.24	3.49	3.16
December	5.96	5.40	5.04	3.16	3.87	3.00	3.79	3.71	3.32

	1890.	1891.	1892.	1893.	1894.	1895.	1896.	1897.	1898.	1899.
January	3.27	3.27	3.54	3.57	3.38	2.48	2.81	2.51	2.46	2.56
February	3.22	3.24	3.46	3.60	3.33	2.40	2.95	2.42	2.37	2.45
March	3.27	3.41	3.46	3.60	3.38	2.40	3.06	2.40	2.37	2.56
April	3.22	3.44	3.44	3.79	3.36	2.51	3.00	2.40	2.40	2.62
May	3.24	3.33	3.38	4.09	3.26	2.56	3.00	2.29	2.62	2.73
June	3.19	3.27	3.36	4.25	2.94	2.56	2.84	2.29	2.70	2.84
July	3.19	3.33	3.33	4.36	2.94	2.51	2.62	2.26	2.67	2.78
August	3.27	3.27	3.33	3.87	2.89	2.56	2.64	2.29	2.51	2.75
September	3.44	3.24	3.38	3.65	3.05	2.56	2.51	2.40	2.59	2.70
October	3.38	3.27	3.36	3.71	2.89	2.70	2.35	2.40	2.56	2.54
November	3.33	3.38	3.33	3.44	2.62	2.81	2.40	2.32	2.37	2.46
December	3.24	3.65	3.57	3.38	2.56	2.75	2.59	2.34	2.64	2.46

REFINED—TATE'S CUBES.

	1881.	1882.	1883.	1884.	1885.	1886.	1887.	1888.	1889.
January	7.42	7.20	6.76	6.05	4.47	5.02	4.14	4.85	4.69
February	7.20	6.87	6.65	6.00	4.47	4.75	4.14	4.64	4.69
March	6.98	6.87	6.76	5.78	4.53	4.58	4.09	4.53	4.75
April	6.98	6.92	6.98	5.78	4.47	4.58	4.14	4.47	5.13
May	7.14	7.03	6.92	5.45	4.63	4.69	4.09	4.53	6.00
June	7.20	7.14	6.76	5.45	5.23	4.36	4.09	4.47	5.83
July	7.09	7.09	6.54	5.23	5.02	4.41	4.20	4.58	6.32
August	7.09	7.09	6.65	5.18	4.80	4.36	4.14	4.58	5.78
September	7.09	6.98	6.43	5.02	4.85	4.36	4.26	4.73	5.23
October	7.09	6.98	6.32	4.58	4.80	4.36	4.20	4.58	4.80
November	7.31	6.92	6.32	4.58	4.80	4.36	4.36	4.58	4.47
December	7.20	6.76	6.21	4.47	4.91	4.26	4.80	4.80	4.58

	1890.	1891.	1892.	1893.	1894.	1895.	1896.	1897.	1898.	1899.
January	4.36	4.36	4.69	4.58	4.47	3.36	3.82	3.33	3.33	3.36
February	4.25	4.25	4.58	4.63	4.36	3.38	3.98	3.33	3.22	3.36
March	4.41	4.47	4.58	4.53	4.36	3.38	3.98	3.33	3.22	3.27
April	4.31	4.47	4.58	4.80	4.25	3.27	3.92	3.33	3.22	3.33
May	4.41	4.36	4.41	5.13	4.14	3.44	3.92	3.33	3.33	3.54
June	4.25	4.36	4.36	5.13	4.08	3.49	3.71	3.33	3.33	3.52
July	4.14	4.41	4.36	5.35	4.08	3.58	3.60	3.27	3.33	3.49
August	4.31	4.58	4.36	5.13	4.08	3.44	3.49	3.16	3.27	3.49
September	4.31	4.47	4.41	4.80	3.92	3.44	3.33	3.26	3.33	3.46
October	4.14	4.41	4.51	4.80	3.71	3.52	3.58	3.16	3.33	3.46
November	4.14	4.41	4.58	4.58	3.60	3.76	3.53	3.16	3.33	3.44
December	4.20	4.69	4.89	4.58	3.49	3.71	3.53	3.16	3.46	3.36

II.—English prices of sugar—Continued.

DIFFERENCE BETWEEN TATE'S CUBES AND JAVA AFLOAT, UNITED KINGDOM.

	1881.	1882.	1883.	1884.	1885.	1886.	1887.	1888.	1889.
January	1.64	1.48	1.52	1.20	1.42	1.81	1.17	1.03	0.96
February	1.48	1.36	1.47	1.37	1.36	1.24	1.20	1.07	1.12
March	1.87	1.81	1.60	1.15	1.21	1.20	1.81	1.09	1.04
April	1.26	1.25	1.42	1.42	1.15	1.81	1.20	1.07	0.98
May	1.20	1.25	1.42	1.63	1.25	1.31	1.12	1.15	0.87
June	1.09	1.42	1.29	1.42	1.14	1.42	1.17	1.12	0.70
July	0.98	1.48	1.20	1.47	1.04	1.44	1.18	1.12	0.87
August	1.20	1.53	1.36	1.53	1.14	1.47	1.12	1.15	0.98
September	1.26	1.20	1.20	1.53	0.87	1.47	1.15	1.13	1.58
October	1.26	1.37	1.03	1.42	0.98	1.36	1.15	1.09	1.42
November	1.36	1.47	1.16	1.14	1.04	1.50	1.12	1.09	1.81
December	1.25	1.36	1.17	1.81	1.04	1.26	1.01	1.09	1.26

	1890.	1891.	1892.	1893.	1894.	1895.	1896.	1897.	1898.	1899.
January	1.09	1.09	1.15	1.01	1.09	0.90	1.01	0.82	0.87	0.82
February	1.03	1.01	1.12	1.03	1.03	0.98	1.03	0.91	0.85	0.88
March	1.14	1.06	1.12	0.97	0.98	0.98	0.92	0.93	0.85	0.71
April	1.09	1.03	1.14	1.01	0.89	0.76	0.92	0.93	0.82	0.71
May	1.17	1.08	1.03	1.04	0.88	0.88	0.92	1.04	0.76	0.81
June	1.06	1.09	1.00	0.88	1.09	0.93	0.87	1.04	0.68	0.68
July	0.95	1.08	1.03	0.99	1.09	0.87	0.98	1.01	0.66	0.71
August	1.04	1.26	1.03	1.26	1.14	0.88	0.95	0.87	0.76	0.74
September	0.87	1.23	1.03	1.15	0.87	0.88	0.87	0.80	0.74	0.76
October	0.76	1.14	0.95	1.09	0.82	1.12	0.98	0.76	0.77	0.90
November	0.81	1.03	1.20	1.14	0.98	0.95	0.93	0.84	1.01	0.98
December	0.96	1.04	1.12	1.20	0.98	0.96	0.74	0.82	0.82	0.92

III.—German and Austrian prices of sugar.

GERMAN BEET ROOT (RAW SUGAR), 88 PER CENT ANALYSIS, PROMPT F. O. B. HAMBURG;
 GERMAN AND AUSTRIAN GRANULATED, FIRST MARKS QUALITY, F. O. B. HAMBURG.

[From Willett and Gray's Weekly Statistical Sugar Trade Journal, January 4, 1900.]

	1899.	1890.	1891.	1892.	1893.	1894.	1895.	1896.	1897.	1898.	1899.
January:											
Granulated	3.65	3.11	3.30	3.60	3.68	3.22	2.21	2.78	2.46	2.40	2.40
Raw	3.01	2.52	2.70	3.22	3.12	2.74	1.87	2.34	2.01	2.04	2.06
Difference .....	.64	.59	.60	.38	.56	.48	.94	.44	.45	.36	.34
February:											
Granulated	3.54	3.11	3.32	3.68	3.68	3.24	2.40	2.89	2.43	2.36	2.44
Raw	3.01	2.55	2.82	3.14	3.12	2.76	2.03	2.56	1.90	1.98	2.13
Difference .....	.53	.56	.50	.54	.56	.48	.37	.33	.47	.38	.31
March:											
Granulated	3.65	3.22	3.44	3.57	3.57	3.19	2.39	2.97	2.29	2.41	2.41
Raw	3.22	2.70	2.98	3.08	3.05	2.73	2.00	2.58	1.92	2.03	2.11
Difference .....	.43	.52	.46	.49	.52	.41	.39	.29	.37	.38	.30
April:											
Granulated	4.22	3.16	3.38	3.41	3.90	3.16	2.30	3.00	2.32	2.39	2.50
Raw	3.79	2.59	3.03	2.89	3.49	2.72	2.02	2.70	1.95	1.97	2.21
Difference .....	.43	.57	.35	.52	.41	.44	.24	.30	.36	.42	.29
May:											
Granulated	5.13	3.32	3.32	3.24	4.22	3.00	2.58	2.96	2.32	2.41	2.73
Raw	4.65	2.72	2.90	2.79	3.96	2.82	2.13	2.67	1.94	2.03	2.46
Difference .....	.48	.60	.42	.45	.26	.48	.45	.31	.38	.39	.26

44 THE INDUSTRIAL COMMISSION:—INDUSTRIAL COMBINATIONS.

III.—German and Austrian prices of sugar—Continued.

GERMAN BEET ROOT (RAW SUGAR), 88 PER CENT ANALYSIS, PROMPT F. O. B. HAMBURG;
GERMAN AND AUSTRIAN GRANULATED, FIRST MARKS QUALITY, F. O. B. HAMBURG—
Continued.

	1889.	1890.	1891.	1892.	1893.	1894.	1895.	1896.	1897.	1898.	1899.
June:											
Granulated.....	5.18	3.27	3.27	3.41	4.38	2.96	2.63	2.74	2.32	2.50	2.73
Raw.....	4.87	2.68	2.89	2.86	3.95	2.58	2.18	2.30	1.89	2.12	2.41
Difference.....	.31	.59	.38	.55	.38	.38	.45	.44	.43	.38	.32
July:											
Granulated.....	5.28	3.27	3.24	3.35	4.60	2.97	2.64	2.62	2.33	2.37	2.58
Raw.....	4.94	2.68	2.89	2.82	3.98	2.56	2.11	2.17	1.85	2.03	2.26
Difference.....	.32	.59	.35	.53	.62	.41	.53	.45	.48	.34	.32
August:											
Granulated.....	5.02	3.38	3.30	3.41	4.36	2.96	2.88	2.59	2.30	2.40	2.73
Raw.....	4.28	2.97	2.93	2.81	3.53	2.46	2.16	2.16	1.85	2.04	2.37
Difference.....	.74	.41	.37	.60	.83	.50	.72	.43	.45	.36	.36
September:											
Granulated.....	4.09	3.52	3.30	3.60	4.00	3.19	2.62	2.41	2.43	2.51	2.64
Raw.....	3.01	3.04	2.92	3.05	3.15	2.62	2.07	1.97	1.94	2.08	2.19
Difference.....	1.08	.48	.38	.55	.85	.57	.55	.44	.49	.43	.45
October:											
Granulated.....	4.09	3.49	3.32	3.52	3.95	2.84	3.00	2.33	2.33	2.56	2.48
Raw.....	2.72	2.77	2.89	2.88	3.19	2.21	2.36	1.91	1.89	2.09	2.06
Difference.....	1.37	.72	.43	.64	.76	.63	.64	.42	.44	.47	.42
November:											
Granulated.....	3.16	3.44	3.35	3.68	3.38	2.62	2.69	2.36	2.29	2.52	2.56
Raw.....	2.55	2.72	2.89	3.08	2.88	2.17	2.29	1.99	1.85	2.09	1.98
Difference.....	.61	.72	.46	.60	.50	.45	.40	.37	.44	.43	.58
December:											
Granulated.....	3.27	3.30	3.49	3.62	3.24	2.50	2.70	2.37	2.37	2.52	2.54
Raw.....	2.63	2.71	3.23	3.02	2.74	2.14	2.29	2.00	1.96	2.21	1.95
Difference.....	.64	.59	.26	.60	.50	.36	.41	.37	.41	.31	.59

The German sugars shown, both raw and refined, are of somewhat poorer quality than the American sugars. The margin between them, other things equal, would be, perhaps, not quite so great as that between the American raw and refined. The fact that it is so much less is due in part, doubtless, to the German bounty on the exportation of refined sugar. It is also probable that the cost of refining in Germany is somewhat less than here, and that under normal conditions the Germans are satisfied with a somewhat smaller profit.

The effect of the sugar combination upon prices of sugar can perhaps be most readily seen from the course of line C, which represents the perpendicular distance between lines B, representing 96° centrifugal sugar, and line A, representing granulated sugar, both of them wholesale prices in the New York markets. The distance, then, of C from the bottom of the chart represents the cost of refining, including selling cost, plus the profits. The line c in the same way represents the English cost of refining, plus the profits, it being remembered, however, that the English refined sugar is of a somewhat higher grade than the American granulated. The line c, it will be noted, ran somewhat above 1 cent a pound, perhaps on an average between a cent and a quarter and a cent and a half, from 1880 to 1887, the time of the formation of the sugar trust in the United States. There seemed to be no lowering in this English margin during the years 1883 to 1887. From the beginning of 1888 on to 1894 this line seems to have lowered slightly, but, on the whole, to have remained about the same. From 1894 to date there seems to have been again another lowering, the line representing on the whole since that date something less than 1 cent a pound.

On the other hand, line C shows that during the years from 1883 to 1887 there had been a very decided lowering in this margin in the United States, owing, of course, to vigorous competition among the independent refiners. From the testimony given by

the witnesses,¹ this competition was so very destructive in its nature that a large percentage of the American refiners—18 out of about 40—had failed.

In 1887 the trust was formed. The margin was immediately raised more than half a cent a pound, at times even fully 1 cent a pound. During the two years, 1888 and 1889, when one takes into account the lessened cost of manufacture that came from the organization of the combination, one may fairly judge that the trust made enormous profits.

The margin fell again in the latter part of 1889. This was owing to the fact that large competing refineries, especially those built by Claus Spreckels at Philadelphia, had entered the field.² For rather more than two years, while this vigorous competition continued, the margin fell back to a point substantially as low as had existed before the formation of the trust. In February, 1892, the trust bought up the competing refineries and the margin was at once put back to the non-competitive height. From the years 1892 to 1898 this margin remained, relatively speaking, high, with, as will be noted, a slight gradual lessening, owing presumably to the improvements in refining and the consequent lessened cost. Throughout all these years, with the exception of the time when there existed vigorous competition between the trust and the Spreckels refineries, it will be noted that, on the whole, there was a close correspondence between the English margin and the American, the changes in the duty upon sugars having apparently only a slight temporary effect upon this margin, although the removal of the duty on raw sugar by the McKinley tariff affected very decidedly the price of sugar to consumers.

In the latter part of 1898 vigorous competition against the American Sugar Refining Company (the reorganized trust) began on the part of Arbuckle Brothers, Claus Doscher and others. Prices were immediately cut so that the margin between raw and refined sugar has fallen again very decidedly. Instead of standing from 75 cents to \$1 per hundred pounds, as had been the case most of the time during the 3 or 4 years preceding, it has remained during the last year at but a little above 50 cents, and at times has been even below that.³

This study of the chart, then, especially when we compare the American with the English and German margin, shows clearly this: The sugar combination has, beyond question, had the power of determining for itself, within considerable limits, what the price of sugar should be, low or high, with or without competitors, although when there has been competition, it has chosen to cut prices to drive out its rivals rather than to run the risk of letting them gradually take its market on account of its high prices.

During about 9 of the 12 years which have passed since the organization of the trust the margin between raw and refined sugars has been considerably higher than it was for 3 years before the trust was organized, and than it has been during the 3 years when there has been vigorous competition.

The combination forced the fighting so severely against Mr. Spreckels as a competitor that he was apparently glad to sell out after about 2 years. The present contest between the trust and its opponents has continued for about a year and a half and at present shows no sign of ending but this, that with perhaps the exception of Arbuckle Bros. the opposition refineries are run at far below their full capacity, and presumably are making practically no profits.⁴

The chart seems to show also that the trust has had very little if any effect toward steadying prices. The fluctuations, both in the price of sugar and in the margin, seem to be fully as great since the combination was formed as before, and to be rather greater, on the whole, than the fluctuations in the English or the German market.

The assertion⁵ that the price of sugar would have been higher if it had not been for the formation of the trust seems to have a partial, but only a partial, justification in the chart. The chart does make it perfectly clear that during periods of the most vigorous competition the sugar refiners were doing their work on a very low margin. The large number of refineries that went into bankruptcy before the formation of the trust seems to show clearly that the margin was ruinously low. While it is probably for the economic advantage of the country that the weakest competitors be forced out of business from time to time, it can hardly be considered for the benefit of the country that competitors of substantially equal strength carry competition so far that all are running at a loss, and that a large percentage of them go into bankruptcy. When competition is so fierce, the inevitable result would be that, as Mr. Post says,⁶ the few who survive would be able, owing to the lessened supply, to

¹ Havemeyer, pp. 107-109; Atkins, p. 811; Post, p. 165; Thurber, pp. 5, 15, 22.

² Havemeyer, p. 107.

³ Havemeyer, pp. 107-109, 130; Doscher, pp. 88-96; Jarvie, pp. 128-142; Post, pp. 148, 149.

⁴ Post, pp. 150, 153.

⁵ Post, p. 166.

⁶ P. 166.

put prices at considerably above normal competitive rates, and would be encouraged to do so because they could not well supply the demand. Such a course of procedure would thus lead inevitably to very great fluctuations in prices from those abnormally, not to say ruinously low, to those abnormally high.

On the other hand, while there does seem to be this partial justification for the claim that the trust has lowered the price of sugar on the whole beyond what it would have been had the combination never been formed, the relative steadiness of the English margin at a point which, in the main, seems lower than ours, considering the higher grade of English refined sugar, as well as the exceedingly high margin found frequently in the United States since the organization of the trust, would seem to show that the price of sugar in this country has probably, on the whole, been rather higher than it would have been under what might be called reasonable competitive rates, and certainly considerably higher than it would have been under conditions of competition such as have existed during the last two years.

A still further fact which leads to the same conclusion is that Mr. Havemeyer, the president of the American Sugar Refining Company, seems unwilling to concede that the cost of refining is as low as his competitors assert. Mr. Jarvis¹ says that with a margin of from 50 to 60 cents sugar can be refined without loss. Mr. Doscher² agrees, saying that it can be done without loss when the margin is 50. Mr. Post³ places the margin somewhat higher, but concedes that a large establishment like the trust would have an advantage of from 3 to 5 cents a hundred in refining. Mr. Havemeyer,⁴ on the other hand, puts 50 cents a hundred as the bare cost of refining, and declares that 24 cents more at least must be added on account of the waste in raising sugar from 96° to 100°, the polariscope test of the refined, thus making the margin necessary for profit some 75 cents a hundred, instead of from 50 to 60. Apparently he thinks it wise to reckon in some interest on investment with the cost, which the other witnesses seem not to have done. He admits that "no great damage is done" when the margin is at 75 cents. There is a profit if all is in good working order.

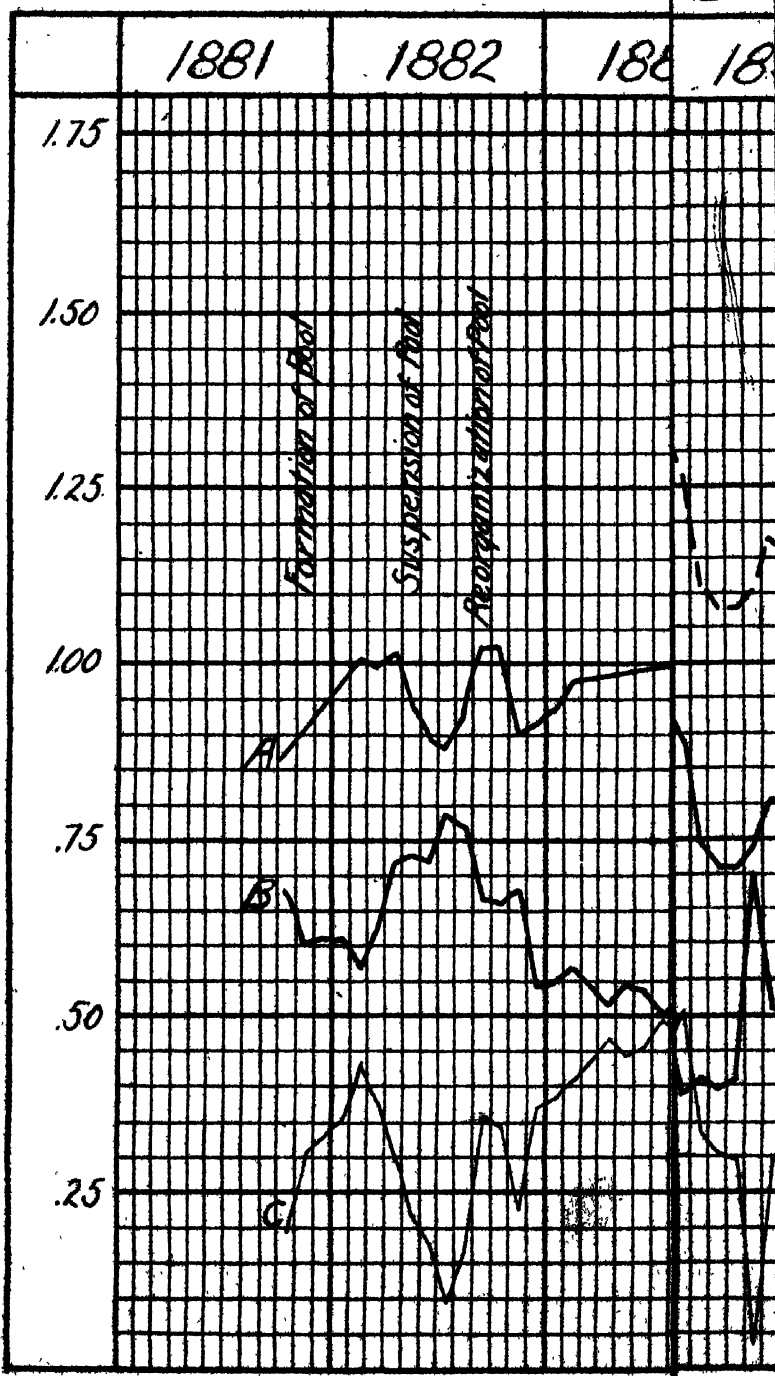
Another point which is to be considered, although it is one which is scarcely noticeable, or noticeable only in certain special cases, on the chart, is this, that in order to secure the same profits the margin between raw and refined sugar should be slightly greater when the price of raw sugar is high, inasmuch as the loss of weight is a more expensive waste. If, for example, with raw sugar at \$3 a hundred there were a 7 per cent waste, let us say, in refining, this loss would amount to 21 cents a hundred; while if, with the same 7 per cent waste, the price of raw sugar were \$4 a hundred, the waste would amount to 28 cents. We see, therefore, that in order to make the same profit, the margin should be 7 cents a hundred more in the second case than in the first. The witnesses speak of unusually vigorous competition and a consequent low margin each year from December to March while the Louisiana crop is being refined and marketed, but this does not appear with any regularity.

On the whole, the chart seems to make it perfectly evident that the sugar combination has raised the price of refined sugar beyond the rates in vogue during the period of active competition before the formation of the Sugar Trust and the two competitive periods during its existence. We can perhaps hardly judge so accurately as to what might have happened had the combination not been formed, but the price has probably been somewhat raised, although there is doubtless some force in the argument of Mr. Post to the contrary.

The chart does not give us any information regarding the effect of the sugar combination upon the price of raw sugar. That seems to follow in the main, as would be expected, the fluctuations in the prices of raw sugar in both England and Germany, with the decided differences that we should expect at times from the effect of our tariff. It does, however, show some remarkable fluctuations. The advance in prices in 1888 and 1889 was due principally to a shortage in European beet crops and in the Cuban cane crop, which led to wild speculation in Europe. It is probable, as several of the witnesses testified, that owing to its peculiar strength as a buyer of raw sugar the trust is able to depress the price slightly, perhaps $\frac{1}{2}$ of a cent,⁵ but this is not enough to be clearly shown on the chart. It is probable, too, and this in fact seems to appear, that whenever there comes a decided drop in the price of raw sugar the trust has been able to delay slightly, though only for a brief time, the corresponding drop in the price of refined; while on the other hand, increase in the price of raw is attended almost immediately by an increase in the price of refined, the trust thus being able to hold itself for its own advantage, to a slight degree, independent of market conditions.

¹ P. 129.² Pp. 98, 99, 97.³ Pp. 150, 151.⁴ P. 112.⁵ Post, p. 158.

S



WHISKY.¹

A study of the line showing the difference between the price of the raw material, corn, per bushel, and that of the amount of the finished product, spirits, derived from one bushel of corn, shows nothing else so clearly as the very great fluctuations in this margin. The price of corn, of course, owing to variations of crop and to various factors which determine demand, fluctuates greatly. At present—as was the case at one time earlier while the Distilling and Cattle Feeding Company was in the hands of a receiver, General McNulta—the price of spirits is based directly upon that of corn, so that the fluctuations correspond in the main; but for most of the period represented on the chart this is not true.²

During the years 1881 to 1887 various pools were formed among distillers, most of which lasted less than a year. The chart shows clearly that during the existence of each pool the prices of alcohol were kept up and the profits were correspondingly large. When, however, the pool suspended, profits fell to a minimum, the margins doubtless often being below the cost of manufacture. At the formation of the trust in 1887 prices were cut for a time in order to force competitors into the organization, but within a few months prices were raised and profits became very large. These profits stimulating competition, however, it became necessary again at the beginning of 1889 to cut prices very decidedly in order to force rivals into the combination. For some two or three years after this prices and profits were kept, on the whole, fairly high; but in 1892 and 1893 a period of speculation led to very startling sudden changes in prices and corresponding changes in profits so far as sales were actually made. It was of course true that at many times the sales were very small.

While the chart attempts to show the prices without the rebates, which were paid to wholesalers during the years 1890 to 1895,³ as well as the quoted market prices, one can not be entirely sure of the accuracy of the chart in this regard, inasmuch as it has been impossible to secure with absolute certainty the dates of the various rebate changes. The chart is, however, not far out of the way if at all.

Since the formation of the American Spirits Manufacturing Company in 1895, while the business has been somewhat more stable than during the last years of the Distilling and Cattle Feeding Company, at no time until very lately has the combination had complete enough control of the market to be sure of steady prices and corresponding profits. It will be noticed, however, that for the last year and a half conditions have, on the whole, been much more favorable for the combination than before, it having more nearly secured the control of the market.

The chart as a whole would seem to show that the whisky combinations have been able to hold prices and profits high only for short periods, inasmuch as they have almost invariably attempted to overreach and secure too high profits. They may hold prices stable for a few months, but when the changes do come they are much more radical and much more disturbing to the trade than would be the changes, relatively speaking slight, which would come under the régime of free competition.

According to the testimony of the President of the Distilling Company of America and one of its directors, the combination has finally adopted the policy of comparatively low profits but invariably secure ones. It remains to be seen whether, for the next two or three years, it will be able to carry out this policy, which from the point of view of the combination, if it is managed on business principles and not for the purpose of speculation, is a wise one.⁴

PETROLEUM.⁵

In considering the chart showing the prices of crude and refined petroleum, attention should be called to the fact that figures for crude oil, though in terms of bar-

¹ The figures upon which this chart is based are to be found on pp. 515-517. The prices of spirits were derived from the reports of the Peoria Board of Trade, and are trust prices at that point. The price of corn, derived from the same source, is No. 2 corn at Chicago, the basis which is at present used by the Distilling Company of America in fixing its price for spirits.

For the last few months the prices of spirits have been furnished by the Distilling Company of America, and the price of corn by the Secretary of the Chicago Board of Trade.

² McNulta, p. 206; Rice, pp. 845, 847.

³ Clark, p. 171; McNulta, p. 207.

⁴ Rice, pp. 845, 847; Bradley, pp. 514, 515, 527.

⁵ The prices for crude and refined oil for export have been taken from the Derrick's Handbook on Petroleum, with the exception of those for the last few months, which have been furnished by the Standard Oil Company. The prices of Standard White Illuminating oils at New York, Chicago and Cincinnati, have been furnished by the Standard Oil Company. Prices were given in bulk, and 24 cents per gallon was added for the cost of the barrel. This cost of the barrel would of course vary slightly, but the rule of 24 cents per gallon is one that is laid down in the Handbook of Petroleum, and is probably a fair general average. The prices of export oils at Bremen were taken from the Handbook for the earlier period, and for the last few months have been furnished by the Standard Oil Company.

48 THE INDUSTRIAL COMMISSION:—INDUSTRIAL COMBINATIONS.

rels, are given in bulk, the package not being included in the price, whereas those for refined oil are given in barrels, including the package. This is in accordance with the usual system of quoting these prices.

I.—Prices of refined export oil at New York, crude oil at Oil City, and the difference between them.

	1866.	1867.	1868.	1869.	1870.	1871.	1872.	1873.	1874.	1875.	1876.
January:											
Refined.....	\$57.87	\$31.00	\$24.75	\$34.12	\$31.37	\$24.62	\$22.37	\$22.12	\$18.50	\$12.37	\$14.12
Crude.....	11.90	4.46	4.64	13.69	10.78	9.52	9.58	5.65	3.16	2.56	4.25
Difference.....	45.97	26.54	20.11	20.43	20.59	15.10	12.79	16.47	10.34	9.81	9.87
February:											
Refined.....	48.62	28.25	25.00	36.37	29.87	25.12	21.75	19.62	15.00	14.00	14.25
Crude.....	10.47	4.41	5.36	15.60	11.01	10.73	8.87	5.24	4.52	3.60	4.79
Difference.....	38.15	23.84	19.64	20.77	18.86	14.39	12.88	14.38	10.48	10.40	9.46
March:											
Refined.....	40.87	27.50	25.75	32.12	27.00	24.12	22.62	19.00	14.87	15.00	14.50
Crude.....	8.93	4.17	6.19	14.28	10.24	10.12	8.57	5.00	4.28	3.88	4.93
Difference.....	31.94	23.33	19.56	17.84	16.76	14.00	14.05	14.00	10.59	11.12	9.57
April:											
Refined.....	40.12	27.00	26.25	32.25	26.50	23.25	21.75	20.00	15.62	13.87	14.00
Crude.....	9.40	4.64	7.02	13.57	10.12	9.41	8.40	5.83	4.66	3.32	4.53
Difference.....	30.72	22.36	19.23	18.68	16.38	13.84	13.35	14.17	10.96	10.55	9.47
May:											
Refined.....	43.00	26.75	29.62	31.50	27.50	24.62	23.37	19.75	13.87	12.87	14.12
Crude.....	11.00	5.59	8.75	12.73	10.78	10.89	9.28	5.95	2.74	2.78	4.54
Difference.....	32.00	21.16	20.87	18.77	16.72	13.73	14.09	13.80	11.13	10.09	9.58
June:											
Refined.....	41.87	24.75	31.37	31.00	27.00	25.75	23.00	19.00	12.87	12.62	14.75
Crude.....	8.33	4.52	10.30	11.90	10.12	10.95	9.43	5.18	2.82	2.67	4.84
Difference.....	33.44	20.23	21.07	19.10	16.88	14.80	13.57	13.82	10.05	9.95	9.91
July:											
Refined.....	39.50	30.87	34.25	32.25	26.00	25.75	22.37	18.12	12.12	11.50	16.87
Crude.....	7.11	6.25	12.09	12.80	9.05	11.43	8.75	4.31	2.40	2.05	5.45
Difference.....	32.36	24.62	22.16	19.45	16.95	14.32	13.62	13.81	9.72	9.45	11.42
August:											
Refined.....	44.37	29.25	33.00	32.50	25.00	24.37	22.37	16.50	11.75	11.25	19.87
Crude.....	8.93	7.50	10.30	13.10	7.55	10.53	8.27	3.19	2.88	2.17	6.54
Difference.....	35.44	21.75	22.70	19.40	17.45	13.84	14.10	13.31	9.87	9.08	13.33
September:											
Refined.....	44.62	31.75	31.00	32.25	26.12	24.12	24.12	16.50	12.12	12.75	26.00
Crude.....	10.72	8.08	9.28	13.10	8.27	10.83	7.50	3.04	2.32	3.10	9.06
Difference.....	33.90	23.67	21.72	19.15	17.85	13.29	16.62	13.46	9.80	9.65	16.94
October:											
Refined.....	40.62	34.50	30.00	32.87	24.37	23.75	26.00	16.25	11.75	14.12	26.00
Crude.....	8.08	8.68	9.82	13.22	7.08	11.18	9.94	2.95	2.08	3.22	7.86
Difference.....	32.54	25.82	20.18	19.65	16.69	12.57	16.06	13.30	9.67	10.90	18.14
November:											
Refined.....	35.75	27.50	30.87	34.00	23.00	22.37	27.00	14.12	10.75	13.00	26.25
Crude.....	7.98	6.07	8.82	13.81	7.79	9.76	10.35	2.56	1.73	3.18	7.92
Difference.....	28.37	21.43	22.05	20.19	15.21	12.61	16.65	11.56	9.02	9.82	18.33
December:											
Refined.....	31.25	24.75	32.75	31.12	23.00	23.00	26.00	13.50	11.25	12.75	29.37
Crude.....	4.64	4.46	10.12	12.19	8.09	10.35	7.83	2.32	2.08	3.32	9.01
Difference.....	26.61	20.29	22.63	18.93	14.91	12.65	18.17	11.18	9.17	9.43	20.36

I.—Prices of refined export oil at New York, crude oil at Oil City, and the difference between them—Continued.

	1877.	1878.	1879.	1880.	1881.	1882.	1883.	1884.	1885.	1886.	1887.
January:											
Refined.....	\$24.00	\$12.12	\$9.00	\$7.87	\$9.25	\$7.00	\$7.75	\$9.37	\$7.75	\$7.75	\$6.75
Crude.....	8.40	8.44	2.45	2.63	2.27	1.98	2.20	2.65	1.69	2.10	1.09
Difference.....	15.60	8.58	6.55	5.24	6.98	5.02	5.55	6.72	6.06	5.65	5.06
February:											
Refined.....	18.62	12.25	9.37	7.87	9.25	7.37	7.87	9.12	7.75	7.62	6.62
Crude.....	6.88	3.95	2.33	2.46	2.14	2.03	2.41	2.50	1.74	1.91	1.51
Difference.....	12.24	8.30	7.04	5.41	7.11	5.34	5.46	6.62	6.01	5.71	5.11
March:											
Refined.....	16.00	11.62	9.25	7.75	8.50	7.37	8.00	8.50	8.00	7.37	6.62
Crude.....	6.37	3.79	2.05	2.13	1.98	1.93	2.32	2.39	1.91	1.84	1.51
Difference.....	9.63	7.83	7.20	5.62	6.52	5.44	5.68	6.11	6.09	5.53	5.11
April:											
Refined.....	15.75	11.37	9.12	7.62	7.75	7.37	8.25	8.62	7.87	7.37	6.62
Crude.....	6.18	3.26	1.87	1.83	2.01	1.87	2.21	2.34	1.88	1.76	1.54
Difference.....	9.57	8.11	7.25	5.79	5.74	5.50	6.04	6.28	5.99	5.61	5.08
May:											
Refined.....	14.50	11.25	8.50	7.62	8.00	7.50	7.87	8.50	7.75	7.25	6.75
Crude.....	5.83	3.22	1.80	1.91	1.95	1.67	2.36	2.04	1.89	1.66	1.53
Difference.....	9.17	8.03	6.70	5.71	6.05	5.83	5.51	6.46	5.86	5.59	5.22
June:											
Refined.....	13.75	11.25	7.50	9.62	8.12	7.50	8.00	8.12	8.00	7.12	6.62
Crude.....	4.64	2.71	1.61	2.39	1.91	1.30	2.79	1.64	1.96	1.60	1.49
Difference.....	9.11	8.54	5.86	7.23	6.18	6.20	5.21	6.48	6.04	5.52	5.13
July:											
Refined.....	13.37	10.75	6.75	9.87	7.87	6.75	7.62	7.87	8.25	7.60	6.50
Crude.....	5.25	2.85	1.66	2.31	1.83	1.37	2.57	1.51	2.30	1.57	1.41
Difference.....	8.12	8.40	5.09	7.46	6.04	5.38	5.05	6.36	5.95	6.03	5.09
August:											
Refined.....	13.62	10.87	6.62	9.00	7.75	6.87	7.87	8.00	8.37	6.75	6.50
Crude.....	5.88	2.40	1.60	2.16	1.88	1.40	2.59	1.93	2.39	1.48	1.43
Difference.....	7.74	8.47	5.02	6.84	5.87	5.47	5.28	6.07	5.98	5.27	5.07
September:											
Refined.....	14.50	10.25	6.87	10.62	8.00	7.50	8.12	7.87	8.37	6.62	6.75
Crude.....	5.68	2.06	1.65	2.28	2.20	1.69	2.68	1.86	2.40	1.51	1.60
Difference.....	8.82	8.19	5.22	8.34	5.80	5.81	5.44	6.01	5.97	5.11	5.15
October:											
Refined.....	14.62	9.62	7.50	12.00	7.75	8.00	8.37	7.87	8.50	6.75	6.75
Crude.....	5.34	1.96	2.10	2.31	2.21	2.28	2.65	1.69	2.51	1.55	1.68
Difference.....	9.28	7.66	5.40	9.69	5.54	5.72	5.72	6.18	5.99	5.20	5.07
November:											
Refined.....	13.25	9.12	8.00	10.50	7.50	8.25	8.75	7.87	8.50	6.87	7.00
Crude.....	4.56	2.14	2.51	2.18	1.97	2.73	2.73	1.73	2.48	1.72	1.76
Difference.....	8.69	6.98	5.49	8.32	5.53	5.52	6.02	6.14	6.02	5.15	5.24
December:											
Refined.....	13.12	9.62	8.02	9.50	7.12	7.62	9.12	7.75	8.50	6.87	7.25
Crude.....	4.30	2.28	2.82	2.21	2.00	2.28	2.72	1.77	2.13	1.69	1.90
Difference.....	8.82	7.34	5.80	7.29	5.12	5.34	6.40	5.98	6.37	5.18	5.35

50 THE INDUSTRIAL COMMISSION:—INDUSTRIAL COMBINATIONS.

1.—*Prices of refined export oil at New York, crude oil at Oil City, and the difference between them—Continued.*

	1888.	1889.	1890.	1891.	1892.	1893.	1894.	1895.	1896.	1897.	1898.	1899.
January:												
Refined	7.75	7.00	7.50	7.42	6.45	5.33	5.15	5.87	7.85	6.13	5.40	7.43
Crude	2.17	2.05	2.50	1.76	1.49	1.27	1.90	2.35	3.47	2.10	1.50	2.78
Difference	5.58	4.95	5.00	5.66	4.96	4.06	3.25	3.42	4.38	4.03	3.90	4.65
February:												
Refined	7.75	7.12	7.50	7.48	6.42	5.30	5.15	6.00	7.35	6.26	5.50	7.40
Crude	2.14	2.12	2.50	1.85	1.43	1.37	1.91	2.42	3.31	2.15	1.61	2.74
Difference	5.61	5.00	5.00	5.63	4.99	3.93	3.24	3.58	4.04	4.11	3.89	4.66
March:												
Refined	7.75	7.00	7.25	7.31	6.32	5.34	5.15	6.75	7.40	6.36	5.82	7.34
Crude	2.23	2.16	2.13	1.77	1.37	1.55	1.95	2.55	3.18	2.19	1.87	2.69
Difference	5.52	4.84	5.12	5.54	4.95	3.79	3.20	4.20	4.22	4.17	3.95	4.65
April:												
Refined	7.37	6.87	7.12	7.18	6.10	5.52	5.15	9.12	7.00	6.13	5.87	7.05
Crude	1.93	2.09	1.97	1.69	1.38	1.63	2.01	4.22	2.92	2.05	1.76	2.69
Difference	5.44	4.78	5.15	5.49	4.72	3.89	3.14	4.90	4.08	4.08	3.91	4.36
May:												
Refined	7.50	6.87	7.25	7.20	6.06	5.20	5.15	8.20	6.75	6.23	6.01	6.99
Crude	2.07	1.98	2.11	1.66	1.35	1.40	2.05	3.88	2.82	2.06	1.96	2.69
Difference	5.43	4.89	5.14	5.54	4.71	3.80	3.10	4.42	3.93	4.17	4.05	4.30
June:												
Refined	7.12	6.87	7.12	7.13	6.00	5.21	5.15	7.83	6.85	6.14	6.16	7.20
Crude	1.81	2.03	2.12	1.62	1.29	1.44	2.10	3.59	2.73	2.05	2.07	2.70
Difference	5.31	4.84	5.00	5.51	4.71	3.77	3.05	4.24	4.12	4.09	4.09	4.50
July:												
Refined	7.25	7.25	7.12	7.02	6.00	5.15	5.15	7.65	6.55	5.87	6.26	7.01
Crude	1.92	2.26	2.12	1.58	1.25	1.37	1.98	3.45	2.60	1.85	2.22	2.92
Difference	5.33	4.99	5.00	5.44	4.75	3.78	3.17	4.20	3.95	4.02	4.04	4.09
August:												
Refined	7.62	7.25	7.25	6.70	6.08	5.18	5.15	7.10	6.65	5.75	6.44	7.32
Crude	2.06	2.04	2.12	1.52	1.31	1.40	1.93	2.98	2.50	1.69	2.32	3.04
Difference	5.56	5.21	5.13	5.18	4.77	3.78	3.22	4.12	4.15	4.06	4.12	4.28
September:												
Refined	7.75	7.12	7.37	6.42	6.10	5.15	5.15	7.10	6.85	5.74	6.63	8.63
Crude	2.23	2.05	1.95	1.39	1.29	1.54	1.98	2.98	2.68	1.66	2.42	3.44
Difference	5.52	5.07	5.42	5.03	4.81	3.61	3.17	4.12	4.17	4.08	4.21	5.19
October:												
Refined	7.62	7.12	7.50	6.45	6.03	5.15	5.15	7.10	6.90	5.55	7.21	9.00
Crude	2.16	2.41	1.91	1.44	1.22	1.68	1.97	2.98	2.74	1.61	2.69	3.60
Difference	5.46	4.71	5.59	5.01	4.81	3.47	3.18	4.12	4.16	3.94	4.52	5.40
November:												
Refined	7.25	7.50	9.50	6.40	5.80	5.15	5.15	7.88	7.15	5.40	7.35	9.40
Crude	2.04	2.58	1.72	1.41	1.23	1.76	1.97	3.41	2.75	1.55	2.77	3.76
Difference	5.21	4.92	5.78	4.99	4.57	3.39	3.18	4.47	4.40	3.85	4.58	5.65
December:												
Refined	7.25	7.50	7.25	6.44	5.45	5.15	5.61	7.77	6.35	5.40	7.42	9.55
Crude	2.12	2.48	1.60	1.41	1.27	1.87	2.17	3.42	2.38	1.55	2.79	4.13
Difference	5.13	5.02	5.65	5.03	4.18	3.28	3.44	4.35	4.02	3.85	4.63	5.72

II.—Standard white illuminating oils at New York City, Chicago, Ill., and Cincinnati, Ohio, during last six months, 1899, and at New York for the years 1892–1894, the prices on page 547 being inaccurate for these years as furnished in the first instance.

[For earlier prices see page 547. Add 2½ cents per gallon for cost of barrels, as indicated in diagram.]

Month.	Deliveries at New York City.	Deliveries at Chicago.	Deliveries at Cincinnati.
July	4.27	3.72	3.63
August	4.34	3.79	3.67
September	4.98	4.59	4.52
October	5.01	4.79	4.66
November	5.64	5.34	5.16
December	6.00	5.70	5.52
Average for year 1899	4.53	4.38	4.11

Year.	Jan.	Feb.	Mar.	Apr.	May.	June.	July.	Aug.	Sept.	Oct.	Nov.	Dec.	Yearly average.
1892	3.61	2.91	4.46	3.45	3.33	3.65	3.65	3.55	3.58	3.59	3.46	2.91	3.35
1893	3.37	2.80	2.83	3.58	3.71	3.83	3.80	3.63	3.86	3.32	3.83	3.32	3.36
1894	3.45	3.64	3.02	3.90	3.44	3.68	3.71	3.71	3.36	3.60	3.58	3.62	3.59

III.—Bremen refined export oil prices.

[Cents per gallon, including package.]

	1879.	1880.	1881.	1882.	1883.	1884.	1885.	1886.	1887.	1888.	1889.
January	12.38	10.39	12.29	10.00	10.45	12.08	9.93	9.96	9.26	11.40	10.00
February	13.09	10.10	12.60	10.38	10.45	11.26	9.89	9.79	8.66	10.35	9.09
March	12.67	10.28	11.68	10.06	10.63	10.52	10.06	9.50	8.35	10.00	8.84
April	12.42	10.13	11.09	9.69	10.70	10.70	9.93	9.16	8.38	9.12	8.79
May	12.03	9.86	10.77	9.96	10.39	10.52	9.96	8.98	8.38	9.20	9.23
June	10.66	10.53	11.01	9.78	10.60	10.28	10.10	8.94	8.45	9.16	9.50
July	10.10	13.45	10.70	9.51	10.39	10.52	10.66	8.91	8.45	9.86	10.63
August	10.10	13.09	10.63	9.54	10.66	10.87	10.73	8.73	8.38	10.88	10.10
September	10.38	14.35	11.40	10.18	11.26	11.80	10.66	8.80	8.59	11.30	9.78
October	11.05	15.20	11.05	10.77	11.37	10.45	10.59	8.80	8.88	11.18	9.72
November	10.94	13.50	10.34	10.83	11.59	10.38	10.52	9.30	9.40	10.94	10.21
December	10.93	12.95	10.06	10.48	11.85	10.28	10.00	9.82	10.18	10.77	10.13

	1890.	1891.	1892.	1893.	1894.	1895.	1896.	1897.	1898.	1899.
January	9.86	9.19	8.30	7.71	6.83	7.21	8.49	8.10	6.79	9.68
February	9.68	9.30	9.02	7.53	6.79	7.82	8.35	8.10	8.10	9.61
March	9.44	8.98	9.02	7.36	6.76	8.84	8.32	8.03	7.47	9.36
April	9.33	8.98	8.73	7.32	6.86	13.88	8.03	7.82	7.36	8.70
May	9.61	9.02	8.41	7.04	6.97	11.22	8.03	7.75	8.08	8.70
June	9.50	8.98	8.06	6.79	6.97	9.96	8.45	7.63	8.41	9.02
July	9.30	8.88	8.17	6.72	6.79	9.44	8.34	7.56	8.63	9.59
August	9.36	8.83	8.45	6.58	6.62	8.94	9.02	7.25	8.88	9.96
September	9.26	8.59	8.52	6.30	6.72	8.66	9.40	7.44	9.05	10.66
October	9.19	8.45	8.38	6.12	6.83	8.70	9.61	7.14	9.44	11.11
November	9.02	8.56	8.03	6.23	6.83	10.03	9.15	7.04	9.58	11.43
December	8.88	8.70	7.78	6.55	6.83	9.98	8.35	7.04	9.61	11.71

It will be noted that the price of export oil at Bremen is regularly above the price not merely of that same quality of oil in this country, but even of the higher grade standard white illuminating oil. For a brief time in 1893 the New York price stood above the Bremen price. The independents claim that the very low price in Germany during that year resulted from an attempt to prevent their getting a foothold in the German market.

It will be noted that the prices of oils in New York, Chicago, and Cincinnati are charted on a scale five times greater than that of the main chart. This has been done in order to show the difference in prices between the three different markets under consideration. On the whole, the price of oil in New York stands somewhat above that in either of the other two cities, New York being somewhat further removed from the oil fields, while the prices at Cincinnati are lowest.

The rapid and decisive fall in the price of refined oil in New York in 1896, it is claimed, was due to the competition of the Pure Oil Company. In March it put some wagons there selling oil. Prices dropped very rapidly until, as Mr. Lee says, they were below cost. Mr. Archbold makes a somewhat different statement of the figures, and points to the fact that the crude oil was rapidly falling. The chart shows also that prices in both Chicago and Cincinnati fell in like proportion, if not even more rapidly, at the same time. The Pure Oil Company began exporting oil to Germany in October, 1896, with apparently somewhat better facilities than the independents had had before, which may possibly account in part for the rather rapid fall of oil in Germany at about that time, although crude oil was also falling.

While there is a general correspondence between the figures in these different markets, there are nevertheless special fluctuations in each market, which seem to be largely independent of fluctuations in the others.

If we take the chart as a whole, and note the margin between the price of crude and refined petroleum represented by the line B, we shall see that this margin lowered very much more rapidly during the early years of the industry than of late. This, of course, is to be expected, as methods of production are much more rapidly improved during the early years of an industry than later.

There has been more or less of an association among the oil refiners who have made the Standard since 1872. This did not, however, in the earlier years seem materially to affect this margin, which kept steadily decreasing until 1879 or 1880. The Standard Oil Trust was formed in 1882. From that time on for a period of eight or nine years it is noticeable that there is only a slight decrease in the margin. From 1891 until 1898 the margin seems to have been steadily nearly or quite a cent lower than for the period preceding. But the period of the smallest margin seems to have been in the years 1893 and 1894.

Of late years, according to the testimony of several refiners,¹ there has been a very decided increase in the value of the by-products, the profits from the by-products being apparently equal to those from illuminating oil. Under these circumstances it was perhaps to be expected that the price of refined petroleum, as compared with that of crude, would have lessened still more than has been the case. During the last 2 years there has been a decided increase, not merely in the price of refined petroleum, but also in the margin between crude and refined. For the last year this higher margin is to be at least partly explained by the added cost of refining, coming from the increase in cost of supplies. For example, refineries are constructed largely of iron and deterioration in them is rapid. The price of iron has increased considerably more than 100 per cent during this period. It is also true that within the last year there has been an increase amounting at times to as much as half a cent per gallon in the cost of packages in which refined oil is carried, and the price of acids has also increased. These facts would explain, in part at least, the increase in margin, so that the profits have not been so much greater than they were before, as might be inferred. The general testimony of the independent refiners, however, seems to show that conditions have been somewhat easier for them during the last year or two than earlier, and the large dividends of the Standard Oil Company of over 30 per cent for each of the last three years would also seem to indicate that profits have increased.

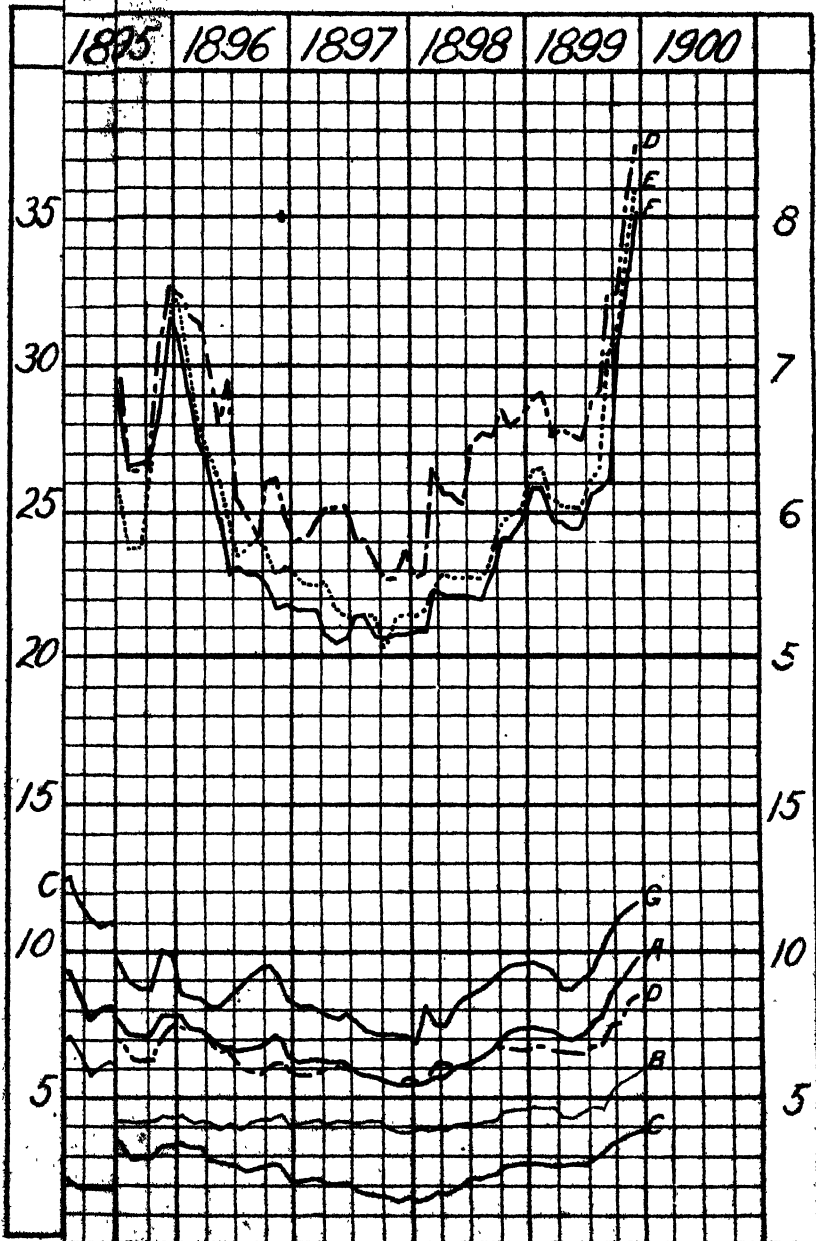
Although the independent oil producers have said much about the arbitrary acts of the Standard in fixing the prices of crude oil, the greater general changes seem to have been due to the changes in supply brought about by other causes. The discovery of the very productive fourth sand oil wells in Butler County, Pa., only about 80 feet under the third sand levels, led to a great increase in production and the consequent rapid fall in price noted on the chart in 1873 and 1874.² Mr. Lee³ claims that the fall of the preceding two years was brought about by the general demoralization in the business caused by the relations of the railroads with the South Improvement Company and its successors. But that year was also the panic year. The checking

¹ Archbold, p. 570; Westgate, p. 868; Emery, p. 627.

² Lee, p. 281.

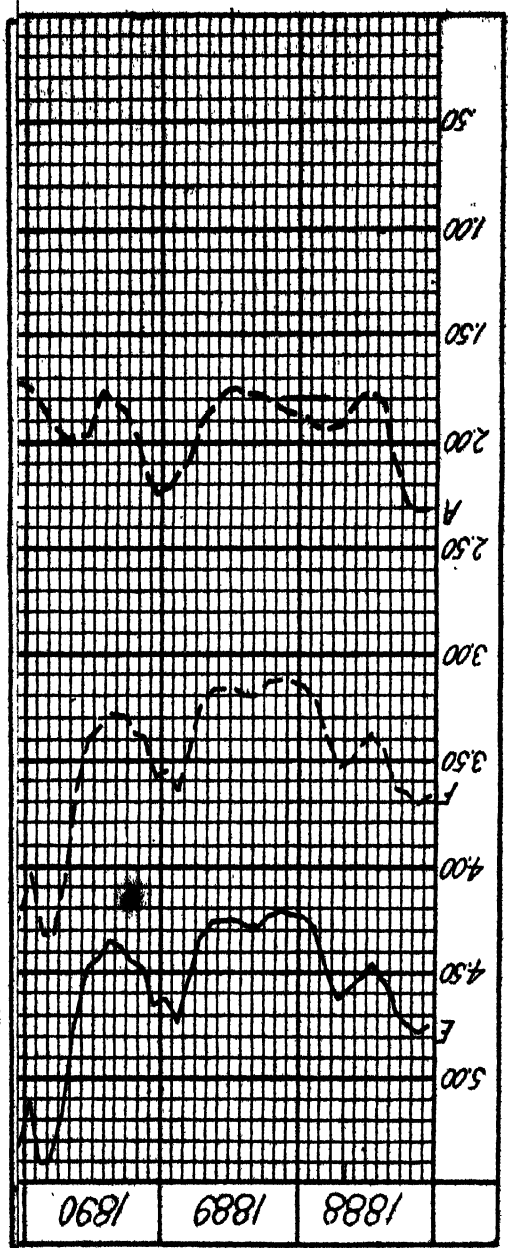
³ P. 283.

C



rk Mark
Lago
innati
nen

1
7
0
C
B
1



of the flow in the next 3 years raised the price again, when the discovery of the famous Bradford fields in 1876 led to the great decline of 1877 and 1878. Likewise the depression in 1891-1893, though not so marked, was caused by the discovery of the McDonald field in Allegheny County, with some of the largest wells ever known in this country. The sudden rise in 1895 seems to have been due to the discovery of the fact that the amount of oil on hand and the production were declining very rapidly as compared with the demand,¹ and to a consequent desire to get stocks ahead. It was thought that some of the refiners had sold ahead, and that the advance in crude was largely arbitrary, and intended to overthrow them. At any rate there was urgent demand on a short supply, and the market was largely speculative for a time. In 1897 another decline is due to the opening of the West Virginia fields, while the present rise is to be ascribed to another decided check in the output, which is clearly destined to grow worse unless new fields are discovered.

TIN PLATE.²

The most striking fact which appears in the chart is the very rapid increase in all prices during the year 1899—steel as well as tin plate.

¹ *Production, shipments, and stocks of Pennsylvania crude oil for the years 1892-1896.*

[Barrels of 42 gallons. Decrease in italics.]

Year.	Total production.	Total shipments.	Shipments in excess of production.	Production in excess of shipments.	Stocks Dec. 31.	
					Barrels.	Increase or decrease.
	<i>Barrels.</i>	<i>Barrels.</i>	<i>Barrels.</i>	<i>Barrels.</i>		
1892	33,332,306	31,048,945	.....	2,283,361	17,395,389	.....
1893	31,256,283	36,171,900	5,215,617	.....	12,111,183	5,284,206
1894	30,696,716	36,585,171	5,888,455	.....	6,336,777	5,774,406
1895	30,891,868	32,262,352	1,370,484	.....	5,161,905	1,174,872
1896	33,908,041	29,403,825	.....	4,504,216	9,550,583	4,388,678

² On this chart the prices of steel billets, found in connection with the steel and wire chart, have been taken from the Iron Age, which is, perhaps, as trustworthy as any single authority can be. The figures may be compared with the prices of the Bellare Steel Company furnished by Mr. Reid, the President of the American Tin Plate Company, and printed on page 868.

The prices of tin and of tin plate have been furnished at the request of Mr. Reid by Phelps, Dodge & Co., of New York City, while Mr. Reid has himself given as nearly as was possible the cost of labor of manufacturing one standard box of tin plate (p. 868). The prices printed below, furnished by Mr. Griffiths, one of the opponents of the tin-plate combination, giving the cost of the material used in the manufacture of a 100-pound box, will prove useful for comparison:

WASHINGTON, PA., January 25, 1900.

The following prices for material represented in the manufacture of tin plate is taken from our books during the months designated:

Price of tin plate per box, 100 pounds, 14 by 20.

1896.		1897—Continued.	
August	\$3.17½	November	\$2.85
September	3.17½	December	2.75
October	3.15		
November	3.12½	1898.	
December	3.00	January	2.75
		February	2.75
1897.		March	2.75
January	3.00	April	2.75
February	3.00	May	2.75
March	2.87½	June	2.70
April	2.90	July	2.65
May	2.87½	August	2.65
June	2.90	September	2.65
July	2.85	October	2.65
August	2.85	November	2.65
September	2.85		

Price paid for block tin per 100 pounds.

1896.		1897—Continued.	
July	\$13.65	September	13.50
December	13.05	November	13.55
		1898.	
February	13.25	March	14.75
March	13.68	April	14.50
April	13.55	May	14.50
May	13.50	July	15.65
June	13.65	September	16.16
August	13.55		

Tin-plate bars from July, 1896, to December 31, 1896, were \$22.75 per ton; from January 1, 1897, to July, 1897, they were \$20 per ton; from July, 1897, to November, 1898, we paid \$17.50 per ton.

Price of billets ranged from \$1.50 to \$2 per ton less than bars.

WM. H. GRIFFITHS.

The causes of the rapid increase in the price of steel, the chief raw material, are perhaps many, but, from the standpoint of the manufacturers, and for our purposes here, it will be sufficient to say that the enormous increase in the demand for steel of all kinds is, perhaps, to be considered as first and most important. There has been during the last year a decided increase in the demand for steel rails, not merely for the building of new railroads, but also for the relaying of old track with heavier rails, because of the heavier rolling stock now used on the most important roads.

Structural steel for buildings is now used in enormous quantities, whereas for this purpose its use was almost unknown ten years ago. Steel bridges on railroads and elsewhere are rapidly displacing all the wooden bridges. The use of pressed steel for railroad cars is almost entirely new. Chairman Gates, of the American Steel and Wire Company, is of the opinion that these later uses of steel have increased the demand for that article within the last 2 or 3 years by more than the total output of steel for the whole United States fifteen or twenty years ago.¹ It is, in all probability, due to this enormous demand for new purposes that the great increase in its price has come about. The increased demand for steel and consequent increased price has been to a considerable extent reflected in the prices of iron ore and pig iron, in the charges for the transportation of ore, and in the higher wages of labor. This increase in the price of steel, which, of course, is the chief raw material in the manufacture of tin plate, of necessity has forced up the price of tin plate.

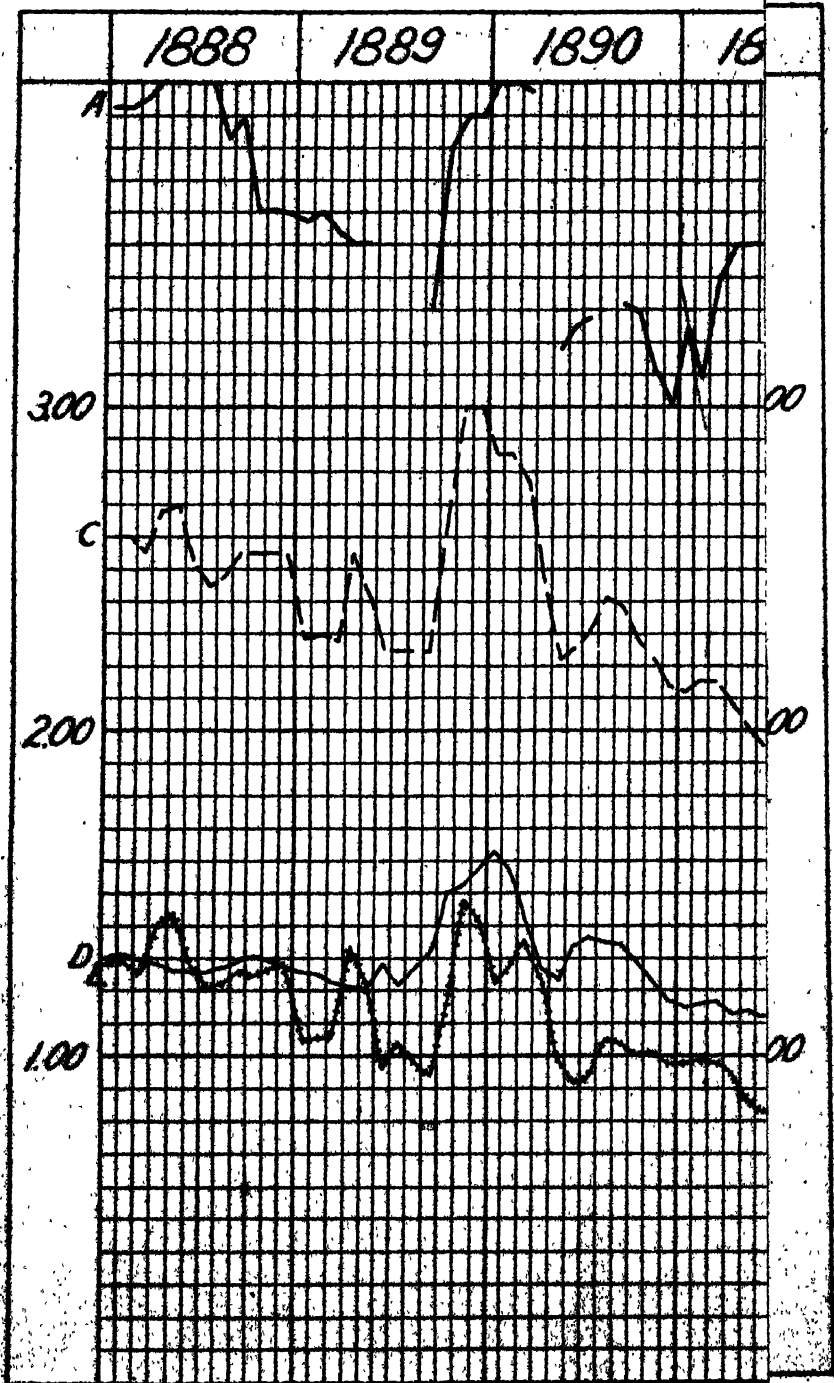
Tin, as will be especially noticed from the tables printed in connection with the chart,² has increased within the last two years from some \$14 a hundred to double that price. Labor also, since the 1st of July, when the new arrangements were made with the Amalgamated Association of Iron, Steel, and Tin Workers, has increased some 20 per cent on the average.³ The diagram shows clearly the decided increase in all of these costs.

The line D, representing the perpendicular distance between the lines B and C, shows the cost of manufacture, aside from the labor, which is included in B, plus the profit in manufacturing. It will be noted that from the beginning of 1895 up to the middle of 1897, in spite of one decided drop in the latter part of 1895, this difference between cost and selling price remained somewhat above \$1, say \$1.10 to \$1.20 a box. About the middle of 1897, there was a decided decline in price, which, with slight variations, continued until October, 1898. Before the organization of the American Tin Plate Company, in December, 1898, there had been, in October, a decided increase in the price of tin plate, and the increase had been more than proportionate to the increase in the price of the raw material, which had advanced as early as July. It was, of course, known to most of the tin-plate manufacturers that the combination would probably be formed, and presumably the different establishments had already stopped in part the most vigorous competition. This increase in the margin between the cost and selling price continued rapidly until March, 1899. From that time on there has been no further general increase in the margin, although there have been fluctuations.

The very strong demand for tin plate would probably have enabled the manufacturers to increase this margin, even if the combination had not been made; but the union of practically all the manufacturers under one management enabled them to make the best use of the opportunity, and thus the margin was put back to substantially the same as it had been during the year 1896 and the first part of 1897. Since March, 1899, however, the increase in the price of American tin plate has not, on the whole, been more than the increase in the value of the raw material, plus the increase in labor cost, facts which were testified to in October by officers of the combination.

The course of events seems to have been this: The price of steel and tin was advancing rapidly, and this advance would naturally tend to lower the margin between the material and the tin plate. For the three months, April, May, and June, the price of tin plate was not increased and the margin, in consequence, fell. In July and August the price of tin plate was increased very rapidly, so that the margin was put back nearly, but not quite, as high as in March. The continued increase in the prices of the raw material in September lowered the margin, while a temporary decrease in the raw material in October raised it again. Another increase in the price of the raw material lowered it again in November and December. It will be noted, therefore, that on the whole there has been not a relative increase in the margin, but rather a slight decrease since last March, although the average margin is considerably higher than at any time during the year 1898 and as high as it was during the year 1896 and the early part of 1897.

PRICES of



It will be noted here also, as in other cases, that in order to secure the same profit there should be a slightly greater margin when the prices of the raw materials are high than when they are low. It may fairly be considered, therefore, other things equal, that profits since March, 1899, are no higher but are rather lower than they were at that time, even though the price of tin plate has very decidedly increased.

The chart does seem to show that the combination had power at the beginning to press the advantage that came with combination. While the margin may be at the present time no higher than it was in 1896, it is perhaps fair to assume that the cost of manufacture has been somewhat lessened, and that, in consequence, the profits are now rather higher than they were before when the margin was the same.

The line E represents the imported coke tin plate laid down at New York, duty paid per full weight box. The line F shows the same thing, exclusive of duty. The distance, then, between these two lines represents the duty and the average rate of freight from the Welsh port to New York. The prices are the cost of importation to the jobbers without profit. The McKinley tariff of 2.2 cents per pound took the place of the preceding tariff of 1 cent a pound, July 1, 1891. It is noticeable, however, that, anticipating the change, the price of tin plate had advanced nearly a year before, so that when the act takes effect despite the increase in the price of imported tin plate, there appears a drop in line F. The lowering of the duty to 1.2 cents per pound, August 28, 1894, is shown clearly by the drop in line E from September to October. The drop in price, however, did not come so that it shows decidedly in monthly prices until the month after the duty was removed, a fact which appears in the sudden rise and fall of line F. The change from 1.2 cents to 1.5 cents per pound in the Dingley law, taking effect July 24, 1897, it will be noted, was also anticipated some six months in the increased price, as shown in line E, and the apparent drop in line F when the act legally took effect.

STEEL AND WIRE.¹

In this chart, also, the most noticeable fact is the very rapid increase in all prices during the year 1899. This increase in prices is to be chiefly ascribed to the enormous

¹The prices for the chart showing the crude and finished iron and steel have been furnished by the editor of the Iron Age, at the request of Mr. Gates, Chairman of the American Steel and Wire Company. Prices of steel billets are Pittsburgh prices; those of barbed wire are those at mill; those of smooth wire and nails are New York prices. In this chart steel billets have been taken as the raw material; all of the other articles may be considered finished products. In order to avoid confusion of lines, only E, showing the margin between the prices of the crude material and the finished product, wire nails, has been drawn. In like manner, lines might be drawn showing the margin between the price of steel billets and the prices of barbed wire and smooth wire.

Average monthly quotations of steel billets at Pittsburgh per gross ton, 2,240 pounds.

	1888.	1889.	1890.	1891.	1892.	1893.	1894.	1895.	1896.	1897.	1898.	1899.
January	\$29.25	\$28.12	\$36.65	\$25.60	\$25.00	\$21.56	\$16.12	\$14.90	\$16.80	\$15.42	\$14.93	\$16.42
February	29.37	27.81	35.25	26.00	24.30	21.62	15.75	14.95	17.38	15.25	15.06	18.00
March	29.12	27.25	31.37	26.25	23.00	22.60	15.55	14.84	17.09	15.44	15.25	24.80
April	28.70	27.00	28.37	25.85	22.81	22.44	15.69	15.44	19.53	14.60	15.06	25.37
May	28.25	26.90	27.55	25.50	22.41	21.69	18.00	16.80	19.50	13.82	14.85	26.75
June	28.06	26.62	30.25	25.25	22.97	21.70	18.12	18.63	19.12	14.06	14.65	30.10
July	28.00	27.12	30.70	25.50	23.50	21.06	18.00	20.75	18.85	14.00	14.50	33.12
August	28.30	28.37	30.25	25.31	23.81	20.45	17.15	21.75	18.75	14.00	15.85	35.62
September	29.00	29.40	30.12	25.00	23.65	19.31	17.19	24.00	19.75	15.60	16.00	38.37
October	29.25	33.70	28.60	24.90	23.53	18.06	16.00	21.90	19.75	16.44	15.56	33.75
November	29.00	34.00	27.37	24.16	24.94	17.37	15.57	19.13	20.00	15.57	16.06	36.50
December	28.37	35.50	26.25	24.20	22.40	16.69	15.12	16.97	17.50	15.00	15.80	38.75

Average monthly quotations of smooth wire, per 100 pounds.

Month.	1895.	1896.	1897.	1898.	1899.
January		\$1.26	\$1.21	\$1.18	\$1.29
February		1.25	1.15	1.18	1.46½
March		1.25	1.16	1.20	1.79
April		1.29	1.15	1.18	1.92½
May		1.32	1.12½	1.15	1.95
June		1.28	1.15	1.15	2.15
July		1.24	1.10	1.15	2.37½
August		1.25	1.10	1.15	2.50
September			1.14	1.15	2.76½
October	\$1.75	1.20	1.20	1.16	2.96
November	1.71	1.17	1.20	1.16	2.96
December	1.48	1.18	1.17½	1.15	2.95
	1.32	1.28	1.17	1.12	2.87½

demand, both at home and abroad, for steel of all kinds, as was explained in connection with the chart showing prices of tin plate.

If we note the line E, showing the margin between the price per hundred pounds of steel billets D, and that of wire nails C, we shall note that there was a steady decline in this margin from the year 1890 to 1895, in the early part of which the lowest point was touched. During the latter part of 1895 and until nearly the close of 1896 there was a very decided rise, not merely in the price of wire nails, but also in the margin. This great increase in the margin was due chiefly to the influence of the wire-nail pool, which, during that period, secured substantial control of the market for a time. The sudden fall in the latter part of 1896 came at the time of the breaking of the wire-nail pool. It is also true that at about the same time there was a change of base for the fixing of the market prices of wire nails, but this change in the base did not modify materially the margin as it appears in the chart.

It will be noticed, however, that after the break in the wire nail pool the margin during the years 1897 and 1898 still remained considerably higher than it had been for three years before the formation of the pool.

The marked increase in the price of steel billets began in November, 1898: the increase in the price of wire nails followed in the succeeding month, and both have increased very rapidly during most of the time since. In addition to the increase in the price of steel billets, there has also been a decided increase in the wages of the laborers engaged in the manufacture of wire and wire nails.

The increase in the wages of the workingmen is not shown in the chart, but from the testimony¹ the increase in wages among the wire and nail workers has been greater than that among the workers engaged in the manufacture of steel billets, so that there would normally be, on that account, some increase in the margin.

Another reason for an increase in the margin besides that of an increased profit is this: There is always a considerable waste in turning the raw material, steel billets, into wire or wire nails. If, for example, this loss were 5 per cent, in the case of steel valued at \$15 a ton the loss would be 75 cents, whereas if steel were \$30 a ton the

[Continuation of footnote from p. 55.]

Average monthly quotations of barb wire (galvanized) at mill, per 100 pounds.

	1888.	1889.	1890.	1891.	1892.	1893.	1894.	1895.	1896.	1897.	1898.	1899.
January.....	\$3.92½	\$3.57	\$4.00	\$3.25	\$3.05	\$2.37	\$2.05	\$1.86	\$1.90	\$1.76	\$1.71	\$1.88
February.....	3.92½	3.60	4.00	3.10	2.77	2.40	2.09	1.89	1.89	1.73	1.75	2.02
March.....	3.95	3.53½	3.97	3.40	2.65	2.42	2.15	1.89	1.85	1.70	1.77	2.42
April.....	4.00	3.50	.....	3.50	2.65	2.45	2.10	1.83	1.97	1.70	1.65	2.60
May.....	4.00	3.50	3.17½	3.50	2.65	2.45	2.05	1.81	2.00	1.68	1.66	2.70
June.....	4.00	.....	3.25	3.50	2.65	2.45	2.07	1.89	1.95	1.64	1.70	2.90½
July.....	4.00	.....	3.28½	3.50	2.62	2.45	2.05	2.00	1.87	1.60	1.70	3.02½
August.....	3.83	.....	.....	3.25	2.62	2.45	2.03	2.40	1.85	1.60	1.65	3.10
September.....	3.90	3.30	3.32	3.25	2.60	2.40	2.00	2.70	1.80	1.70	1.67	3.36½
October.....	3.60	3.80	3.29	3.05	2.52	2.26	1.99	2.70	1.73	1.70	1.71	3.55
November.....	3.00	3.90	3.11½	3.05	2.41	2.15	1.90	2.56	1.76	1.69	1.71	3.55
December.....	3.60	3.90	3.00	3.05	2.42	2.10	1.85	2.03	1.84	1.75	1.60	3.47½

Average monthly quotations of wire nails at New York, per 100 pounds.

	1888.	1889.	1890.	1891.	1892.	1893.	1894.	1895.	1896.	1897.	1898.	1899.
January.....	\$2.60	\$2.29	\$2.85	\$2.12	\$1.67	\$1.37	\$1.10	\$0.86	\$2.25	\$1.39	\$1.42	\$1.43
February.....	2.60	2.30	2.85	2.15	1.71	1.39	1.09	0.90	2.25	1.35	1.45	1.57
March.....	2.55	2.27½	2.76½	2.15	1.73	1.50	1.09	0.94	2.40	1.40	1.43	1.94
April.....	2.68½	2.55	2.48½	2.08	1.66	1.55	0.94	0.87	2.46	1.40	1.31	2.05
May.....	2.70	2.42	2.22	2.00	1.60	1.51	1.05	0.97	2.55	1.35	1.31	2.10
June.....	2.52½	2.25	2.26½	1.95	1.50	1.39	1.11	1.27	2.55	1.31	1.35	2.30
July.....	2.45	2.25	2.30	2.00	1.57	1.35	1.14	\$1.68	2.55	1.25	1.31	2.42½
August.....	2.48	2.25	2.41½	1.95	1.61	1.44	1.07	2.05	2.55	1.26	1.26	2.50
September.....	2.55	2.25	2.58½	1.85	1.57	1.45	0.99	2.25	2.55	1.41	1.32	2.76½
October.....	2.55	2.65	2.29	1.82	1.50	1.30	0.99	2.25	2.55	1.49	1.35	2.95
November.....	2.55	3.00	2.22½	1.71	1.47	1.18	0.92	2.25	2.29	1.41	1.28	2.95
December.....	2.55	3.00	2.13½	1.68	1.46	1.12	0.85	2.25	1.51	1.39	1.27	2.87½

¹ Gates, p. 1011; Reis, p. 946.

² Change of base.

loss would be \$1.50. Steel has more than doubled in price; in consequence with the same profit the margin should have increased somewhat.

On the whole, however, it seems, both from the chart and from the testimony given before the Commission, that the margin, as represented by the line E, indicates also quite a decided increase in the profits. It will be noted that in the last two months of the year 1899 there was a decided falling off in this margin, showing that just at that time, at any rate, there was a check in the profits, the finished product having lost a little in price, while steel billets had gained. In October the fall in price of billets had increased profits. The presumption is here, as in the case of tin plate, that there would have been without any combination a decided increase, not merely in the price of the finished product, but also in the margin between the crude and the finished product, on account of the enormous demand. The testimony seems to be uniform on this point, that none of the manufacturers have been able to meet the demand; but in this case also it seems certain that the combination was able to take advantage of the opportunity better than individual manufacturers could have done.

Another factor needs to be taken into account in the consideration of the chart. The figures represented are those furnished by the Iron Age. It is probable that there are no other figures in this country that represent more nearly actual market conditions. At the same time each individual manufacturer makes his sales independently, and these sales are largely made by contracts extending over a period of some months, sometimes even over a period of one or two years. In consequence of that fact, the majority of the manufacturers of steel may be selling their output on a contract price fixed six months before, while the few manufacturers who are making late sales may be obtaining a price 50 per cent higher.

As a matter of fact, judging from the testimony given, the quoted market prices during the first half of the year 1899 were probably considerably higher than the prices actually realized by the manufacturers. On the other hand it is also probable that the prices at the close of the year 1899 represent much more nearly, in the case of both the crude and finished product, the real prices secured by the manufacturers. While these different circumstances need to be taken into consideration, it is, nevertheless, doubtless true that the chart represents fairly well the changing conditions of business during the period covered.

While on the chart the margins between the price of billets and those of smooth wire and barb wire are not shown by separate lines, it is not difficult to see that the changes for the last year, since the American Steel and Wire Company was formed, January, 1899, are substantially the same as those for wire nails. That company, through ownership of patents, has a legal monopoly in barb wire; but in all lines the prices have advanced rapidly for reasons already given.

TOPICAL DIGEST OF EVIDENCE.

[Prepared by E. DANA DURAND.]

NOTE.—References to the pages of the testimony are made in parentheses at the end of the paragraph or section giving the substance of the statements of the particular witness on the topic. The statements and opinions of the various witnesses who are classed under the different combinations, so far as they have to do with general questions—advantages of combination, legislation, etc.—are placed under the separate heading "General aspects," p. 213.

THE SUGAR COMBINATIONS.

	Page of digest.
I. Causes of organization	59
II. Effect on output, prices, and competition	60
III. Cost of refining	65
IV. Capitalization and value of refineries	67
V. Economies of combination	68
VI. Effect of combination on labor	69
VII. Raw sugar	69
VIII. Tariff on sugar	70

LIST OF WITNESSES.

	Page of testimony.
Atkins, Edwin F., manufacturer and importer of sugar	801-812
Buynitsky, Stephen N., assistant chief of the customs division of the Treasury Department	43-55
Doscher, Claus, independent sugar refiner, Brooklyn, N. Y.	87-101
Havemeyer, Henry O., president of the American Sugar Refining Company	101-138
Jarvie, James N., member of the firm of Arbuckle Brothers	138-147
Mas, Ernest, former consulting chemical engineer of the Glucose Sugar Refining Company	72-87
Post, James H., commission merchant in sugar and molasses	147-166
Smith, G. Waldo, president of the Wholesale Grocers' Association of New York City	55-73

I. CAUSES OF ORGANIZATION.

A. Excessive competition.—Prior to the formation of the Sugar Trust in 1887, competition had become so excessive that prices were reduced to an unremunerative figure. The margin between the prices of raw and refined sugar was only 0.71 cent in 1884, 0.78 in 1885, and 0.76 in 1886. Eighteen out of about 40 refineries had failed. (THURBER, 5, 21, 22; HAVEMEYER, 107-109.)

Mr. ATKINS, who sold his refinery to the American Sugar Refining Company in 1887, states that the refining of sugar in those days was not profitable. The refining capacity was largely in excess of the demand; everybody wanted to run full time, and the consequence was that none of the refiners made any money. His own company had been improving its plant for a number of years, but had paid no dividends. (811.)

B. Undue protection by tariff.—Mr. HAVEMEYER further implies, without a very direct statement, that the higher protection formerly afforded to the business of sugar refining was a contributory cause of the formation of the trust, although he considers the present protection insufficient. Under the former laws the profits were apparently so great that competition was unduly stimulated, and the combination was formed with a view to securing the possible advantages of the protection. It should be noted that Mr. Havemeyer specifically declares that the tariff is the prime cause of the formation of most combinations. (See p. 214.) The following is quoted from Mr. Havemeyer's testimony (133, 137):

"Q. But I asked you this question: If the refining industry of this country was built up under protection or a free-trade system?—A. Protection; enormous protection. Without the tariff I doubt if we should have dared to take the risk of forming the trust. It could have been done; but I certainly should not have

risked all I had, which was then embarked in the sugar business, in a trust unless the business had been protected *as it was* by the tariff."

"Q. I put those two things together—first that the protective system has brought such domestic competition that you are compelled to form a trust to keep each others' throats from being cut?—A. That is just the case with sugar. Have I not just told you that prior to the formation of the Sugar Trust 18 companies went out of business, failed, were ruined, and that is the advantage of the tariff? But if you do not stick to real protection in itself, but give these producers 40 to 60 per cent, then they are bent on mulcting the public. The great trouble is the tariff, and there you are."

II. EFFECT ON OUTPUT, PRICES, AND COMPETITION.

A. Control of output.—Mr. HAVEMEYER's testimony before the Lexow committee in 1896 was read to him, and he stated that he stood by every word of it. In that testimony he was asked as to his evidence before the United States Senate committee in 1894, wherein he said that the trust was organized "with a view of controlling the price and output to the people of this country." He answered that that object of combination was not in his mind now, though it doubtless was when he made the statement. He would rather say now that the intention was to control the output of the refineries joining the trust and the price of their products. "It goes without saying that a man who produces 80 per cent of an article can control the price by not producing." He admitted that his company undoubtedly, in fact, controlled the product and price in the United States. The formation of the trust removed competition to a great extent. (125, 126.)

The present output of the American Sugar Refining Company, according to Mr. HAVEMEYER, is about 30,000 barrels a day, its capacity about 40,000 barrels. The witness believes it is now producing 90 per cent of the total output and could produce 20 per cent more than the entire demand. The various competing refineries could probably produce 50 per cent of the required output. In 1896 the witness testified before the New York committee that his company produced from 75 to 80 per cent of the refined output. In 1891, when the trust was changed to a corporation, it was making 67 per cent of the entire product. (107, 111, 124, 126.)

Mr. POST is of the opinion that the American Sugar Refining Company does not restrict production abnormally. All business is regulated by supply and demand. The capacity of refineries exceeds consumption, so that there must be some restriction. If it were not for combination, failure of some refineries, owing to excessive competition, would soon close them as effectually as under combination. Competing refineries at present are operating on as small a scale as possible, because profits are little or nothing. The Mollenhauer and National refineries have probably averaged about one-third of their capacity during the first 6 months of 1899. (154, 160.)

B. Variations of prices according to competition.—1. *Generally.*—Testimony concerning the effect of the sugar combination on prices indicates that there have been great fluctuations in the margin between raw and refined sugars since the formation of the trust in 1887, owing to the establishment from time to time of competing refineries, some of which have later been absorbed by the combination. The following table shows the prices of raw and refined sugars and the margin between them for each year. (HAVEMEYER, 103.)

Quotations for raw and refined sugar for 20 years.

[Compiled from Willett & Gray's Weekly Statistical Sugar Trade Journal.]

Year.	90° Centi- grade.	Granu- lated.	Differ- ence.
1879.....	7.423	8.785	1.362
1880.....	8.206	9.602	1.396
1881.....	8.251	9.667	1.416
1882.....	7.797	9.234	1.437
1883.....	7.423	8.506	1.083
1884.....	5.857	6.780	.923
1885.....	5.729	6.441	.712
1886.....	5.836	6.117	.781
1887.....	5.245	6.013	.768
Average.....			1.098

Quotations for raw and refined sugar for 20 years—Continued.

Year.	96° Centi-grade.	Granulated.	Difference.
1888.....	5.749	7.007	1.258
1889.....	6.433	7.640	1.207
1890.....	5.451	6.171	.720
1891.....	3.863	4.001	.838
1892.....	3.311	4.346	1.035
1893.....	3.689	4.842	1.153
1894.....	3.235	4.119	.884
1895.....	3.258	4.140	.882
1896.....	3.631	4.539	.908
1897.....	3.553	4.481	.928
1898.....	4.149	4.976	.827
Average.....			.906
1879 to 1887, inclusive.....			1.098
1888 to 1898, inclusive.....			.936
Difference.....			.162

The comments of the witnesses upon the fluctuations shown in this table vary slightly in details, but there is agreement on the general movements. Immediately after the formation of the trust in 1887 prices were raised considerably to offset the excessively low prices of the preceding years. The margin in 1888 was 1.258 cents.

Mr. THURBER adds that when the business was got into working order and economies in manufacture had been effected by closing inferior plants, this margin was reduced.

Mr. HAVEMEYER and Mr. POST merely call attention to the reductions in the margin caused by the competition of the Spreckels' refineries, which began in 1889, and the less severe competition of the Mollenhaner refinery, established in 1890. The margin stood at 0.7 cent in 1890 and 0.8 in 1891. In the latter part of 1891 the Spreckels' refineries were bought up, and the margin was raised to 1.1 cents, which, as Mr. Havemeyer states, "is the usual margin we had laid out as necessary for the benefit of the stockholders and proper conduct of the business." The removal of the tariff on refined sugar in 1890 is also stated to have affected the price, although its effect on the margin is not clearly pointed out. The National and McCahan refineries were established in 1892, but there seems to have been little competition until the establishment of the Arbuckle and Doscher refineries, in 1898. The "interlopers" have brought the margin below 0.5 cent, destroying all profit. (Thurber, 5, 21, 22; Havemeyer, 107-109, 136; Post, 148, 149, 165.)

The history of the competition of these two last-named refineries is given more in detail by several witnesses.

2. *Arbuckle Brothers.*—Mr. JARVIE, a member of the firm, testifies that Arbuckle Brothers started a wholesale grocery in Pittsburg in 1858. They began business in New York in 1870, making a specialty of roasted coffee in pound packages. Having a patented method of filling, packing, and weighing, they sought to apply it to handling sugar as well as coffee. They found it impossible to make money by buying sugar from refineries, and so established a refinery, which began operation in September, 1898. Its capacity is about 4,000 barrels daily, and the witness believes it can refine as cheaply as the American Sugar Refining Company. Before Arbuckle Brothers entered business the margin between raw and refined sugar was about 90 cents per 100 pounds. The American Sugar Refining Company began cutting prices, apparently with the purpose of crushing the Arbuckles out of business. The Arbuckles have followed the prices made by the American Company, unless they believed it was cutting secretly, when they made open cuts.

Arbuckle Brothers think that they can stand the losses if a company selling 90 per cent of the total product is losing on the entire amount, and they are in business to stay. Offers for purchase of their refinery have been made by outside parties, but there have been no conferences with the American Company directly. Arbuckle Brothers have markets in various parts of the country, depending on freight rates. They do not believe freight discriminations are made in favor of the American Company. The prices of both concerns are the same, but some dealers and consumers prefer Arbuckle sugar, which they consider superior. The American Company is putting up sugar in small cotton bags to compete with Arbuckle packages. (138-142, 146.)

According to Mr. JARVIE, the present excessive competition has completely destroyed profits. The evils of excessive competition would be lessened "if the American Sugar Refining Company should be willing to sell less than 100 per cent of all the sugar sold in this country." (146.)

Mr. DOSCHER also believes that the American Company has generally cut prices first and Arbuckle Brothers followed, their prices usually being the same. At one time in December, 1898, however, the Arbuckles cut one-sixteenth cent below the American. This was the lowest price reached. The margin necessary for profit is 50 to 60 cents, while the actual margin has been running between 32 and 51 cents. (95, 96.)

An important incident of the competition between the American Sugar Refining Company and Arbuckle Brothers is that the former has entered the coffee business in retaliation, so as to compete with the Arbuckles in their own field.

Mr. HAVEMEYER testifies that the American Sugar Refining Company "are in the coffee business, and in it to stay." Havemeyer & Elder bought out the Woolson Spice Company, of Toledo, and sold it to the Sugar Company. The price of coffee has been greatly reduced by this competition. Previously the price of green coffee had been 10 cents, of roasted 15. The cost of roasting is about 3 cents. The Sugar Company reduced the margin to 2½ cents, the price of green coffee meanwhile having dropped to 6 cents because of the great increase in the crop. The Sugar Company desired to avoid excessive cutting of prices by making a superior quality of coffee. The first cut was made largely through the fear of a fall in the value of the stock on hand by the decline of the price of green coffee. (113, 114.)

Mr. JARVIE confirms this evidence as to the course of prices of coffee. The American Sugar Refining Company, he adds, is selling roasted coffee for 8½ cents, made from a grade of green coffee costing about 6 cents. The Arbuckles' coffee is sold for 9 cents, their green coffee being worth more than 6 cents. The former difference between green and roasted coffee was 5 cents, so that profits have been greatly reduced by the competition. (140.)

3. *Doscher refinery.*—Mr. DOSCHER testifies that the New York Refining Company began operations November 1, 1898, the margin between raw and refined sugar having varied during that year from 70 to 97 cents. The American Sugar Refining Company was already cutting prices against the Arbuckles and the margin kept getting lower. It has varied between 32 and 51 cents. The American Company has usually cut prices first, the New York Company following, but at one time the latter followed a lower cut made by the Arbuckles, maintaining it for 7 days. The American Company has made some special cuts in localities where it had refineries near. The witness has heard and believes that officers of the American Company have expressed the intention of putting down prices sufficiently to run him out of business, and that they thereby hope to prevent others from competing for some years to come. But he never heard anyone state that he had heard this actually said by such officers. The witness has had no conferences with the American Company nor with the Arbuckle Company as to selling his property or for any other purpose. He has been questioned by outsiders as to whether his company wanted to sell, but does not know whom they represented. The witness formerly owned the Brooklyn refinery, which joined the trust, and he now owns stock in the American Company.

Mr. DOSCHER has been unable to earn any profit by refining with the present margin of about 50 cents per 100 pounds, but has made some gains by advances in prices of raw sugar on hand. The witness believes the cost of refining in his establishment as low as in any other, but does not know what it costs others, nor exactly what it will cost him when under more regular operation. He had expected to make a nice profit if the margin of from 70 to 97 cents had continued. The capacity of his refinery is about 1,000,000 pounds, or 3,000 barrels, per day. (88-91, 98, 100.)

4. *Other refineries.*—Besides the Arbuckle and Doscher refineries there are several other smaller ones outside of the trust. The independent refineries are enumerated by Mr. HAVEMEYER as follows: Arbuckle, Doscher, Mollenhauer, and National, of New York, Nash & Spalding of Boston, McCahan of Philadelphia, Cunningham of Galveston, Henderson & Cogswell of New Orleans, and the Crockett Refinery of San Francisco; their capacity is equal to 50 per cent of the required output. In answer to the question whether the American Sugar Refining Company had any interest in the Mollenhauer and Nash refineries, the witness said: "I prefer not to state about that. That is a little bit too private." (107-109, 186.)

Mr. POST, as selling agent of the Mollenhauer and National refineries, knows that they do not sell under agreement with the American Company, but are entirely

independent. He knows also that the American Company does not control the Arbuckle, Doscher, Nash, McCahan, or California Beet Sugar and Refining companies, nor two or three in Louisiana and Texas. These refineries are now running much under their capacity, being willing to allow the American Company to sell most of sugar at existing prices. The witness believes the American Company will cease excessive cutting before long. (150, 153.)

Mr. THURBER states that while the Mollenhaner, Doscher, and Union refineries have no connection with the American Sugar Refining Company, they do not extensively cut prices in competition. They follow prices set by the trust, demand being sufficient to take their output; although it takes only about two-thirds of the capacity of the American Company. Sometimes refiners having a surplus stock temporarily cut prices. (14.)

C. Policy of trust toward competitors.—The general policy of the American Sugar Refining Company toward its competitors is stated by Mr. HAVEMEYER in this way: It is very vital to the prosperity of the company to keep up its output. When competitors begin business, prices must be lowered with the primary purpose of retaining trade. If the result is to crush competitors, that is their affair, not the affair of the trust. It is thus the purpose of the trust to see to it that competitors do not stay in business too long. Moreover, it aims to keep prices so low that additional competition will not be likely to be provoked. (108, 120.)

D. General tendency of combination regarding prices.—Broad statements of opinion as to the general influence of the trust on prices and its effect on the consumer are made by several witnesses.

Thus Mr. THURBER believes that although prices were raised above the ruinous figures prevailing before the organization of the trust, reduction to reasonable figures followed as soon as savings in cost of production began to be made. (5, 21, 22.)

Mr. POST believes that the combination has reduced prices to consumers. The company has not used its possible power to secure exorbitant profits, but has kept the margin small because of existing and possible future competition. The witness believes the margin would have been greater if the trust had not been formed, in spite of the fact that it was so low before it was organized. The weaker houses would have been driven out and demand for sugar would have exceeded the capacity of surviving refineries, forcing up prices. But if the American company had exclusive control, he adds, it would be dangerous. Its managers might not always be as broad minded as Mr. Havemeyer. Competing refineries do influence prices in the interest of consumers. But if the number of competing refineries were increased there would be no gain, for some would soon be driven out of business. (158, 159, 165, 166.)

The same witness adds, in this connection, that the price of refined sugar does not always show the real sum received by refiners; often one-eighth cent should be deducted, owing to methods of selling. This would affect the margin similarly. The figures above quoted show the average margin from 1890 to 1898 to be 14 cents per 100 pounds less than for the 7 years before the organization of the trust in 1887. The average from 1888 to 1898 was 96.6; from 1885 to 1887, when competition had destroyed all profit, about 75. (148, 149.)

Mr. ATKINS, whose refinery joined the American Sugar Refining Company at the time of its organization, testifies that the combination is manufacturing sugar at such a low cost that it would scarcely be possible to compete profitably against it. With the small amount of protection which now exists, the American refiner must economize in every way possible to undersell the European competitor. While it is possible that independent companies or an association of them may at some time effectively compete against the American Sugar Refining Company, it is scarcely probable. The witness believes that the price of sugar has been on the whole reduced to the people by the combination. The lower refined sugar is sold the larger the demand; consequently it is profitable to reduce the margin as far as possible. (811, 812.)

Mr. HAVEMEYER states clearly the policy of the trust as to prices. He does not "care 2 cents for your ethics," but thinks it is fair and right as a business proposition "to get out of the consumer all you can," consistently with business principles. While a trust could perhaps demand the utmost prices that the consumer would bear, it is quite another matter whether it would do so. They would be kept as high as possible without provoking additional competition. In view of the economy of concentrated production, the witness believes that the trust could thus make proper profits, while the consumer would obtain goods at lower prices than before combination, and competitors with fewer economies would not be inclined to enter. When competitors do start in business, it is the policy of the sugar com-

bination to secure the continuation of its output, which is very vital, and therefore to see to it that they do not stay in business too long.

Trusts are not in business for their health, nor will they sell their product for less than they can get unless for sufficient reason. Nevertheless, combinations in all articles would be beneficial to the consumer. The consumer benefits by the reduction of prices during the fight with competitors. If competitors are driven out the losses would be evened up by higher prices, but in the long run prices would be reasonable.

In the sugar business, Mr. Havemeyer adds, the competition of the Louisiana crop, lasting from about December 1 to March 1, tends regularly to depress prices and margin, after which the policy of the trust is to increase the margin so that the rate of average profit is about one-fourth cent per pound, which in the long run is the rate deemed most advantageous to the trust, in view of possible competition. The witness elsewhere refers to the desire of the trust to maintain a margin of about 1.1 cents between raw and refined sugar, as fair to the stockholders. The period up to 1893 is especially referred to in this connection. (108, 120, 134, 135.)

E. Method of fixing prices.—Mr. POST testifies that the prices are usually announced at the office of the American Company in the morning, and if other refiners change their prices that is announced a little later. Usually competitors follow the price fixed unless they have a surplus of sugar which they want to dispose of immediately, when they may keep the price one-sixteenth to one-eighth cent below the American Company. Preferences of grocers, and of brokers who distribute sugars to wholesale grocers, influence purchases where prices vary. The brokers of the Mollenhauer and National companies fix prices for their product, but after consultation with those companies. (149, 150.)

F. Rebates.—Several witnesses describe—their testimony agreeing in its general outlines—the system of rebates to wholesale grocers in the handling of sugar, and its effects. The system was introduced at the instance and for the advantage of the wholesalers, not of the trust itself. It has not been used largely as a means for controlling the trade by the combination.

Previous to the formation of the Wholesale Grocers' Association, about 1888, competition had completely wiped out all profits in handling sugar, which constituted a large proportion of the business of wholesale grocers. The association agreed to sell sugar at an advance of one-fourth cent per pound on its cost. This arrangement was broken up, and certain leading jobbers then conferred with the American Sugar Refining Company. It was agreed that sugar should be billed to the wholesalers at three-sixteenths cent above the previous price, and that after 3 months a rebate of three-sixteenths cent per pound should be paid by the combination, provided sugar had not been sold at less than the price billed. This arrangement was agreed to by practically all dealers in New York, New Jersey, and New England, and it was later extended over the entire country. This rebate allowed grocers, probably, a small profit, estimated by Mr. Thurber at about 4 per cent, although Mr. Smith is doubtful whether there is any profit. (THURBER, 13; HAVEMEYER, 126; SMITH, 55; POST, 154.)

The following is the circular formerly employed by the American Sugar Refining Company in proposing to individual jobbers the terms of the rebate system (127):

NEW YORK, ———, 189 .

DEAR SIR: We inclose herewith invoice of even date, from which you are entitled to our usual deductions of 1 per cent trade discount on 100-barrel lots and 1 per cent for cash if paid within 7 days.

Should you so desire, we shall be pleased, upon receipt of within written request, to constitute you one of our agents, in which case sugar will be consigned to you for sale as our factor, upon the following terms, the title to remain in us subject to your advances and return to you of your necessary outlay.

1. You are to advance to us within 30 days the amount of the invoice, which will be made up at our daily quotations, less 1 per cent trade discount on 100-barrel lots, with the right to deduct 1 per cent additional if invoice is made cash in 7 days; the advance to be without recourse to, or reclamation upon us, and to be due in any event.

2. The sugar when sold is to be billed in your name, although in fact as factor for us, and you shall without reclamation upon us, at your own cost, pay all expenses, and assume all risks of the property, and of payment of collection. You are not to incur any expense on our account.

3. None of the sugar shall be sold or disposed of by you, either directly or indirectly, for less than our daily quotations with freight added from refining point

to point of sale (as per equality rate book), nor on more liberal terms as to credit or cash discounts.

So long as the foregoing conditions are observed by you, we will, upon an affidavit to that effect, pay you a commission of three-sixteenths of a cent per pound, and in addition thereto you shall retain the profit, if any, over the advance made as above provided. In case of any failure to comply with either of the above conditions no commissions will be payable. Settlements will be made for each month's commissions at the expiration of 3 months thereafter. All commissions payable for the period preceding the 3 months will then become due. Payments will only be made as above.

This agency is terminable at the pleasure of either party on written notice.

Yours, respectfully.

THE AMERICAN SUGAR REFINING COMPANY.

This rebate system still continues, but it appears not to be effectively enforced. Numerous jobbers have cut the prices of sugar, and those who maintain the agreement lose many customers. This change is not attributed to the competition of new refineries, but is charged by some witnesses to the failure of the jobbers themselves to keep faith, and by others to the carelessness of the American Sugar Refining Company in regard to enforcing the contract and requiring affidavits that goods have not been sold below the price fixed. Mr. Havemeyer says that the affidavit was abandoned by the trust, in 1897, on account of legislation against it, but adds that the agreement was never successfully enforced. (HAVEMEYER, 136-128; SMITH, 55-59; POST, 154.)

The general opinion appears to be that the system is a legitimate and necessary one to prevent losses to dealers through excessive competition. Mr. SMITH specifically states that he believes the system is honorable, just, and legal. Without it dealers are compelled to perform a public service in distributing goods without a reasonable compensation, which is against public policy. Experience has proved this repeatedly. (66, 68.)

The agreement as to rebates has never stipulated that jobbers shall not handle the products of other refineries. In fact, the various competing refineries have themselves copied the system. Thus Mr. THURBER states that the members of the Wholesale Grocers' Association are not confined to buying sugar from the American Sugar Refining Company. They buy as they choose, having now 5 different sources of supply, and have the same rebates from all companies. (18.)

Mr. JARVIE also knows of no contract by which wholesale grocers are restricted to handling the product of American Sugar Refining Company. Arbuckle Brothers sell through wholesale dealers exclusively, giving a rebate of three-sixteenths cent in addition to ordinary trade discounts. No affidavit is required. (142, 147.)

A modification of the rebate system has recently been established in Ohio, owing to decisions of the courts against the rebate system. In May, 1899, the wholesale grocers adopted a plan among themselves designed to prevent cutting and to equalize prices according to freight rates. The plan is essentially to divide the State into six sections, and in case it is proved that prices have been cut to any retailer, all wholesale grocers in that section are required to reduce their price correspondingly to the place in question, taking away all profit and placing all on an equal footing. A circular stating the plan in full is quoted. A similar plan has been in operation in Illinois, and has helped to keep prices up to profitable rates. (POST, 153-157.)

III. COST OF REFINING.

We can not judge of the justice of the prices secured by the Sugar Refining Company or estimate its profits without knowing the cost of refining sugar.

While no minutely specific statements were made by the witnesses as to the cost of production, the general consensus of evidence goes to show that the margin necessary between raw and refined to secure any profit is from 50 to 60 cents, and the presumption is that when it falls below 50 cents refineries are, not doing a profitable business. This margin includes the cost of refining proper and also the loss of weight in refining.

Mr. JARVIE made the above as a general statement, but refused to state the precise cost of refining in his own establishment, Arbuckle Brothers. (139.)

The cost of refining, Mr. HAVEMEYER points out, is not the same as the margin between 96 degree raw sugar and granulated. The commercial value of a degree of sugar is 6 cents per 100 pounds, so that from the margin 24 cents per 100 pounds must be deducted. "There has never been any cost of refining that I have ever

been acquainted with less than one-half cent a pound." When the margin is only 50 cents per 100 pounds, it is a "fair inference" that refineries are running at a loss. Dividends could hardly be paid from profits resulting from such margins, but the witness refuses to state the source from which his company now pays 12 per cent dividends, when the margin is below 50 cents: "We may borrow it." He also referred to existing conditions as ruinous. With the margin at 75 cents "it is beneficial * * * there is no great damage done then," but not unless everything is working in concentrated form and in the very best manner. (112, 132, 136.)

Mr. DOSCHER declares that his refinery has been unable to make any profit from refining at the existing margins of from 32 to 51 cents, but he had expected to be able to make "a nice profit" if the margin of between 70 and 97 cents, which existed before his refinery was established, could be maintained. He is not clear as to details of cost or the method of figuring loss of weight from refining. He believes 93 pounds of refined sugar from 100 pounds of raw sugar a better estimate than 92. From the same quantity of raw sugar about 2 gallons of syrup, worth about 12 cents a gallon, are obtained. Because of the risk of the sugar business the witness thinks a refinery should earn from 12 to 20 per cent yearly on its cost. (88, 93, 94, 97.)

Mr. POST submitted the following estimate, prepared by the general manager of National Sugar Refining Company. This shows that the cost of refining, including the revenue tax of 4.799 cents per 100 pounds, amounts to about 35 cents, while the loss of weight in refining amounts to 28 cents; total, 63 cents, as the necessary margin. The cost has not substantially changed within 5 years. Large refineries, such as those of Havemeyer & Elder, with 12,000 barrels capacity, and Spreckels, with 8,000, could probably produce at from 3 to 5 cents less. (150, 151.)

Centrifugal sugars contain of—

Pure sugar, about	per cent.	96
Impurities, about	do.....	3
Water, about	do.....	1

100

The loss in refining is about, of sugar

Leaving of pure sugar available

Of this we get of—

Granulated and yellow sugars, equal to

Sirup

The sugar¹ is combined with an equal weight of impurities, making about, pounds.....

5

Taking value of granulated at 5.375 cents gross or 5.08 cents net and sirup at 2 cents per pound, we have equal to—

92½ pounds granulated, at 5.08 cents

2½ pounds sugar in sirup, at 4 cents

4.799

.848

Less

4.451

Expenses to be deducted:

Brokerage, about ½ per cent.....

Government revenue tax, ½ per cent.....

Office expenses, ½ per cent.....

Packages.....

Wages, fuel, boneblack.....

Repairs and sundries

.848

Granulated, say

\$5.08

Results.....

4.45

Cost say

.63

¹ Sugar in sirup? See Mr. Doscher's different statement above as to sirup obtained.

Mr. ATKINS, who sold his refinery to the American Sugar Refining Company about 12 years ago, states that at that time the cost of refining sugar was estimated at about one-half cent per pound. If the combination has succeeded in reducing this by 25 per cent, it would be doing exceedingly well. Besides the bare cost of refining, labor, fuel, char, etc., account must be taken of the cost of packages, insurance on goods, interest on borrowed money to conduct the business, etc. The witness thinks that the American Sugar Refining Company is producing as cheaply as it is possible to do, and doubts whether any competitor could succeed against it. (806, 807, 811.)

IV. CAPITALIZATION AND VALUE OF REFINERIES.

To understand the cost of refining and the profits of the sugar combination, it is further necessary to consider the cost of refineries and the relation to the existing capitalization of the trust—\$75,000,000. Several witnesses testified that the cost of a refinery sufficient to produce 3,000 barrels per day would be somewhere between \$1,500,000 and \$2,500,000, including the cost of ground. This, of course, has no reference to the value of the plants already erected, including good will, etc.; nor does it take into account the running capital necessary to conduct business.

Mr. HAVEMEYER testifies that the capital of the trust when first formed was \$50,000,000. The capital stock of the various companies which entered the trust was given by Mr. Searies before the New York trust committee at \$6,590,000. But their capital had little to do with their assets or real value. Some of them were worth \$15,000,000 or \$20,000,000 and were capitalized at \$300,000. A committee of appraisement fixed the respective values, taking plant, location, trademarks, status of business, and all considerations into account. The witness be-

Average monthly quotations of "sugar trust" stock, 1889-1899.

[Quotations for 1889 and 1890 relate to the certificates of the Sugar Refineries Company, the trust proper. The American Sugar Refining Company, the existing corporation, was organized January 10, 1891.]

Month.	1889.		1890.		1891.		1892.		1893.		1894.	
	Common.	Preferred.	Common.	Preferred.	Common.	Preferred.	Common.	Preferred.	Common.	Preferred.	Common.	Preferred.
January			57½		64½	90½	83½	92½	122	102	79½	82½
February	84½		58½		74½	88	82½	93½	123½	101½	79½	82½
March	86½				76½	86½	93	90½	109½	96	90½	87½
April	91½		69½		85½	90½	94½	90½	103½	98½	98½	92½
May	94½		84½		89½	91½	98½	95½	80½	82½	100½	92½
June	112½		76½		85½	92	97½	97½	85½	82½	102½	93½
July	114½		75½		79½	88½	101½	98½	73½	74½	100	93
August	111½		79½		81½	88½	100½	103½	75½	70½	108½	97½
September	98½		77½		89½	94½	104½	102½	87½	86½	97½	95½
October	80½		70½		86½	94½	111½	103	96	90	84½	90½
November	67½		58½		81½	94½	100½	102½	91½	87	89½	90½
December	62½		55½		87½	83½	107½	90½	81½	83½	88½	92

Month.	1895.		1896.		1897.		1898.		1899.	
	Com-mon.	Pre-ferred.	Com-mon.	Pre-ferred.	Com-mon.	Pre-ferred.	Com-mon.	Pre-ferred.	Com-mon.	Pre-ferred.
January	88½	91½	102½	97½	114½	102	140½	114	129½	112½
February	91½	91½	112½	100½	113½	102½	130½	112	133	113½
March	97½	94½	115½	101	113½	103½	118½	108	151	120
April	104½	96½	121½	101½	112½	102½	117½	106½	166½	118
May	114½	99½	122½	103½	115½	103½	133½	112½	155½	117
June	113½	100½	117½	103½	112½	106½	130½	118½	149½	118½
July	110½	101½	106½	98½	106½	113	135½	113½	158½	118½
August	112½	104½	101½	94½	147½	114½	141½	114½	158	119½
September	108½	101½	112½	100½	151½	118	131½	111½	150	118½
October	108½	100½	110½	98½	143½	114½	113½	106½	146½	117
November	100½	97½	120½	102½	134½	111½	119½	110½	156	118½
December	100½	96½	112½	102½	140½	113½	128	112½	136½	114½

believes the trust is now capitalized at much less than its real value. He knows of no better estimate of what a thing is worth than what people are willing to pay for it in cash. The cost of building refineries for an output of 45,000 barrels per day would be perhaps \$30,000,000 to \$35,000,000, but the brand of Havemeyer & Elder would bring as much alone. The value of brands and good will must not be overlooked. The various plants were bought at what they could be obtained for. On its being pointed out that most of them were losing money and worthless under conditions then existing, the witness said that they were "not worthless under the conditions that were about to prevail." If a refiner feels that his plant is worth \$1,000,000 to him, he may offer it to the trust for \$2,000,000, and it may be accepted because more money can be made by buying the plant than by leaving it out. It is fair for consumers to pay dividends on good will—fair, indeed, to get out of them all you can. (111, 123, 124.)

Mr. DOSCHER believes a good refinery will cost about \$2 per pound of daily capacity. Aside from land, a refinery of 1,000,000 pounds (3,000 barrels) capacity could probably be built for about \$1,500,000, but not for \$1,000,000. Refineries must be built on water fronts, which are expensive. The ground for the witness's refinery is worth probably \$300,000. Mr. Doscher owned the Brooklyn Refinery at the time of the formation of the trust. He received for it \$3,000,000 in trust certificates, which was, he thinks, no more than its value. The North River Refinery took cash instead of an offer of double the amount in trust certificates. (91, 92, 100.)

Mr. HAVEMEYER, in reply to a question as to the possibility of building refineries of 3,000 barrels capacity at \$1,500,000 each, maintains that the man who made that statement would want to make about 50 per cent on his stock. He does not believe such a thing could be done. (111, 117.)

Mr. JARVIE estimates the cost of an up-to-date refinery of 3,000 barrels daily capacity at \$2,000,000, exclusive of "real estate." (139.)

Mr. POST believes that the Mollenhauer Refinery, capacity 1,150,000 pounds daily, and the National Refinery, capacity 850,000, would each cost about \$1,500,000 or \$1,700,000, besides land, which would vary from \$250,000 to \$600,000. But each refinery needs, to carry stocks of raw sugar and credits on refined sugar, about \$2,000,000 running capital. The smallest quantity of raw sugar for two such refineries would be 30,000,000 pounds—15 days' supply. This running capital, owing to short credits, could probably be turned over from 4 to 6 times yearly. If such a refinery had a capital stock of \$2,000,000 a dividend of 20 per cent would be only 10 per cent on the real investment, which the witness thinks is little enough in view of the risk. A higher profit might be made, especially by fortunate purchases of raw sugar, or vice versa. (151, 152, 160.)

V. ECONOMIES OF COMBINATION.

A. Continuous operation at full capacity.—The most important saving by the combination of sugar refineries is the continuous operation of the best plants at the full capacity. While 18 refineries joined the trust only 6 or 7 of them are now operated, some having been dismantled and others kept ready for use in case of fire or other emergency; yet more sugar is refined than before. Mr. Doscher states that among those which were closed were: Donner & De Castro, North River, Oxnard Brothers, Moller & Sierck. They were all old plants and all in the vicinity of New York. (HAVEMEYER, 109, 110; DOSCHER, 99.)

B. Large refineries.—Mr. DOSCHER maintains that a large refinery has some advantages in economy of manufacture, but believes that the cost of refining in his establishment, which has a capacity of about 3,000 barrels per day, is as low as in any other, although he does not possess exact knowledge. (88-91.)

Mr. POST submitted a statement showing that the total cost of refining of the National Sugar Refining Company is about 63 cents per hundred pounds. He believes that large refineries, such as those of Havemeyer & Elder, with 12,000 barrels daily capacity, and the Spreckles Refinery, with 8,000 barrels, could probably produce at from 3 to 5 cents less. (150, 151.)

C. Processes.—Mr. DOSCHER claims that there are no special secret processes, but Mr. HAVEMEYER says that, though the general processes of all sugar refineries are the same, yet by combining the ability and experience of different men, advantages are gained. Mr. Doscher adds that the most marked improvements in methods in this country were made from 10 to 15 years ago, but other improvements are being made continually. (Doscher, 91; Havemeyer, 110.)

D. Transportation.—Mr. HAVEMEYER testifies that refineries do not dare to take rebates under existing laws. The former practice was to give the American

Company whatever facilities for storage at terminal points were available, without charge. But recently there has been opposition to this by outside warehouses, and facilities have been much restricted, which the witness thinks very unjust. The trust has agreed with the railways out of New York for a division of sugar freight according to a percentage fixed by a committee of the roads. The schedule of percentages of different roads is given.

There is little advantage from adjustment of transportation except to points in the immediate vicinity of the refineries. The trust operates one refinery in New Orleans and one in Boston, the others being in New York. (110, 112.)

Mr. DOSCHER states that his refinery gets no rebates from railways, but has the privilege of free storage at terminal points, a privilege which Mr. Doscher thinks large shippers of all kinds probably get. The company sometimes has from 2,000 to 4,000 barrels thus stored for as long as 30 days. (90.)

E. Cost of superintendence.—The saving in this is inappreciable, but the saving of labor by concentration in a few plants is important. (HAVEMEYER, 110.)

VI. EFFECT OF COMBINATION ON LABOR.

Mr. HAVEMEYER deprecates the alleged attempt of Colorado ore smelters to coerce workmen by threat of closing certain smelters, supplying demand from others in the combination. When the Sugar Trust was formed economy of production compelled the closing of many refineries, and many men were undoubtedly deprived of employment; but that is one of the conditions of trade which there is no human way to prevent. The labor employed in sugar making is almost exclusively the lowest grade of unskilled labor, largely Poles and Bohemians. Wages are from \$1.35 to \$1.50, but not one of the men could earn as much outside of the refinery. There are no strikes. The men do not belong to unions. The conditions of labor are not unhealthful or severe. The heat is normally about 90; the vapors are beneficial to the lungs. The company furnishes beer at cost to prevent men from going away from work to get it; it is necessary on account of the heat. The hours of labor are 8 in summer and 10 in winter. (122, 129.)

Mr. Post holds that sugar laborers work under more favorable conditions than 5 to 7 years ago, and receive from 3 to 5 cents an hour more. The wages for the cheapest labor are from 15 to 18 cents per hour, and the average duration of work is 10 hours. Temperatures are not excessive except in the filter house, and there for only 2 or 3 hours a day. Workmen are largely German and Irish. (161.)

VII. RAW SUGAR.

A. Production.—From the table of production of raw sugar by countries for 1894-1898, submitted by Mr. Havemeyer, it appears that the crop of cane sugar for the year 1897-98 was 2,537,571 tons; beet sugar, 4,825,520 tons. The largest producers of cane sugar are, in order named, Java (623,000), Louisiana (345,000), Cuba, Hawaiian Islands, Philippine Islands, and Brazil. The chief beet-sugar producers are Germany (1,852,857 tons), Austria (831,667), France and Russia, each with slightly less production than Austria. The production of raw sugar has recently failed to keep pace with the demand, chiefly owing to the war in Cuba and the Philippines. After from 6 to 10 years, normal production over the world will probably increase sufficiently to bring down the price one-half cent a pound. During the disturbances in Cuba and the Philippines raw cane sugar has been largely obtained from Java, West India Islands, Demerara, and Hawaii, and beet sugar from Germany and Austria especially.

Sugar can be grown much more cheaply in Cuba than in this country. Wages there were formerly only 60 to 70 cents daily, but under existing exceptional circumstances are \$1.25 to \$1.50. Cuba before the war produced 735,000 tons (1,000,000, according to Mr. Post), and if annexed could soon supply the entire demand of the United States at 2 cents a pound for raw sugar. (HAVEMEYER, 104, 107, 113; Post, 152, 159, 160.)

B. Beet sugar.—Mr. Post testifies that the product of beet sugar in the United States was 41,000 tons in 1897, 34,000 tons in 1898, and estimated at 123,000 tons in 1899. Of this latter amount Michigan will produce 32,000 and California 54,000 tons. Michigan and New York grant bounties which have greatly increased production. The Michigan law has been interpreted as guaranteeing a bounty for 7 years. If raw sugar were imported free of duty, the beet-sugar industry would be completely destroyed in 5 years. (164.)

C. Effect of combination on prices.—According to Mr. POST, the American Sugar Refining Company, owing to its large consumption of raw sugar, does tend to depress its price, but can not affect it more probably than one-sixteenth cent, and only during certain periods of the year. The production of beet sugar in Europe chiefly determines the price. The cane crop is marketed mainly from January to April. The American Company avails itself of its immense capital to lay in a large supply at that time, when the pressure of producers to sell is greatest and prices lowest. (153, 158.)

Mr. HAVEMEYER admits that the American Sugar Refining Company has some advantage over its competitors in being able to combine different raw-sugar markets. (107.)

VIII. TARIFF ON SUGAR.

A. Rates.—The act of July 21, 1897, paragraph 209, fixes the duty on sugar not above No. 16 Dutch standard in color, if not testing above 75 degrees by the polariscope, at 0.95 cent per pound, with 0.035 cent per pound additional for each additional degree of test. On sugar above No. 16 Dutch standard, or refined, the rate is 1.95 cents. On molasses, 3 cents per gallon if testing between 40 and 56 degrees; above 56, 6 cents. The raw sugars most commonly used for refining vary from 94 to 97 degrees, 96 being considered best. The duty at 96 degrees is 1.685 cents. The Treasury Department estimates that it requires 108.1 pounds raw to make 100 pounds refined. The duty on this amount of raw would be \$1.82148. (BUYNITSKY, 44-46.)

B. Differential duty on refined sugar.—In estimating the amount of protection to American refiners from the duty on refined sugar, the amount of refined obtained from a given quantity of raw sugar is decisive.

Mr. BUYNITSKY testifies that prior to 1898 the Treasury Department estimated that 92 pounds of refined were obtained from 100 pounds of raw. Improvements are continually being made by which a larger proportion of refined is obtained, especially by making new combinations of raw sugars of different degree. Such changes in production had probably made the Treasury estimate too low some time before it was raised, in 1898, to 92½. Mr. Buynitzky has been misrepresented as to his statements before a committee of Congress, but did suggest that he preferred 93 as a safer basis, believing that the rate should be established sufficiently high to anticipate improvements likely to be made in a short time. Nevertheless, he considered 92½ as safe enough. The actual quantity varies with different kinds of raw sugar from 90 to 94 pounds, sugar from Louisiana giving the highest results. The calculations are very intricate.

Taking the Treasury Department estimate that 108.1 pounds of raw sugar at 96 degrees are required to produce 100 pounds refined, the tariff on that amount of raw sugar would be \$1.82148, making the differential duty, or protection to American refiners, 12.852 cents per hundred pounds, since the tariff on refined sugar is \$1.05. (46-49.)

Mr. POST believes that the actual differential duty is more nearly 15 or 17 cents than 12½ cents per hundred pounds. Mr. DOSCHER also estimates that a production of 93 pounds of refined sugar from 100 pounds of raw sugar is more nearly correct than 92 pounds. (Post, 157; Doscher, 93.)

C. Sufficiency of protection.—Opinions differ as to the sufficiency of this differential duty to protect American refiners and as to its effect on prices and consumers.

The rate of protection, according to Mr. HAVEMEYER (assuming the differential to be one-eighth cent per pound), amounts to 3½ per cent ad valorem, and does not cover the difference in the cost of refining between this and foreign countries. He advocates an increase to one-fourth cent, or 8 per cent. The actual difference in cost of refining between the United States and Europe is probably between 0.12 and 0.15 cent. To be sure, no sugar is now imported, probably, so that American refiners do not at this immediate time suffer from foreign competition, but this is because local competition has cut the margin below profitable rates and below the point of importation. Nevertheless, if the present duty were removed it would kill the sugar industry, permitting America to become the dumping ground of European beet sugars. An increase of tariff would not help refiners at the present moment, but is sought "for contingencies." If a reasonable profit, which the witness puts at one-fourth of a cent per pound, were secured, foreign sugar would be imported. (103, 106, 115, 130, 136.)

Mr. JARVIS practically agrees with Mr. Havemeyer, holding that if the margin of difference between raw and refined sugar now prevailing should be raised to a remunerative figure there would be foreign competition. The general feeling among sugar men is that the existing differential of one-eighth cent is insufficient.

The witness believes one-fourth cent would give effective protection. He does not know whether increase in tariff at present would reduce competition at home or make business more profitable. It would depend on trade conditions. Domestic competition would not be increased by increasing the tariff nor decreased by taking off the present differential. The immediate effect on foreign competition of removing the present tariff is not certain. (143-145.)

Mr. POST also partly agrees with Mr. Havemeyer, although he believes the actual differential is more nearly 15 or 17 than 12½ cents. If prices were at a proper point sugar would be imported. The importation point varies according to the surplus stock in Europe; European producers may sell in the United States at less than their home prices. The cost of production in Europe is probably 15 to 20 cents less than here. But constant changes in tariff unsettle business and injure the country, and unless conditions abroad change the tariff on sugar should not be increased. Domestic competition would probably not be affected by raising the tariff. (157, 162.)

Mr. BUYNITSKY does not believe the differential duty on refined sugar has injured American consumers. Under that very slight protection refineries have grown and by their success have reduced prices. But if abuse should arise through excessive prices, the President might be authorized by Congress to reduce the duty by executive order. (49, 50.)

Mr. ATKINS, an importer of raw sugar and a former refiner, pointed out that, while the tariff on raw sugar amounts to over 50 per cent ad valorem, the extra duty of 12½ cents a hundred on refined sugar, which he believes to be "the protection the refiner gets," amounts to only 3½ per cent ad valorem, if the price be taken at 8½ cents. The amount of this small duty can scarcely affect the price to the consumer. The sugar refiner gets no advantage from the duty on raw sugar. (806, 807.)

D. Comparative cost of refining.—The effect of the differential duty on refined sugar, of course, depends upon the comparative cost of refining in this country and in Europe. The various witnesses agreed that the cost is considerably cheaper in Europe, largely because refined sugar is made directly from the beets, without a second process, thus saving the use of the boneblack, which is expensive. The cost of labor is also less.

Mr. HAVEMEYER and Mr. POST testify also that the bags which are used for holding sugar abroad are less expensive than barrels, which are used here, although the smaller bags, which are sometimes used in this country, cost about the same as barrels. Mr. JARVIE does not believe that the use of bags is materially cheaper, since they have to be made very heavy and since there is considerable waste from them.

The cost of transportation to the United States is insignificant, since sugar, which is conveniently packed, is carried for ballast. England can refine sugar as cheaply as any country, and formerly refined 2,000,000 tons annually. But the competition of beet sugar has ruined the business and cut down the product to 1,000,000 tons.

The estimates as to the difference in the cost of refining in favor of Europe vary from 12 to 20 cents. (Jarvie, 142, 146; Post, 153; Havemeyer, 132, 133.)

E. Effect of tariff on raw sugar.—1. *Excessive protection.*—Mr. HAVEMEYER declares that the present tariff of \$40 per ton on raw sugar amounts to giving that much bounty to producers in Louisiana and the Hawaiian Islands, reaching about \$24,000,000 annually. He implies that the cost of production is only about 2 cents per pound. He argues that producers of raw sugar, since it is an agricultural product, should be given no protection, but on being pressed does not object to giving them moderate protection. These domestic producers furnish about 25 per cent of the raw product, and apparently, from the witness's testimony, much of it comes in competition directly with the refined products of the American Sugar Refining Company. The price of refined sugar, and the margin between it and raw sugar, are regularly depressed during the season of Louisiana output. (102, 108, 120, 131.)

Mr. ATKINS, an importer of raw sugar, declares that the present duty on raw sugar affords unnecessarily high protection to the domestic producer. It has been established primarily at the instance of the producers of beet sugar, and is having the effect of building up that industry, but the witness considers that this is done at an unjustifiable expense to consumers, in view of the cheapness with which sugar could be obtained, if there were no duty, from Cuba and other outside sources.

The witness considers the high duty especially unjust to consumers in view of the comparatively small proportion of the raw sugar consumed in this country.

which is produced here. He submitted the following table, showing the sources of our sugar supply:

Consumption and supply.

	Tons.
Consumption of sugar, United States, 1898.....	2,047,000
Sources of supply on basis of crops of 1898-99:	
Domestic cane.....	235,000
Domestic beet.....	33,000
Total (protected by present tariff).....	268,000
Free foreign sugar:	
Hawaiian Islands.....	240,000
Porto Rico.....	55,000
Total (no duty).....	295,000
To have advantage under reciprocity treaties:	
Trinidad.....	50,000
Barbados.....	45,000
Jamaica.....	27,000
British Guiana.....	105,000
Total (supposed duty, 1.35 cents).....	227,000
Subject to full duty:	
Cuba.....	300,000
Java.....	605,000
Philippines, export.....	60,000
Egypt.....	90,000
Santo Domingo and other West Indies.....	70,000
Brazil.....	165,000
Total (duty, 1.685 cents).....	1,380,000
Total.....	2,170,000

Owing to the small proportion which the domestic product itself bears to the total consumption, the producers of domestic sugar are able to get the full advantage of the duty—that is, the price is fixed by the foreign product plus the duty, competition between different domestic producers having no tendency to reduce the selling price. The witness estimates that the profit or surplus price which the producers of this country and of Hawaii, and also those of the British colonies which receive a reduction of duty, gain through the tariff, at the expense of the consumer, is \$22,337,910. The method of reaching this result is shown in the following table:

Domestic production, 268,000 tons; estimated average, 96 test: duty at 1.685 cents per pound=\$37.74 per ton.....	\$10,114,320
Sandwich Islands, 240,000 tons; estimated average, 95 test: duty at 1.65 cents per pound=\$36.96 per ton.....	8,870,400
Porto Rico, 55,000 tons; estimated average, 89 test: duty at 1.44 cents per pound=\$32.25 per ton.....	1,773,750
Trinidad, Barbados, and Jamaica, 122,000 tons; estimated average, 89 test; duty at 1.44 cents=\$32.25 per ton, \$3,934,500; supposed 20 per cent rebate.....	786,900
British Guiana (Demerara), 105,000 tons; estimated average, 96 test; duty 1.685 cents=\$37.74 per ton, \$3,962,700; supposed 20 per cent rebate.....	792,540
Charged consumer for benefit of producer.....	\$22,337,910

Beet-sugar manufacturers, since their product is refined sugar, really receive a still higher protection, the total tariff upon refined sugar being \$1.95 per 100 pounds. Moreover, the beet-sugar factories in this country are mostly located west of the Missouri River, and their product is sold in that region, so that the cost of freight from the seacoast, amounting to about one-half a cent per pound, is an additional protection to their industry. Mr. Atkins further stated that a recent report of the Agricultural Department shows that estimates have been made abroad, in view of the possible competition of the United States in the beet-sugar industry, that granulated sugar should be produced in this country from

beets at 3½ cents per pound. Since the selling price of refined sugar made from the imported product is as high as 5 or 5½ cents, the witness considers that the protection afforded to the American producer is excessive.

The advantage of the high protection to the beet-sugar industry, according to Mr. Atkins, has not so far come largely to the farmer, but has been chiefly absorbed by the manufacturer. Estimates show that the American farmers receive from \$4 to \$4.50 per ton for beets, while the farmers of Germany and other European countries obtain practically the same price.

The effect of excessive protection to the sugar industry is to prevent the development of the best processes, since they are unnecessary in order to secure a profit. Mr. Atkins believes that the American beet-sugar refineries are inferior in their methods to those abroad. Previous to 1890, when the Louisiana sugar industry was highly protected, the methods of production were very rudimentary. When sugar was made free under the McKinley tariff the producers were forced to improve their methods. The same experience has been met with in Cuba and other countries where the price of sugar has declined and has compelled improved methods. The prices which are being obtained in Louisiana, even under the tariff, would have been considered ruinous 20 years ago.

As regards Louisiana sugar, Mr. Atkins believes that the climate is not thoroughly adapted to the production of sugar cane. It is an artificial growth there and never fully ripens. (ATKINS, 803-806, 809.)

2. *Difference in duties between different countries.*—Mr. ATKINS, an importer of raw sugar, testifies that as a result of the war with Spain, with the consequent annexation of Hawaii and prospective annexation of Porto Rico and the Philippines, there will be a great difference in the prices obtainable for raw sugar at the different sources of our supply. Although under previous treaties the sugar produced in Hawaii was imported without duty, the uncertainty as to the future of the islands prevented the development of the industry on a large scale; but since their annexation to this country, and the consequent certainty that the tariff will never hereafter apply to sugar brought from them, large investments are being made by American capitalists and the product is rapidly increasing. So far the Government authorities have held that business with Porto Rico is to be considered as coastwise traffic, and apparently it will not, in the future, be subject to the duty. The same will probably be true of the Philippines. Moreover, treaties have been made with the British colonies in the West Indies and British Guiana, which, if confirmed, will reduce the duty on sugar from those sources by 20 per cent. Unless Cuba is annexed to the United States or unless the duty on sugar from Cuba is repealed, that country will be entirely unable to compete with the other sources of supply. The tariff, amounting to \$1.68 on 96-degree sugar, is such a large percentage of the cost of production, and the cost of production has been so close hitherto to the price received, that no country that is discriminated against by the establishment of duties can possibly compete with countries where the duty does not apply.

In support of this general contention Mr. Atkins has prepared a table showing the prices which could be received by the sugar producers of various countries, in view of the different rates of duty, and of the different freight charges, on the hypothesis that the market price of sugar in New York, duty paid, is 4½ cents. This table shows that sugar imported from Germany would net its producer \$2.71 per 100 pounds; from Cuba, \$2.69; from Java, \$2.46; from the English colonies, on account of the lower duty, \$3.02; from Porto Rico, \$4.28; and from Hawaii, \$4.14. The table on which this estimate is based follows:

Charges.	Germany.	Cuba.	Java.	English colonies.	Porto Rico.	Hawaii.
Duties:	Cents.	Cents.	Cents.	Cents.	Cents.	Cents.
Tariff.....	1.685	1.685	1.685	1.348	None.	None.
Countervailing.....	.259	None.	None.	None.	None.	None.
Estimated freights.....	.080	.100	.300	.100	.180	.270
Insurance on f. o. b. value.....	.020	.025	.050	.028	.032	.060
	2.044					
Less bounty.....	.259					
	1.785					
F. o. b. value.....	2.715	2.690	2.465	3.024	4.288	5.140
	4.50	4.50	4.50	4.50	4.50	4.50
Foreign value above.....	2.71	2.69	2.46	3.02	4.28	4.14

Before the recent insurrection, Cuba was producing 1,080,000 tons of sugar per year. For the last year the crop has been a little over 800,000 tons. There is no capital available in Cuba for investment, and capital from the United States will not be invested there for fear that the island will be made independent of the United States and will be compelled to pay duty upon sugar. Mr. Atkins is doubtful as to the power of the President, without an act of Congress, to conclude any treaty with Cuba by which the duty on sugar may be reduced. The witness does not consider it likely that any duty will be charged, at any time, by act of Congress or otherwise, upon the product of Hawaii, Porto Rico, and the Philippines. If this is the case, Cuban industry, which depends almost wholly on sugar, will be ruined, unless its sugar be freed from duty. This country has a moral responsibility for the prosperity of the island.

Mr. Atkins further believes that the duty on raw sugar is excessive; but this point is developed more fully above, pages 71, 72. (ATKINS, 800, 802, 808, 810.)

F. Countervailing duties.—The effectiveness of the protection afforded to American refiners depends also largely upon the success of the system of countervailing duties levied to offset the bounties paid, directly or indirectly, on the exportation of refined sugar from various European countries.

The act of July 24, 1897, provides that the Secretary of the Treasury shall ascertain the amount of bounty paid for exportation of any article from any foreign country, and shall charge an additional duty on such articles, on their entrance into the United States, equal to such bounty. By the circular dated December 12, 1898, the amount of such bounties on sugar is stated for the Argentine Republic, Austria-Hungary, Denmark, France, Germany, Netherlands, and Russia. Countries paying such bounties on sugar have usually sought to conceal them, generally by paying drawbacks at exportation on the basis of the actual amount exported, while the original tax was levied on the basis of an assumed amount of production, from a measured quantity of beets, which was less than the actual production. The representatives of the various countries appeared before the Treasury Department to influence the decision as to countervailing duties. Russia denied that any bounty was given, but by the method above described the actual bounty is equal to about 25 cents on 36 pounds. Germany, Austria-Hungary, and France now give direct and unconcealed bounties. (BUYNITSKY, 52-54.)

Mr. POST is of the opinion that existing countervailing duties are accurate and satisfactory, and substantially offset the various foreign bounties. (Post, 162.)

Mr. ATKINS points out that in 1897 the consumption of sugar in Germany was 594,000 tons, while the production was three times as great—1,725,000 tons. This great production has been due to the high bounties given by the Government. (810.)

G. Drawbacks.—When sugar or sirup refined from imported raw sugar is exported a drawback is paid equal to the amount of the duty less 1 per cent. A careful calculation is made as to the relative proportion of refined sugar and of sirup obtained from a given quantity of raw, and a drawback is apportioned between these two. By this method a table of drawbacks, according to the degree of polarization of raw sugar, is determined. The drawback on 100 pounds of refined sugar made from 96-degree raw sugar is \$1.70. The rate on sugar made from beets varies slightly. The drawback on sirup valued at 8 cents per gallon or less is 1½ cents; from 8 to 14 cents, one-half the value of the sirup; above 14 cents, 7 cents per gallon. The values named are those in the tank at the refinery without further treatment or rectification. (BUYNITSKY, 44-46, 51.)

THE WHISKY COMBINATIONS.

	Page of digest.
I. Description of business.....	75
II. History of combinations.....	76
III. Effect of combination on output, competition, and prices.....	81
IV. Economies and advantages of combination.....	87
V. Effect on employment and wages.....	90
VI. Taxation.....	90

LIST OF WITNESSES.

	Page of testimony.
Bradley, Edson, president, American Spirits Manufacturing Company and vice-president Distilling Company of America	813-831
Clarke, Charles C., independent distiller, Peoria, Ill.	167-192
Cook, Martin R., wholesale liquor dealer and distiller, New York City	240-250
Luyties, Henry E. G., wholesale liquor dealer and distiller, New York City	250-259
McNulta, John, receiver of the Distilling and Cattle Feeding Company	192-240
Rice, Samuel, president Distilling Company of America	831-848

I. DESCRIPTION OF BUSINESS.

The whisky business is divided, roughly speaking, into three great branches—(1) the distillation of alcoholic spirits; (2) the rectification of such spirits into whiskies and other liquors and their distribution; (3) the distillation of "straight" whisky, which is rendered fit for use only by aging. The chief branches of the latter trade are the distilling of Bourbon whisky in Kentucky and of rye whisky, which is chiefly confined to Pennsylvania and Maryland.

A. Spirits.—The undiluted product of the distillation of corn is alcohol. When refined through charcoal commercial alcohol becomes known as pure spirits. A slightly different form of pure spirits is known as high wines, which was the former basis for the quotation of prices, the present basis being "proof spirits"—that is, spirits reduced to a proportion of one-half alcohol. "The term high wines was more descriptive of a kind of product, and prices were based after all upon proof gallons;" so there has been no essential change in the basis of quotation. Alcohol is chiefly used in the arts. Spirits are used largely in making colognes and essences and in blending to make cheaper grades of whiskies, gins, etc. Out of a total annual production of about 93,000,000 gallons of spirituous liquors, only 20,000,000 gallons are rye and Bourbon whisky, the remainder being alcohol, spirits, or rectified whisky. (CLARKE, 168; McNULTA, 204, 205; LUYTIES, 258; BRADLEY, 827.)

The residue from distillation is an exceedingly important factor in the business. That remaining from 1 bushel of corn is sufficient to feed 1 head of cattle 1 day. By a recent invention, which is being used largely in Germany and to some extent in this country, this residue, instead of being fed directly to cattle, is dried and baled. This is advantageous because constant operation in order to supply cattle is not necessary, and the residue can also be used "in summer, when the cattle can not be fed on slops." (LUYTIES, 258, 259.)

B. Rectifying and compounding of whiskies.—A considerable proportion of pure spirits are used in the preparation of cheap grades of whiskies, gin, etc., which can be used immediately without aging. This process is largely carried on by what are known as rectifying houses. These houses are also often referred to as "distributers," because it is through them that the spirits reach the wholesale trade.

Mr. RICE testifies that pure spirits are to be considered as raw material. There is no difference in quality, and practically no demand for the great bulk of the output except in a modified form. The price, therefore, of pure spirits depends absolutely on the price at which the rectified product is sold. The business of distributing spirits may be considered more profitable than that of distilling, because of the valuable trade-marks and brands which are often connected with the rectified product. It is for this reason that the whisky combination has sought to bring in the business of rectifying and distribution. (835.)

The process of compounding and rectifying was described in some detail by Mr. CLARKE. He stated that the pure spirits, reduced sufficiently in strength, are mixed with brown sugar and other coloring substances, and flavored with various proportions of high-priced old whisky and with other materials. The witness knows of no harmful materials used, but the proportion of old whisky used varies greatly, and the cost varies accordingly. If 10 gallons of old whisky, worth about \$2.25 per gallon, are used with 40 gallons of pure spirits, worth \$1.30, the cost of the product, including 5 cents for other materials, would be \$1.60. If the proof be reduced from 100 to 60, as is sometimes done, the cost would be 96 cents. Another form of cheap whisky is made without old whisky, and with the proof of 90 can be made for \$1.23 per gallon. Most whisky sold over the counter, except by druggists, is rectified whisky. (179, 180.)

Mr. McNULTA, after studying carefully the compounding processes of the Distilling and Cattle-Feeding Company, especially in the Shufeldt distillery, believes that the adulteration of whisky is purely imaginary. The basis is high-proof

spirits, which is simply refined alcohol, with just enough water to hold it in liquid form. To this, to make whisky, only brown sugar, glycerin, and prune juice are added. There is nothing that can be substituted for the spirit, which is itself exceedingly cheap. Whisky thus made is perfectly pure, and though unpalatable at first, improves by age. Gin is made at the Shufeldt distillery by a secret process in which juniper berries and other vegetable materials are added to pure spirits. The process is as satisfactory as that used in Holland. (204, 205, 236.)

C. Kentucky and rye whiskies.—These whiskies, which are chiefly used for beverage purposes, are made fit for use only by aging, usually for a number of years, during which time generally the tax is not paid, the goods being held in bonded warehouses. The distillation of these whiskies is quite closely confined in locality, and their sale depends almost altogether on the name of the brand. The prices are much higher usually than for staple or rectified whisky. (BRADLEY, 827, 829; RICE, 836, 837.)

II. HISTORY AND DESCRIPTION OF COMBINATIONS.

Introduction.—The various combinations in the whisky business have been so numerous and so intricately related that it is not easy always to understand the references made by the various witnesses.

Aside from the early pools, the first combination was the Distillers and Cattle Feeders' Trust. This was succeeded by the Distilling and Cattle Feeding Company in 1891. The latter was reorganized under the title of American Spirits Manufacturing Company in 1895. All these organizations were confined strictly to the business of spirits, having nothing to do with Kentucky and rye whisky and very little to do with the rectifying and distributing business.

In 1896 the Spirits Distributing Company was incorporated, as a subsidiary to the American Spirits Manufacturing Company, for the purpose of controlling rectifying and distributing houses. In 1898 the Standard Distilling and Distributing Company was organized. It controlled various spirits distilleries, but took in besides many distributing houses.

The Kentucky Distilleries and Warehouse Company was organized in February, 1899, to secure control of the Bourbon whisky business.

Later in 1899 the Distilling Company of America was formed to combine all four of the existing companies above named and to take in also certain leading rye distilleries. This organization was established during the time when testimony on the subject of the whisky combinations was being taken before the Industrial Commission, so that some of the witnesses gave evidence before its organization. This fact must be borne in mind in interpreting the statements of these witnesses.

A. Pools.—The first combinations among distillers, beginning in 1882, were in the form of pools. The number of barrels to be produced by each distillery, and the prices, were regulated by agreement. From 70 to 80 distilleries usually joined, and production was limited to about 50 per cent of their capacity. One of these pools was known as the Western Exporters' Association. It determined the producing capacity of each distillery and divided the consuming capacity of the country pro rata. Distilleries producing in excess were required to export at their own cost, while any surplus arising fortuitously was exported at the expense of the association, the loss being met by assessment. The pools were frequently broken by violation of agreement by members or by new distilleries; there were no penalties. Business became so unprofitable when broken that they could usually be reorganized soon. (McNULTA, 200; CLARKE, 168, 169.)

Mr. BRADLEY stated that the whisky business is one of great booms and depressions, due at times to changes in the law and also to the fact that stocks of whiskies are accumulated. The witness knows of few permanent fortunes that have been made in the whisky business. (828.)

B. Distillers and Cattle Feeders' Trust.—1. *Organization.*—The trust was organized in 1887 by an agreement following the form of the Standard Oil Trust. Sixty-five distilleries first entered the combination. They were all first organized as corporations, and the stock of these was put into the hands of nine trustees, who issued therefor trust certificates. The lists furnished by Mr. McNulta show that trust certificates were exchanged for the shares of the constituent companies in various proportions, running up to more than twenty to one. One or two shares of stock were usually left in the hands of officers of the corporation, to qualify them to be directors, while the remainder were held by the trustees. The trustees had the same control of the separate corporations as if they were actual owners of the stock, though the precise legal powers of the trustees were never

determined, the courts indeed finally holding the method of organization itself illegal. The trustees elected directors for each company, usually consisting of part of their own number and the manager of the distillery, often its former owner, who was paid a salary. Eighteen or nineteen additional distilleries entered the trust in 1888 and two in 1889, making a total of 86. Only 33 of these were running when taken in. (CLARKE, 169, 173; McNULTA, 193-197, 200.)

2. *Capitalization and valuation of plants.*—Testimony differs as to the relation of the capitalization to the actual value of the plants joining the trust. Mr. McNULTA knows of no reliable data as to the method of valuing the plants, except that it was done primarily by the trustees in consultation with the separate distilleries. The trustees were doubtless paid somewhat better for their plants than others. (196.)

Mr. CLARKE holds that trust certificates were issued at the rate of about four times the actual valuation of each distillery. A committee of the trustees made a valuation based on the cost of reproduction, location, and earning power. It was intended that this should be known only to the trustees. The witness knows that his own distillery received trust certificates amounting to four times its valuation. The amount of trust certificates was about \$34,000,000, on which dividends at 6 per cent were paid. (169, 170, 187.)

C. *Distilling and Cattle Feeding Company.*—1. *Organization.*—The trust, fearing court decisions against that form of organization, reorganized as a corporation in 1890. Application for license to incorporate under the laws of Illinois was filed January 30, 1890, and the charter was issued February 12.

The capital stock was \$35,000,000, all but about \$1,000,000 of which was turned over to holders of trust certificates of the Distillers' Trust in payment for all its properties, the remainder being held in the treasury. (Forms of application, license, stock subscription, charter, bill of sale by trust to corporation, by-laws of Distilling Company, and record of first meeting of stockholders and election of directors are exhibited. Pages 218-224.) No preferred stock was issued. The amount of bonds authorized was \$8,000,000, but only \$1,000,000 were issued. Later \$2,500,000 more were issued as collateral for payment of rebates. The trustees became directors in the new corporation. The separate corporations which entered the trust surrendered their charters and their properties were bought with shares of the new corporation. (McNULTA, 195; CLARKE, 171, 173.)

2. *Dividends and profits.*—The dividend paid by the Distilling Company for the year ending March 31, 1891, was 4 per cent, or \$1,260,053; for 1892, $5\frac{1}{2}$ per cent, \$1,890,022; 1893, $2\frac{1}{2}$ per cent, \$874,876. After this time profits were used in purchasing additional distilleries, about \$4,000,000 being thus invested. The witness estimates that the actual value of the properties could not exceed one-half the capitalization on which dividends were paid. (McNULTA, 216, 238.)

3. *Stock speculation.*—The stock both of the trust and of the ensuing corporation varied in value greatly, from 8 to 70, and was much speculated in. It was proved that the directors of the corporation used its money for buying stocks and protecting margins, nominally in the name of the corporation. They sold stocks as individuals to the company as such at prices above the market, the difference being estimated by the receivers at about \$800,000. Owners of stock in New York and in Illinois investigated the books and applied for receivership in January, 1895, making many charges of mismanagement. (McNULTA, 198; CLARKE, 174, 175.)

Mr. RICE, who was a member of the stockholders' protective committee which was formed at this time, also testifies that it was a matter of general knowledge that Mr. Greenhut, the president of the company, had been speculating in the stock of the company; he has no doubt of the fact himself. (831.)

4. *Illegality under Illinois law.*—In 1894, in the case of Distilling and Cattle Feeding Company v. People (156 Illinois, 448), the court held the company a combination in restraint of trade, attempting to corner the market, and hence illegal under the trust law of Illinois. The judgment was one of ouster in the circuit court. Pending the appeal to the supreme court, the company was put in the hands of a receiver on other grounds, and the final decision was not rendered. It was further held that the transfer of property from the Distillers' Trust to the company was illegal, because payment was made in stock instead of money. (McNULTA, 216, 217.)

5. *Receivership.*—Mr. RICE testifies especially as to the events which led to the receivership of the Distilling and Cattle Feeding Company. The holders of rebate certificates issued by the company had organized a committee in the fear that they would be unable to collect these rebates. This committee hastened the receivership, although it had nothing directly to do with it. The information elicited by it led to the organization of a protective committee of stockholders in

September or October, 1894, which secured proxies for over 300,000 shares out of the entire 350,000 shares of the stock. The officers of the company agreed to meet this committee; but instead Mr. Greenhut, the president, went to Chicago, and, on the application of holders of 1,700 or 1,800 shares of stock, had himself appointed receiver, together with Mr. Edward F. Lawrence, of the First National Bank of Chicago. A few days later, on the action of the stockholders' committee, the court removed Mr. Greenhut and substituted John J. Mitchell, of the Illinois Trust and Savings Company, with Gen. John McNulta to represent the court. Mr. Greenhut was charged with having speculated in the stock of the company. (831, 837.)

Mr. McNULTA's testimony agrees with the statements of Mr. Rice as to the appointment of receivers, giving less detail as to the causes leading to it. He testifies that after March 23, 1895, he himself remained as sole receiver of this company, and in fact is still acting as such, although the business is practically closed up. As receiver he continued to operate the distilleries on a small scale (this being necessary, as Mr. Rice points out, on account of the cattle depending upon the residue). (192, 210.)

6. *Records of trust and company.*—When the receiver took possession in 1895 he found no records of the Distillers' Trust, and believes that they were destroyed. The papers of the Distilling Company were apparently intact, but there was some dispute by the officers, who maintained that the papers in two safes were private and not company records. These safes were forced open and private papers separated from others. (McNULTA, 195, 196.)

D. *American Spirits Manufacturing Company.*—The history of this organization is given with especial fullness by Mr. RICE, its president, and in less detail by Mr. CLARKE and Mr. McNULTA.

It was organized by a syndicate of the stockholders of the Distilling and Cattle Feeding Company, including practically all of the stock. The capitalization of the new company was \$7,000,000 preferred, \$28,000,000 common stock, the total being equal to the capital of the Distilling and Cattle Feeding Company. According to Mr. Rice, the transaction with the Distilling and Cattle Feeding Company consisted simply of a transfer of stock, dollar for dollar, in which the cash value of the plants transferred had nothing to do with the calculation. Mr. McNulta, however, testifies that the properties were sold outright for cash by the receiver to the new corporation, the price being \$10,500,000. The new company levied an assessment on the stockholders of \$4 per share for cash capital, and this, in addition to the \$10,500,000, constitutes a fair valuation of the property secured. The new company assumed all the debts of the Distilling and Cattle Feeding Company, and the receivership expenses.

Mr. Rice confirms the judgment that the value of the properties actually taken over by the American Spirits Manufacturing Company did not exceed \$10,500,000. The number of plants taken was 17, although 80 at least had entered the old Distillers' Trust. These 17 were the only ones which had real value, the remaining ones representing burden. Many had been dismantled.

The American Spirits Manufacturing Company has never paid any dividends, and Mr. Rice, its president, states that he never made any concealment of the fact that it was formerly little more than a wreck. It had been formed chiefly as an agency toward establishing a more wide-reaching combination. Its preferred stock has ranged in value on the exchange from 15 to 40, the common from 5 to 15. No public financial statement of the affairs of the company was made, but at the annual meetings a general statement of its condition was given, while the officers made it a practice to explain its affairs and show the books to bona fide stockholders inquiring concerning them. (CLARKE, 175; McNULTA, 234, 235; RICE, 832, 833, 840.)

E. *Spirits Distributing Company.*—This organization was formed in February, 1896. Its capital was \$1,250,000 of first preferred, \$1,575,000 of second preferred, \$3,675,000 of common stock. All of the common stock belonged to the American Spirits Manufacturing Company, which in fact organized this company as a means for securing control of the distributing business. The subscription to the preferred stock was underwritten by the stockholders of the American Spirits Manufacturing Company. (RICE, 834.)

F. *Standard Distilling and Distributing Company.*—Mr. RICE testifies that this new organization was incorporated about July, 1898, under the laws of New Jersey, with a capital of \$8,000,000 of preferred stock and \$16,000,000 of common stock. The witness has no doubt that the Standard was organized through the efforts of men interested in the American Spirits Manufacturing Company. The new organization sought to bring in certain outside distilleries, which had been established in competition with the preceding combinations, and especially to secure a larger control of distributing houses. Mr. Rice estimates that in 1899 the American Spirits Manufacturing Company controlled about 55 per cent of the output of

spirits, the Standard Distilling and Distributing Company about 85 per cent. The Standard also controls 16 of the largest distributing plants, doing perhaps two-thirds of the entire business. Mr. BRADLEY, however, estimates that the Standard handles half of a total of 85 per cent of the spirits business controlled by the two companies. (814, 835.)

Mr. CLARKE states that the Standard had, before the organization of the Distilling Company of America, an agreement with the American Spirits Manufacturing Company as to the proportion which it should produce, the latter buying whatever product remained over. (176, 178.)

Mr. CLARKE further testifies that he believes the Standard Distilling and Distributing Company to be very much overcapitalized. He believes, from offers made to himself and from general information, that each distillery entering into the company received for each \$100,000 of actually estimated value \$100,000 in cash, \$100,000 in preferred stock, and \$100,000 in common stock, the latter being payable in five annual installments, with provision for forfeiting the balance if the owner again entered the refining business. At the same time, for each \$100,000 of cash advanced by the New York capitalists by whom the enterprise was underwritten, they received an equal amount in preferred stock and \$150,000 in common stock, and the promoters received \$150,000 in common stock; making a total of \$600,000 of stock issued for each \$100,000 in value of refineries. The total amount underwritten was \$24,000,000—the preferred stock \$8,000,000 and the common stock \$16,000,000. (175-177.)

Mr. COOK considers the capitalization of the old trust and the existing corporations as highly inflated. The plant of the witness, recently erected and first class, having a capacity of 4,000 bushels daily, or about one-tenth that required to supply the consumption of the country, has cost \$150,000. Two million dollars of capital ought to produce all the country demands. The Distilling Company was capitalized at \$35,000,000 and the Standard Distilling Company at \$24,000,000. (COOK, 249.)

G. Kentucky Distilleries and Warehouse Company.—In February, 1899, this company was organized with an authorized capital of \$12,000,000 of 7 per cent cumulative preferred stock and \$20,000,000 of common stock, of which there was issued \$10,500,000 of preferred and \$18,500,000 of common stock. A proposition was made to the company to transfer various Kentucky distilleries and brands, together with \$1,500,000 of cash working capital, for the full amount of stock issued. About 90 per cent of the standard brands of Kentucky whiskies were acquired, and a new distillery was established for producing a cheap grade of whisky. (BRADLEY, 818.)

H. Distilling Company of America.—1. *Organization and purpose.*—This company was incorporated about July, 1899. According to the testimony of Mr. RICE and Mr. BRADLEY, its president and vice-president, its authorized capital is \$55,000,000 of 7 per cent cumulative preferred stock, and \$70,000,000 of common stock. Of this, \$31,250,000 of preferred, and \$46,250,000 of common stock, were put in the hands of the organizers or promoters of the combination, the remainder being still in the treasury of the company.

The Distilling Company of America is not itself an operating organization, but was incorporated solely for the purpose of purchasing the stocks of the existing four combinations, and to secure control also of certain rye distilleries. (Mr. Bradley seems not to have had the rye distilleries in mind when he stated that it is not an operating company; it apparently operates them directly.) The stocks which were placed in the hands of the organizers or promoters were sufficient to purchase the entire stock of each of these existing combinations, and the promoters were required to return an amount corresponding to any proportion of these stocks which they failed to purchase and turn over to the Distilling Company of America. As a matter of fact, they succeeded in securing an average of 95 or 96 per cent of these stocks, according to Mr. Bradley; 92 per cent according to Mr. Rice. The promoters were also required to furnish \$1,500,000 of working capital, and a certain amount for the purchase of the two distilleries operated by the Hannis Distilling Company, and of a rye distillery in St. Paul. Mr. Bradley testifies that \$2,000,000 in cash was paid for this property, but Mr. Rice is not clear as to this transaction. The sole source of profits of the Distilling Company of America will be the dividends of the separate companies (except, apparently, the profits of the rye distilleries). These companies will continue to declare dividends, and the minority stockholders who did not turn over their stock to the combination will be undisturbed in profits. The directors of the Distilling Company of America, in their official capacity, will be able, by their control of the stock of the separate companies, to control their various boards of directors.

The proportions of stocks of the Distilling Company of America which were exchanged for the stocks of the four underlying companies differed according to the estimated earning capacity of the various companies. These proportions were as

follows: For every preferred share of the American Spirits Manufacturing Company, 50 per cent in preferred stock of the Distilling Company of America, and for the common stock 25 per cent in common stock of the Distilling Company. For every share of the Kentucky Company, common stock, 70 per cent; preferred stock, 85 per cent in preferred and 15 per cent in common. Standard Company, 85 per cent in preferred and 50 in common for the preferred, and for common stock, 60 per cent in common. The Spirits Distributing Company first preferred, 80 per cent in preferred and 20 per cent in common stock; for the second preferred, 20 preferred and 20 common."

The proportions thus fixed were determined by the committee of organizers, which was influenced by large stockholders in the different companies. The witnesses know little as to this committee.

The persons who subscribed the \$3,500,000 cash received preferred stock to a certain amount, and a bonus of common stock, as is customary in such cases. (Bradley, 819-821; Rice, 832-834.)

2. *Promoters' profits.*—It appears from calculations based on the plan for the purchase of the stocks of the underlying corporations that the total amount of the preferred stock of the Distilling Company of America necessary for this purpose amounted to \$30,540,000, and the total of common stock to \$32,890,000. This leaves in the hands of the organizers or promoters \$10,710,000 of preferred and \$13,800,000 of common stock. These amounts of stock were employed for securing the \$3,500,000 cash for working capital and for purchasing the Hannis and St. Paul establishments. Neither Mr. Rice nor Mr. Bradley apparently knows the actual amount of stock which was employed for these purposes. Whatever remainder there was, and Mr. Rice admits that it was perhaps large, went to the promoters as payment for their services in organizing the combination. Mr. Rice states that he would not be willing to sell the rye distilleries which were purchased for less than \$5,000,000 in cash. The organizers undertook a very important piece of work, which was believed to be almost impossible, namely, the securing control of the stocks of the four different companies. The accomplishment of this object is of very great value and advantage to the stockholders, and they could well afford to pay largely for the work. (BRADLEY, 820-822; RICE, 838-840.)

3. *Capitalization and fixed charges.*—The total preferred capitalization of the four constituent companies which entered the Distilling Company of America was \$28,325,000. The preferred capital so far issued by the new company amounts to \$31,250,000. The rates of interest on the preferred stocks of the older companies vary, but average less than 7 per cent, the rate on the new preferred stock. The fixed charges, according to Mr. Bradley, have been increased about \$250,000 per year. The preferred stock of the Distilling Company of America was selling in October, 1899, at about 43, the common at about 14.¹ (BRADLEY, 822; RICE, 838.)

¹ The following table, compiled from current stock quotations, shows the market price of the "Whisky Trust" stocks. The quotations are on the trust certificates of the Distillers' Trust down to 1891; then on the Distilling and Cattle Feeding Company to August, 1895; on the American Spirits Manufacturing Company to July, 1899; and since on the Distilling Company of America. For history of changes of organization, see above.

Average monthly prices of "Whisky Trust" stock.

Month.	1888.		1889.		1890.		1891.		1892.		1893.	
	Common.	Preferred.	Common.	Preferred.	Common.	Preferred.	Common.	Preferred.	Common.	Preferred.	Common.	Preferred.
January	---	---	31½	---	40½	---	45½	---	50½	---	51½	---
February	---	---	32½	---	39½	---	44½	---	49½	---	38½	---
March	49	---	35	---	38½	---	44½	---	47½	---	33½	---
April	44	---	34	---	38½	---	46½	---	47½	---	27½	---
May	45½	---	---	---	45½	---	45½	---	48½	---	19½	---
June	41½	---	45	---	40½	---	46½	---	48½	---	19½	---
July	43½	---	44	---	40½	---	46½	---	48	---	18½	---
August	42½	---	45½	---	40½	---	46½	---	49½	---	18½	---
September	40	---	44½	---	45	---	50½	---	52½	---	22½	---
October	36	---	41½	---	47	---	52½	---	62½	---	30½	---
November	39	---	41½	---	41½	---	56½	---	61½	---	29½	---
December	34	---	41	---	40½	---	56½	---	64½	---	24½	---

[Footnote continued on page 81.]

A. New Jersey corporation laws obeyed.—Mr. BRADLEY testifies that each of the four companies now united under the Distilling Company of America keeps a regular transfer office in the State of New Jersey. Mr. Garretson, of Jersey City, is the agent of three of them, and Mr. Vickers, of Jersey City, of the fourth. The witness understands that duplicates of the certificate and transfer books are kept in these offices; that the names of the companies are conspicuously posted, and that the law is generally complied with. Mr. Bradley has not personally seen these books since he has been an officer of the company. (823, 824.)

III. EFFECT OF COMBINATION ON OUTPUT, COMPETITION, AND PRICES.

A. Early attempts to control output.—Several witnesses testify to the fact that the whisky business, especially the distilling of spirits, is one in which there is a marked tendency toward overproduction. The profits of the business are very great where the prices are reasonable, and the cost of establishing a distillery is slight. The great excess of producing capacity is assigned as the chief cause which forced the organization of the original trust. The various combinations have found competitors constantly arising, and have avowedly sought, in various ways, to control the output. The policy as to prices and the success of the combinations in their efforts to control them have varied greatly at different times.

1. General policy.—Mr. McNULTA testifies that it was the object of the Distillers' Trust and the Distilling and Cattle Feeding Company to obtain entire control of the market, limit the output, and establish extortionate prices. This policy failed, provoking prompt and large competition. (217.)

By comparing statistics of production of spirits prepared by the Commissioner of Internal Revenue and of production by the Distilling Company for 5 years, 1890 to 1894, it is found that the total produced was 548,492,834, of which the Distilling Company produced 214,597,314 gallons. But the former statistics include all classes of spirits which do not compete with the high wines or pure spirits manufactured by the combination. (McNULTA, 215.)

Mr. CLARKE states that at first the trust controlled about 95 per cent of the total production of spirits. It at once raised prices so as to secure a profit of about 5 cents per gallon. New refineries were erected in competition, and it was found impossible to maintain this high scale of prices. (171, 176.)

Mr. COOK states that the first effect of combination was to make prices more regular, and the rates at the outset were moderate. Later on the trust advanced prices to excessive figures and demoralized the entire business. Shortly before the failure of the Distilling Company the price was advanced about 20 cents per gallon within 30 days. The witness is not certain whether the trust attempted to fix the prices at which distributors should sell to dealers. It did seek to control the market and prices, preventing competition and reducing output. (241-246.)

2. Closing of distilleries.—Mr. McNULTA states that the Distillers' Trust in order to restrict output closed a large proportion of its distilleries, especially the smaller houses, in many cases taking out the machinery. In order to keep men

[Footnote continued from page 80.]

Average monthly prices of "Whisky Trust" stock—Continued.

Month.	1894.		1895.		1896.		1897.		1898.		1899.	
	Common.	Preferred.	Common.	Preferred.	Common.	Preferred.	Common.	Preferred.	Common.	Preferred.	Common.	Preferred.
January.....	24		91½		15½		18½	29½	8	20½	14	37½
February.....	27½		10½		17½		13½	32½	7½	20½	14	38½
March.....	26½		13½		17½		12½	30½	7½	17½	14	38½
April.....	25½		13½		19½		11½	30½	9½	21½	14½	39
May.....	23½		21½		18½		10½	28½	11½	30½	11½	32½
June.....	25		19½		15½		11	29½	18½	36½	8½	36½
July.....	21		21½		6	20	12½	30½	12½	35½	21	56½
August.....	20½		21½		5½	18½	14½	34½	18½	38½	19½	57½
September.....	18½		21½		5½	16½	13½	32½	12½	35½	19½	58
October.....	21		23½		6½	10½	11½	29½	11½	39½	14½	44½
November.....	21		20½		10½	26½	8½	22½	11½	35½	12	37½
December.....	24		14½		12½	26½	7½	18½	13½	36½	8½	27½

from reentering business, the ground on which the distillery stood was leased by the trust for 20 or 25 years at 6 per cent on the estimated value. When the company went into the hands of the receiver, he refused to pay further rentals and the ground reverted to the original owners, the court holding the contract void as a restriction of trade. In certain cases, notably that of the Clarke Distillery, at Peoria, the buildings had been rented to the original owners with the contract that they should not be used for distilling spirits, but only rye whisky. The Clarke Distillery began to make spirits, but was restrained by order of court on application of the receiver.

The trust also contracted with the owners in many cases to pay them salaries (usually \$300 per month) as managers for 5 years, whether operating or not. After 5 years most of these contracts were discontinued.

"They threw away property that cost them hundreds of thousands of dollars merely to eliminate it; they paid men for staying out of the trade; they paid rent on this abandoned land right along from year to year, nearly \$100,000 a year, * * * in order to put them out of the way." (203, 216, 238.)

Mr. CLARKE confirms this testimony in its general statement of facts. He says that only 10 or 12 of the 80 distilleries which entered the trust were operated, and yet the output was still kept large. (170, 185, 190.)

Regarding the closing of his own distillery at Peoria, Mr. Clarke admitted that he had sold out to the trust. He stated that after doing so he leased one of the trust's old establishments, which was not operating, and went into the rye-whisky business, which did not compete with the combination. In 1897 (after the time referred to by Mr. McNULTA) he leased still another of the old trust plants and went into the spirits and alcohol business again. The Standard Distilling and Distributing Company tried to buy this establishment through Mr. Clarke, but having failed to do so bought it directly from the owners. (185.)

Mr. RICE declares that the great majority of the distilleries which entered the combination were a mere burden upon it, being badly located and uneconomical. They were taken simply to prevent their acting as a disturbing factor in the business, as they might do in spite of the fact that they could not produce at a profit. (832.)

8. *Purchase of distilleries.*—Mr. McNULTA testifies that the Distillers' Trust and the succeeding companies found it continually necessary to buy up competing plants which were established. Frequently those who joined the trust sold their trust certificates or stocks and built new competing distilleries, sometimes selling out two or three times and violating agreements not to produce further. In one case officers of the company bought from the owners four distilleries in Nebraska, St. Louis, and Peoria, selling them again to the company at an advance of \$290,000, the receiver afterwards suing to recover this difference. The Nebraska distillery had previously been sold for \$10,000 with a guaranty that it should not be used for distilling purposes. This agreement being violated, it was rebought for \$410,000. (197, 198, 207, 208.)

Mr. CLARKE adds that very high prices were often paid for the plants which the combination found it necessary to buy. The rebate fund of the distilling company was used for this purpose. (170, 172.)

The witness adds that notwithstanding the dismantling of distilleries by the trust, the producing capacity of the distilleries in the country is probably double the amount of consumption. Present statistics as to the amount of production, however, are misleading, because before the increase of the tax to \$1.10 the tax was paid on enough spirits for three years' consumption at the lower rate. (245-247.)

4. *Special cuts in prices.*—Mr. CLARKE and Mr. LUYTJES state that it was the practice of the Distillers' Trust and the later combinations to send agents into special localities to undersell competitors, their particular customers being approached and offered open or secret cuts in prices. In this way distilleries were usually forced to sell out to the trust. That, indeed, has been and is the common practice on both sides.

Mr. McNULTA, as receiver, found that a competitor was underselling in California, and openly cut below his rate to his customers. "When a man produces goods and sells them below cost of production he is not doing a fair business, and the only way to make him do so that I know of is just simply to cut a little below him." By this process this competitor and others were induced, for several months during 1895, to make a joint agreement to maintain prices fixed from day to day by the receiver according to the price of corn, allowing 1½ or 2 cents profit. This arrangement was temporarily broken by a competitor who invested on the short side in the distilling company stock, and cut prices in order that the stock might go down, but by still lower cuts on the part of the receiver he was induced to come back again. (208-210.)

Mr. Clarke testified in May, 1890, that both the combination and outside distilleries were making secret cuts in prices, so that the actual prices received were 3 or 4 cents below those quoted. (181.)

Mr. Layties declares that the severe cuts were made to attack the new Terre Haute distillery in 1890. Competition by a trust is the most severe possible, because its officers often have a relatively small financial interest and need not pay dividends. Owing to the excessive prices which it has paid for its properties it naturally resents competition the more bitterly. (253, 254.)

B. Rebate system.—1. *Early system.*—Several witnesses describe the rebate system established originally by the distillers' trust, but more fully developed by the Distilling and Cattle Feeding Company. It appears to have been distinctly a device for holding trade exclusively.

Mr. McNULTA, receiver of the distilling company, testifies that it was the practice to sell its products altogether through distributors. To these a rebate of 2 cents, which had already been established under the trust, was paid, for which no voucher was issued. Anyone might become a distributor who purchased a sufficient number of carloads per month. The company fixed its price to them, but they fixed the price to the wholesale dealers. The latter were allowed a 5-cent rebate from May 25, 1890, to November 25, 1891, and thereafter 7 cents up to September, 1894. The distributors sent lists of sales to the company, which issued vouchers to the purchasers, payable in 6 months. Rebates were granted only where the trust's product was used exclusively, and were intended to enable it to control the market. Nearly all spirits sold, as shown by statistics, bore a rebate. The total amount of rebates, less amount refunded, for the years ending March 31, were as follows: 1892, \$3,235,031; 1893, \$3,685,146; 1894, \$2,819,183; ten months ending January 31, 1895, \$1,087,502. The form of rebate voucher follows. (206, 207, 210, 211.)

[Face of voucher.]

PEORIA, ILL., ———, 189—. No. ———.

Subject to the conditions named herein, and for the purpose of securing the continuous patronage of the within-named purchaser, the successors and assigns of the same, for its products, the

DISTILLING AND CATTLE FEEDING CO.,

Six months from the date of this purchase voucher,

Will pay to ———, of ———, purchaser ———, ——— dollars (\$——),

Being a rebate of 7 cents per proof gallon on ——— proof gallons of the Distilling and Cattle Feeding Company's product purchased this day. This voucher will be valid and payable only upon condition that the above-named purchaser, the successors and assigns of the same, from the date of this voucher to the time of its payment, shall have bought their supply of such kinds of goods as are produced by the Distilling and Cattle Feeding Company, and all compounds thereof, exclusively of one or more of the dealers named on the back hereof, until further notified, and shall also have subscribed to the certificate on the back hereof.

DISTILLING AND CATTLE FEEDING CO.

By J. B. GREENHUT, *President*.

When due forward to the *German-American National Bank of Peoria, Ill.*, where this voucher is payable without exchange or other charge.

(Stamped across face:) Not transferable nor negotiable.

[Back of voucher.]

It is hereby certified that from the date of this voucher to the maturity thereof the within-named purchaser, and the successors and assigns of the same, have purchased all of their supply of such kind of goods, and their compounds, as are produced by the Distilling and Cattle Feeding Co., exclusively from one or more of the dealers named hereon.

Mr. LUTTIES testifies that, being a wholesale dealer, he bought liquors from the distributors of the combination and received rebate vouchers, at first of 5 cents a gallon, afterwards of 7 cents, payable by the trust. Owing to this indirect method of issuing rebate vouchers the trust expected to be better able to escape

payment. The rebates were granted only on condition that the dealers buy exclusively trust products, and since they were payable only after 6 months, they made a strong means of controlling dealers, who would not want to forfeit rebates already due. The witness's company, in order to evade this requirement, established a second company which bought goods from other distillers. The trust paid the rebates due notwithstanding, fearing to lose the trade of the company altogether.

"The rebate business is simply a contract that we would buy all our spirits from the trust, and we only made such a contract because we could not get our spirits anywhere else." But excessive prices were charged, new distilleries were built, and dealers without such a rebate contract could secure a supply and sell it at a profit where those buying from the trust could not. (250, 251.)

Mr. COOK, a wholesale dealer, confirms the testimony of Mr. LUYTIES in its main outlines. (241, 242.)

Mr. CLARKE also describes the rebate system, agreeing generally with the other witnesses. He adds that both distributors and wholesalers were obliged to buy exclusively from the combination, and the records required by the United States Government to be kept by dealers were used as a test of conformity to this agreement. (171, 172.)

2. *Failure to pay rebate certificates.*—Mr. CLARKE testifies that the rebate system at first worked well, tending to hold trade, and the rebates were paid promptly when due, 6 months after sale. But during 1893 or 1894 the company used money on hand designed for rebates in buying up several competing distilleries. Dealers became alarmed and the company was compelled to issue mortgage bonds to protect them. Holders of these bonds afterwards applied for a receiver for the corporation. (172, 173.)

Mr. McNULTA states that the amount of bonds issued to guarantee the payment of rebates was \$2,500,000. (195.)

Mr. LUYTIES refers to the committee established by the rebate holders, and states that a lawsuit was begun by it. This, however, proved very expensive, and finally most of the rebate vouchers which had been placed in the hands of the committee were returned to their owners, who settled with the combination directly. (251.)

Mr. RICE also describes the organization of the committee of rebate holders. He adds that, while the information elicited by this committee led to action by a stockholders' committee which finally resulted in a receivership, the rebate holders' committee did not itself bring about that receivership. (831.)

3. *Later practice.*—The Standard Distilling Company, according to Mr. Cook, offered to distributors a rebate of 1 cent per gallon, payable in 6 months, and half a cent more, minus certain expenses, payable in 60 days. This would give only about 75 cents a barrel for handling goods worth \$60 and bearing the risk of credit and leakage. It was thought that the plan was thus to gain entire control of the distributing trade, since the trust itself had numerous distributing houses connected with distilleries which would be placed at an advantage. Several distributing houses refused to accept these terms and have established a distillery of their own. (244.)

Mr. CLARKE also states that the rebate system was reestablished by the American Spirits Manufacturing Company and the Standard Distilling and Distributing Company, but that rebates are given at the time of his testimony, May, 1899, only to distributors or rectifiers, amounting to 1½ cents. The wholesalers objected to the system, with its requirement of exclusive purchase from the combination, and it was abandoned in their case. The rectifiers also oppose the system. (181.)

Mr. CLARKE also states that distributors for the trust are at present obliged to sell spirits at a fixed price, but they have an association among themselves for sustaining prices of their own products (rectified whisky, etc.). (188.)

Mr. BRADLEY refers to the existence of the previous rebate system with its attempt to compel the purchaser to deal only with the combination. He believes that the American Spirits Manufacturing Company has not pursued this practice during the past 2 or 3 years. Mr. RICE states that the American Spirits Manufacturing Company never employed the rebate system at all. (813, 814, 834.)

4. *Abandonment of rebates.*—Mr. RICE and Mr. BRADLEY testify that the Distilling Company of America has entirely abandoned the practice of granting rebates to distributors and dealers. It sells practically for cash, and makes no attempts to force the dealers to handle its products exclusively, hoping to retain their trade by low prices and by the ability to furnish all the different classes of products desired by the purchaser. (814, 847.)

Mr. BRADLEY also states that, while the combination sells spirits only to large dealers, it gives no advantage to rectifiers and compounders over other dealers in proof spirits. (814.)

C. Prices and margin of profit.—A full discussion of the variations in prices of whisky under the combination, and the effect of the combination on the margin of profit, is given in the Introduction. The following table, compiled by Mr. McNulta from the records of the Distilling and Cattle Feeding Company, shows the prices and cost of production of that company from 1891 to 1895:

	Fiscal years ending Mar. 31—				10 months ending Jan. 31, 1895.	Present price.
	1891.	1892.	1893.	1894.		
	<i>Cents.</i>	<i>Cents.</i>	<i>Cents.</i>	<i>Cents.</i>	<i>Cents.</i>	<i>Cents.</i>
First quarter: Apr. 1 to June 30, net prices.....	13.20	20.48	15.93	14.62	15.64	-----
Second quarter: July 1 to Sept. 30, net prices.....	15.88	21.23	16.71	13.29	24.30	-----
Third quarter: Oct. 1 to Dec. 31, net prices.....	18.04	20.80	20.01	16.09	18.22	-----
Fourth quarter: Jan. 1 to Mar. 31, net prices.....	18.72	17.20	21.77	10.96	9.73	-----
Present net price on Mar. 23, 1895.....						13.00
Average net price for each year.....	16.41	19.87	18.39	15.42	18.34	-----
Average cost of production for each year.....	13.36	15.05	12.81	12.71	13.17	-----

Mr. COOK states that the margin of profit demanded by the combinations until recently has been excessive. Certain distributors and wholesalers who were dissatisfied with the profits left them by the combination made an investigation as to the cost of distilling. It was estimated that the cost of making spirits (including the cost of corn), if not increased by excessive capitalization, would be about 10 cents per gallon, while the combination was selling at 14 or 15 cents. Distributors would be willing to accept prices such as to yield the trust 2 cents a gallon above the cost of manufacture. If this were done the trust would meet no competition and could pay a reasonable dividend, even on its excessive capitalization. One cent a gallon net profit would mean \$50,000 or \$60,000 a year profit on a distillery, such as that owned by the witness, costing \$150,000. (244, 246, 248, 249.)

Mr. McNULTA testifies that the average cost of the distillation process alone probably varied from one-half to 1½ cents per gallon, according to the plant. During his administration of the plants an average of the cost was taken and the policy was to obtain from 1½ to 2 cents profit. (209.)

D. Existing control of output.—1. *Spirits.*—Mr. CLARKE testifies that at the time of the failure of the Distilling and Cattle Feeding Company in 1895 there were many competitors in the spirits business. He does not believe that the American Spirits Manufacturing Company, which succeeded the Distilling Company, controlled over 60 per cent of the product. The Standard Distilling and Distributing Company, as already pointed out, secured control of most of these outside distilleries. According to Mr. Clarke prices were maintained at a profitable scale for some time during 1898 and 1899, until the establishment of the large new distillery at Terre Haute. At the time of his testimony, May, 1899, Mr. Clarke believed that the American Spirits Manufacturing Company and the Standard Distilling and Distributing Company controlled about 75 per cent of the output of spirits. (178, 189.)

Mr. BRADLEY and Mr. RICE, however, testify that the American Spirits Manufacturing Company and the Standard Distilling and Distributing Company control (October, 1899) from 85 to 90 per cent of the product of spirits in this country. They are mashing together about 40,000 bushels per day, while the new distillery at Terre Haute, known as the Merchants' Distillery, mashes about 4,000 bushels. There are 5 or 6 smaller distilleries besides, but these are practically limited to local markets, and can scarcely be considered a competitive factor. According to Mr. Rice the American Spirits Manufacturing Company controlled, prior to the formation of the Merchants' Distillery, about 55 per cent of the output of spirits, and the Standard Distilling and Distributing Company about 85 per cent. (814, 835.)

Mr. Bradley states that the two companies now control about equal proportions, the total being 85 per cent.

Mr. COOK and Mr. LUYTIES, who are interested in the Terre Haute distillery, likewise testify that its capacity is about 4,000 bushels daily, or about one-tenth of the total consuming capacity, while the combination controls probably 85 per cent. They also state that this new distillery was established by a number of distributing and wholesale houses, who were unwilling to accept the low rebate offered by the combination. Since it is controlled by distributing and blending houses, saving in the expense of selling and administering the business is effected.

The distillery is new, has the best apparatus, and can compete in quality and cheapness of production. (Cook, 244, 246, 248; Luyties, 253, 255).

Mr. BRADLEY testifies further that the American Spirits Manufacturing Company is now operating only 5 distilleries out of 12 which were running 2 years ago. Four of these are at Peoria and 1 at Terre Haute. He knows of only 4 distilleries of proof spirits outside of the company. (816, 817.)

2. *Control of beverage whiskies.*—Mr. RICE testifies that the Kentucky Distilleries and Warehouse Company has secured control of about 90 per cent of the standard brands of Kentucky Bourbon whisky. It owns 56 or 57 plants. The Kentucky whisky business depends altogether upon the brands, popular ones commanding prices very much higher than those of staple whisky. There was no intention on the part of the combination to control any particular proportion of the total distilling capacity.

Mr. BRADLEY confirms this evidence, stating that it is a very difficult question to know what proportion of the total output is controlled by the Kentucky Distilleries and Warehouse Company. Experience warrants the belief, however, that the combination may sell yearly 9,500,000 gallons of whisky of standard brands, and about 5,000,000 gallons of cheap whisky made in the new distillery which it has established for that purpose. The average consumption of Kentucky whiskies has been about 20,000,000 gallons.

The combination has not so far sought to control any great proportion of the rye whisky distilleries. Those which it has purchased have been secured for the purpose of enabling the combination to furnish dealers every class of goods which they may desire to buy, thereby furthering its ability to hold their trade exclusively. According to Mr. Bradley the two distilleries in the East controlled by the Distilling Company of America will produce about 2,000,000 gallons annually, or about one-sixth of the total output of Eastern rye whiskies.

According to Mr. Rice there are 7 or 8 standard brands of rye whisky, of which perhaps the two best are those controlled by the new combination, Mount Vernon and Hannisville. The brand has its value and retains its value much from the location in which the whisky is made, the rye whisky business, for example, being centered almost altogether in Pennsylvania and Maryland.

Mr. Rice believes the output of the combination may be possibly 25 per cent in value of the Eastern rye whiskies. (Bradley, 818; Rice, 836, 837.)

3. *Rectifying and distributing.*—Mr. RICE stated that the combination could hope to control the spirits business, and to secure satisfactory prices, only by having considerable control over the rectification and distributing of whiskies made from spirits. There is no market for pure spirits directly to consumers, and everything depends upon the distributors. These have their established names or brands, their regular customers, and the necessary machinery for securing trade. The combination has sought accordingly to secure control of a considerable proportion of this branch of the business. Practically all of the spirits produced by the Standard Distilling and Distributing Company and the American Spirits Manufacturing Company are sold through the United States Spirits Association, which is composed of 54 large distributors. Sixteen of these are branches of the Standard Company, but, as Mr. Rice believes, these 16 handle two-thirds of the entire production of the combination. (834, 835.)

E. *Present policy of combination as to prices.*—Mr. RICE and Mr. BRADLEY both testify that it is the present policy of the Distilling Company of America to abolish the rebate system in the sale of spirits, to reduce prices and the cost of production to the lowest possible limits, and to make no special cuts in prices to particular individuals. The prices of spirits were cut materially in September, 1890, being placed at a basis sufficient to yield a reasonable but comparatively low profit. The price of spirits will be made \$1.23 per gallon on the basis of a price of 30 cents per bushel for No. 2 corn, and will vary with fluctuations in the price of corn, one-half cent per gallon for each 2 cents change in corn. Contracts are made with dealers for a year on this plan.

Both of these witnesses believe that it is necessary to keep down the production of spirits in order to secure reasonable prices, but they do not intend to prevent competition altogether or to make special cuts against competitors. The economy of production on a large scale by the combination will enable it, in their opinion, to retain a large proportion of the total output.

Mr. Rice says that the purchaser cares comparatively little how much he pays for a fancy brand of whisky. The only necessity is to control the output of that particular brand. The combination has complete control of nearly all of the standard brands.

Mr. Bradley declares that the ownership of certain of the most standard brands constitutes the most perfect possible monopoly, and that the purchaser can be "screwed down to the last notch."

Mr. Bradley states that the combination is already charging prices a little lower for the standard brands of Kentucky whiskies than have been charged before, and that the quality will be improved. The price of the cheaper grade of whisky which is being made in the new distillery established in Kentucky is only 15 cents per gallon, the lowest price ever known for Kentucky whisky. (Bradley, 814, 815, 827; Rice, 845, 847.)

F. Effect of changes in price.—There is some difference of opinion as to the effect of increase or reduction in prices on dealers and consumers respectively.

Mr. McNULTA believes that an increase in the price of spirits, whether through combination or increase of tax, is distributed between wholesale and retail dealers and consumers. The chief burden, so far as liquors used for beverages are concerned, falls on the retailer, the price per glass not being raised. The large consumer of spirits, in manufacturing or otherwise, bears most of the increase on his purchases. (236.)

Mr. CLARKE also believes that wholesale dealers get even larger profits when prices are higher, and that prices and quality to consumer do not vary. All the effect of raised prices falls on the retailer, whose profits are so high that he does not feel the difference. He sells whisky at five or six times its cost. (179.)

Mr. COOK believes that a material increase in price of liquor, such as that due to a higher tax, practically falls upon consumers. The dealer can not change his prices, but so far as possible will buy cheaper goods. The witness does not think, however, that an increase of not over 25 cents per gallon would affect even the quality, since it would not greatly lessen the retailer's profits. There might be some change in the price of bottled goods, but often well known brands could not be changed in price because of custom and of competition. (242, 243, 245.)

Mr. LUYTIES testifies that wholesale dealers have to bear some of the burden of a rise in prices, as was found by the experience of the witness in the case of the 20-cent increase made by the combination in 1893. The consumer at the bar pays no more, but the dealer is induced to buy an inferior quality. Liquor dealers are overburdened with taxes, and where these are raised they are practically compelled to sell poorer goods in order to make a living. (256.)

Mr. BRADLEY states that the effect of the reduction of the prices of whiskies, which is expected to result from the combination, will ultimately be to benefit the consumers very materially. The witness does not know what proportion of the advantage the retailer will get, but he can not altogether escape the competition of other dealers and must give part of his saving to the consumer in better quality or otherwise. Moreover, the great bulk of whisky is not sold to the consumer by the glass in barrooms, but in bottles through stores. In the case of the latter method the price to the ultimate consumer will doubtless tend to fall. (830.)

Mr. RICE believes that the jobber or distiller recoups himself for an increase in the price of spirits by increasing the proportion of spirits in the rectified whisky, perhaps putting only 4 gallons of rye whisky instead of 5 into the barrel. The retailer and the consumer thus get inferior quality. On popular brands which command high prices, however, slight changes, such as are likely to occur through fluctuations in the cost of production and the price of corn, will practically not affect the price or the quality to the retailer or consumer. (846.)

IV. ECONOMIES AND ADVANTAGES OF COMBINATION.

A. General.—Certain witnesses pointed out that the ease with which new distilleries, especially of spirits, can be established makes it almost impossible for the combination to assure itself of the control of the business. Others, however, believe that if advantage is taken of all possible economies which can result from combination, and if prices accordingly are kept low, competition will not be provoked. This is apparently the hope and expectation of Mr. Rice and Mr. Bradley, whose evidence has just been referred to (p. 86).

Mr. LUYTIES, although an independent producer, believes there is no business in which there is so great necessity of combination as distilling. When all distillers were independent it was impossible for them to make money. But the policy of the combination should be to cheapen production and improve quality, to make a moderate profit, and thus unite the business. The attempt to maintain excessive prices has forced competition. (251, 253, 255.)

Mr. McNULTA, the receiver of the Distilling and Cattle Feeding Company, is of the opinion that a combination in the whisky business can control the market only by reducing prices and the cost of production below those possible for outsiders. This the witness believes possible, to a large degree, by making

Peoria, with its advantages, the center of production. The present combinations are following this policy. There was no gain in economy in merely combining numerous scattered distilleries, as was done by the trust. (217, 237, 238, 240.)

Mr. McNULTA states that most distillers who entered the trust, especially the smaller ones, lost money by it. They were pleased at first, but the value of trust certificates and stocks declined greatly, and those who had not sold their holdings early suffered loss. (236, 237.)

Mr. LUYTIES believes that the competing distilleries have certain advantages as against the trust. Dealers prefer to buy of independents. The independents are not compelled to try to pay dividends on excessive capitalization, but are content with a fair profit. The distillery which now competes most vigorously was established by a number of distributing and blending houses, which thus make a saving in expense of selling and administration. The distillery is new, having the best apparatus, and its product can easily compete in quality. (253, 255.)

Mr. CLARKE, an independent distiller, also testifies that dealers prefer to buy of independent producers, and the trust has no special advantages in production above a good-sized independent distillery. The witness believes that competition on a large scale and also competition by relatively small producers is likely to continue. By changing customers rapidly, and depending for trade partly on preference for particular brands, an independent can do a good business. (184, 189.)

B. Concentration in large and efficient plants.—1. *Spirits.*—The greatest economy effected by the combination was apparently made by the closing of many inferior distilleries which had formerly been in operation, and by concentrating the production in the most favorably located and best plants. Several large new distilleries were established.

Mr. CLARKE testifies that only 10 or 12 of the 80 distilleries which joined the original combination were kept permanently in operation. Great economy was made in the reduction of the working force and in other ways. (170, 185, 190; see also above, pp. 81, 82.)

Mr. McNULTA confirms the testimony as to the large number of distilleries closed, but looks at the matter rather from the standpoint of the attempt to reduce the output of whisky. (203, 216, 238.)

Mr. RICE testifies that the great majority of the plants which entered the original combination represented a mere burden to it, being unfavorably located and uneconomical. The American Spirits Manufacturing Company took over only 17 of the plants from the old Distilling and Distributing Company, and of these only 5 are now operated. (832.)

Mr. LUYTIES testifies that the trust can run its distilleries more regularly, and regular operation is necessary in order to fulfill contracts for feeding cattle. Manufacture in large plants is cheaper, although the difference between the distillery of 10,000 bushels capacity and one of 4,000 bushels would not be great. The trust also has the advantage of the most skilled administrative officers. (254, 255.)

Mr. CLARKE believes an individual distillery of reasonable size can be operated almost as advantageously as those in a combination. The full advantage of economical production is reached at 3,000 to 5,000 bushels daily capacity. The combination makes no savings in buying grain or fuel, and probably has no rebates in freight rates not received by others. The trust has the advantage of being able to dispose of a surplus in foreign markets, where orders are usually only for large lots. (184.)

2. *Kentucky whiskies.*—The business of producing fancy brands of whiskies can not apparently be consolidated into fewer plants, since the trade-marks themselves are known by their location. But, according to Mr. BRADLEY, the combination has been able to produce a staple quality of straight whisky at 15 cents per gallon, the lowest cost of refining known in Kentucky. It has established a new distillery for this purpose, to supply the demand for whisky of that quality. (829.)

C. Improved processes.—1. *Spirits.*—Mr. McNULTA states that the spirits combination has used the best processes and machinery on a large scale. The main improvements in methods, however, were apparently made before its formation. Between 1870 and 1880 a yield of 3 to 3½ gallons of high wines per bushel of corn was considered good. The trust extended the improved processes already known, and by 1890 was securing about 4.9 gallons of high wines or 4.75 of finished product. The main improvements since that time have been in the use of copper in all parts of the distillery. The average yield secured by the combination from 1890 to 1894 is shown below. The average yield of the Distilling Company for 5 years was 4.685 gallons as compared with 4.326 for all the distilleries in the country, including its own. Increase in yield is largely due to use of better yeast, the

most effective germs being ascertained by scientific examination and experiment. Distillers sometimes pay exceedingly high prices for yeast. (202-204, 215.)

Year.	Yield per bushel.
1890	4.675
1891	4.709
1892	4.616
1893	4.696
1894	4.748
Total	4.685

Mr. BRADLEY states that the distilleries in the combination now obtain about 4.80 gallons of pure spirits, on the average, per bushel of corn. (826.)

Mr. RICE states that the production of high wines at present is a little over 5 gallons per bushel. This latter figure refers to the product of alcohol before rectification through charcoal. (844.)

Mr. CLARKE also believes that the spirits combinations have made improvements in processes by the employment of skilled chemists and by experimentation. (187.)

2. *Kentucky whisky*.—Mr. BRADLEY testifies that the combination of Kentucky distilleries will result in improved quality. On account of fierce competition many distilleries had resorted to the use of "cookers," in order to reduce the cost of manufacture. This increased the yield, but made the quality inferior. The combination has gone back to the old methods of making fine whisky in every instance. (830.)

D. *Location and transportation*.—Mr. McNULTA states that it is doubtful whether the spirits combination has any advantages in transportation, by rebates from railways or by filling orders from the nearest plant. Purchasers usually designate particular brands. But production at Peoria, which was made the chief center of the trust, is specially economical because corn is cheap, this being the center of a great corn region, coal mines are near, real estate is less expensive than in larger cities, and handling of corn by railways is easier, while the special water supply is of very great advantage. There is an unlimited quantity of water from wells about 30 feet deep, having a temperature the year round of about 54 degrees. This is used for cooling the warm mash and is much more satisfactory and economical than ice. (201, 202.)

Mr. LUYTJES states that the trust, having a large purchasing capacity and a heavy demand, can ship spirits rapidly and in large quantities, thus saving leakage and damage. High-proof spirits, if kept for 1 or 2 days too long in transit or storage, lose enough to destroy all profit. (254.)

E. *Advertising and selling of goods*.—Mr. BRADLEY testifies that the savings by combination in the reduction of the number of salesmen, and of advertising and selling expenses generally, are very great. The saving is important even in the distribution of spirits, but is most marked in the sale of standard brands of Kentucky and rye whisky. The witness has made a calculation that somewhere between the distiller and the consumer in this country \$40,000,000 is lost. This goes primarily to the attempt to secure trade. It is all wrong and does not enable the consumer to get better whisky, but only makes him pay a higher price. Each of the different distillers has spent immense sums for advertising his brands and pushing them in various ways. The combination has so far been able to dispense with about 300 salesmen, although apparently the advertising of special brands has not yet been done away with entirely. The tendency of the combination is to bring the manufacturer and the consumer closer together, to increase the purchasing capacity of the consumer just as machinery has done.

The witness adds that a large proportion of the traveling salesmen who have been dispensed with "are still working for the old owners, but when that whisky is sold their occupation is gone." (829-831.)

F. *Advantage of controlling different branches*.—Mr. BRADLEY testified that the new Distilling Company of America will have a great advantage over its competitors by the combination of all different branches of the whisky business. It can, for example, practically prevent the manufacture of spirits in Kentucky and of Bourbon whiskies outside of Kentucky; can use the great machineries of the distributing companies for selling Kentucky whiskies as well as spirits, and can, through its distributors, supply a wholesale dealer every class of goods which he uses, thereby better enabling the company to hold his exclusive trade. (819.)

V. EFFECT ON EMPLOYMENT AND WAGES.

Mr. CLARKE states that the number of men employed has probably been reduced somewhat, but not much, by combination. Wages have not changed materially, but have been made uniform and for some minor positions increased. Laborers receive from \$11 to \$30 per week, averaging perhaps \$18. Many would have lost employment in any case by closing of refineries through failure. Only the engineers among distillery employees are organized. Work is quite steady. (185, 189, 191.)

Mr. RICE testifies that labor is not an important factor in the distilling business, since the plants are operated almost automatically. The combination has never had a strike. (848.)

VI. TAXATION.

Mr. McNULTA believes that the system of taxation of liquors should be modified in several ways with a view to increasing greatly the output, especially for use in the arts, thereby increasing the demand for corn and raising its price. The most important changes would be (1) equalization of tax on different liquors in strict proportion to the amount of alcohol contained; (2) remission of tax on alcohol used for all purposes except as a beverage; (3) permission to use tanks instead of barrels for storage and shipment; (4) discrimination against the products of other countries which discriminate against our own; (5) reduction of tax on spirits from \$1.10 to 70 cents, or even 50 cents, per gallon. (225-236.)

A. Rate and form of tax.—1. *Present rate excessive.*—Mr. McNULTA declares that the present tax on spirits is unjustly high. The cost of spirits varies from 8 to 15 cents per gallon, the tax being \$1.10. This is virtually a tax on corn, amounting to \$5.50 per bushel, so far as used in distilling. The high tax reduces revenue by discouraging the use of spirits for many manufacturing purposes. It also stimulates illicit manufacture by the high profit accorded. The loss from this source to the Government is fully \$10,000,000 yearly. By reducing the tax to 70 cents, or possibly 50, the consumption as a beverage would scarcely be increased, while the use for manufacturing purposes would vastly increase and illicit manufacture would practically disappear. The Government would profit by the change. (229-234.)

Mr. LUYTIES holds that the present tax, sometimes amounting to 2,200 per cent of the cost of spirits, is excessive. The witness believes that the consumption of spirits per capita has considerably decreased in recent years, owing to the tax. The point of greatest revenue can be determined only by experiment, but a reduction to perhaps 75 cents would certainly largely increase consumption. (251, 252.)

Mr. BRADLEY is inclined also to believe that the highest revenue point for the tax on whisky is 75 cents per gallon. A reduction from \$1.10 to 90 cents would greatly increase the revenue.

Mr. RICE, in support of the contention that the highest revenue point of the tax on spirits is about 70 or 75 cents per gallon, submitted a table showing the total number of gallons upon which the tax has been paid at the different rates which have prevailed in this country since 1860, and the amount per capita of the population. This table shows that while the tax stood at \$2, from 1865 to 1868, the amount of spirits on which it was paid was only 0.30 gallon per capita annually. When the tax was reduced to 50 cents the per capita amount was 1.79 gallons. At the 70-cent rate the per capita amount was 1.65 gallons, and this represented the highest revenue point. The average per capita amount of spirits on which the tax was paid from 1875 to 1895, under the 90-cent rate, was 1.27 gallons, while under the \$1.10 rate for the years 1895 to 1896 the amount was only 0.95.

The following table submitted by Mr. Rice shows the receipts from the tax on spirits yearly since 1889. This shows a considerable increase in the receipts during the year 1899, although the per capita amount of revenue is probably less than during 1893, the total number of gallons on which the tax was paid being 97,458,347 in 1898 as against 83,819,314 in 1899. (841, 843, 844.)

Internal-revenue receipts from spirits during the fiscal years ending June 30—

1889	\$68,281,808.93	1895	73,741,380.57
1890	75,181,685.90	1896	73,743,018.60
1891	78,528,601.16	1897	75,706,518.17
1892	83,776,252.86	1898	86,188,630.91
1893 (97,458,347 gallons)	87,712,513.08	1899 (83,819,314 gallons)	92,201,245.77
1894	78,612,150.22		

Mr. Cook believes that any considerable increase in the spirits tax falls on the consumer, largely through his getting a cheaper quality. It is difficult to know how much an increase will affect consumption. The recent statistics as to the effect of the increase to \$1.10 are misleading, because the tax was paid at the lower rate on a quantity sufficient for three years' consumption. (247; see also above, p. 87.)

2. *Capacity tax.*—Mr. McNULTA believes that the present practice of levying the spirits tax on the capacity of the stills, assuming that they are used successfully to their full capacity, is an injury to the business. The Distilling Company at one time was taxed for spirits supposed to have been made as the result of certain new experiments which had practically failed. The courts decided, in contravention of the revenue officers, that it was not the intent of the Government to collect the tax in such a case, where no fraud was committed. (233.)

3. *Proportion of alcohol.*—The tax on spirituous liquors, in Mr. McNULTA's judgment, should be strictly proportioned to the amount of alcohol contained, which it is very easy to ascertain. At present wine bears no tax, although it often contains from 8 to 17½ per cent of alcohol. Beer contains from 2½ to 6 per cent of alcohol, a barrel usually containing more than 2 gallons. The present tax is \$1 per barrel; that on alcohol and proof spirits, \$1.10 per gallon. The beer and wine producers have sufficient protection from foreign competition and could readily pay the tax. This would greatly increase the revenue of the Government. (225-227.)

B. *Illicit manufacture.*—1. *Illicit stills.*—Mr. McNULTA declares that the present high tax causes a large illicit manufacture in small distilleries, which either escape altogether or pay on a small proportion of their product. Large distilleries, however, being thoroughly under the control of Government officials, pay the tax in full. The penalty, forfeiture of the distillery, is too great to be risked. The present rules are unduly severe. Public opinion is such that a revenue officer dares not decide a doubtful question in favor of a distiller lest he be suspected of accepting a bribe. Judicial functions ought therefore to be taken away from the revenue officers and given to the courts. (231-234.)

Mr. RICE and Mr. BRADLEY are also of the opinion that the present tax of \$1.10 per gallon is so high that it leads to great evasion. It is impossible to collect so high a tax satisfactorily in a country having so large an area; it is vastly more difficult than in a small country like England. (824.)

Mr. Bradley declares that there are illicit stills all over the United States. Perhaps they are more common in the mountains of the Atlantic States than elsewhere, but many are in existence in New York City itself. The profits of illicit distilling are exceedingly great, perhaps \$30 or \$40 per barrel.

It is a very common practice, according to Mr. Bradley, to sell such illicit whisky of poor quality under the names of standard brands. The witness secured in 1 year in New York City over 3,000 bottles of whisky bearing the trade-marks of Old Crow and Hermitage, which contained inferior whisky, most of it illicit. It is easy to carry small quantities of illicit whisky from distilleries to saloons and dives, where it is bottled and sold under false names. (825, 826.)

Mr. Bradley further points out that most illicit whisky is necessarily confined in sale to local markets.

As evidence of the fact that large amounts of illicit whisky are sold even upon the general market, Mr. Rice submits a circular from a firm of whisky brokers and commission merchants in Baltimore, dated June 24, 1899, in which 100 per cent North Carolina corn whisky was offered for sale in the barrel at \$1.19. The cost of the package is 6 cents per gallon, so that the charge for whisky is only 3 cents, the tax being deducted. In North Carolina it is possible, Mr. Rice states, to buy corn whisky at 85 cents per gallon.

Mr. Rice also submits the following statement showing the number of illicit stills which were seized during the fiscal years from 1889 to 1898:

Illicit stills seized during the fiscal years ending June 30.

1889	466	1895	1,874
1890	583	1896	1,905
1891	795	1897	2,273
1892	852	1898	2,591
1893	806		
1894	1,016	Total	12,061

Mr. Rice believes that a comparatively small proportion of the illicit stills are actually discovered and that when they are the owner usually simply moves his plant to another locality. (841-844.)

2. *Illicit manufacture in registered stills.*—Mr. BRADLEY and Mr. RICE point out that, even where stills are duly registered and known to the officers, the small ones, where a Government officer is not constantly in control, report only a small proportion of the whisky which they actually manufacture. Mr. Rice estimates that only one-half of the tax is collected on goods actually produced in from 4,000 to 6,000 of such small stills in the Southern States. The Government simply estimates the number of bushels of grain which can be handled, and the amount of whisky which can be produced per bushel. Strong pressure is brought to bear upon the Government to fix this average production low. As a matter of fact the small distilleries are becoming so expert that they can produce from 4 to 4½ gallons per bushel of corn. (825, 844.)

3. *Remedy—high license of stills.*—Mr. BRADLEY and Mr. RICE believe that the most satisfactory method of improving the collection of the internal-revenue tax is by placing a high license upon stills or otherwise preventing altogether the legal use of stills of small capacity. The Government should be able to have one or more officers in charge of every operating still. It could afford to place two men in charge, even if a distillery made only two barrels per day, since the tax is so high. Mr. Rice believes that a license fee in proportion to the capacity at quite a high rate would be the most satisfactory method. (824, 841, 844.)

C. *Methods of storing.*—1. *Wooden containers.*—Mr. McNULTA states that the existing regulations to insure payment of taxes have come down from a time when frauds were very numerous. They are too severe and exacting for the present time, where the character of the business is entirely different. The requirement that spirits shall be stored and transported in barrels of small capacity involves elaborate care in watching, and necessitates great expense and loss to distillers. If alcohol and high-proof spirits are kept for any length of time in wooden barrels, they lose largely by evaporation and soaking and also deteriorate rapidly in quality. By the use of large copper tanks the work of the Government officials would be much lessened, while great economy would result to the producer. (228, 230.)

2. *Bonded-warehouse system.*—The system of inspection and regulation by Government, according to Mr. CLARKE, is advantageous in compelling accurate records, thus enabling distillers to understand their own business. But the present method of bonding and postponing payment of tax is unfavorable. The tax need not be paid until after 8 years, but after 4 years the package is regauged and the tax is on the quantity then found. A barrel of 48 gallons evaporates about 9 gallons during the first 4 years, and 8 gallons during the next 3 or 4 years. Since the wholesaler, who pays the tax when it is sold to him, must pay it on the quantity evaporated after the fourth year, the tendency is to depress the price of ripe whisky below that of 4-year-old whisky. The tax should be levied on the amount in the barrel when it finally leaves the warehouse for sale. However, the proof of whisky, if kept in a warm place, will increase from 100 to 125 in 4 or 5 years, and addition of water to reduce to 100 is allowed. (182, 183.)

This requirement as to the period of bond is also severely criticised by Mr. RICE. (848; as to its effect on exportation, see p. 93.)

D. *Remission of tax on spirits used in arts.*—Mr. McNULTA believes that alcohol used in the arts and sciences should be entirely free from taxation. There are laws at present intended for this purpose, but no means of executing them have been devised. The witness believes it possible to remit the tax without promoting fraud. The result would be to double the quantity of grain used for distillation and to introduce many new industries which are now prohibited by the high cost of alcohol. There are thousands of uses to which it can be put. Even if the tax were retained at 50 cents a gallon, the increased use would be sufficient to make the revenue as great as from the present tax of \$1.10. (237, 234.)

Mr. LUYTENS, distiller and dealer, testifies that there would be great advantage if some method could be adopted similar to that used in England, by which alcohol or spirits could be methylized and rendered unfit for drinking, the tax then being remitted. But it is a delicate matter and the Secretary of the Treasury has struggled in vain to devise a method suited to prevent fraud, the temptation to mix taxed and untaxed spirits being very great. Until a satisfactory method can be discovered the present practice is best. (252.)

Mr. BRADLEY believes that it will be impossible to remove the tax from alcohol used in the arts. If this were attempted there would be only illicit spirits produced in this country. But to reduce the tax on alcohol to perhaps 75 cents per gallon would greatly increase its use in the arts. (829.)

E. *Exportation and the tax.*—1. *Spirits.*—Mr. McNULTA points out that there are practically no spirits now exported from this country, although it is naturally the cheapest place for their production. There is a very large demand abroad

for various purposes, but this is supplied by Germany, which offers an export bounty, and by Hungary. The exportation from this country is specially hampered by the governmental restrictions connected with the collection of the tax. Distillers practically get no advantage from the drawback of the tax paid in case of exportation. The requirement that all spirits be stored and transported in wooden barrels especially interferes with cheap transportation. (228.)

Mr. BRADLEY and Mr. RICE, of the present combination, confirm the opinion of Mr. McNulta as to the undue obstructions placed in the way of export trade by Government regulations as to taxation of spirits. They especially urge the desirability of the transportation of alcohol in tank cars and tank ships, instead of in barrels.

The quantity of alcohol used in the arts in Europe is very great indeed. It is largely employed, for example, in the manufacture of smokeless powder. From 80,000,000 to 90,000,000 gallons of alcohol are used yearly for fortifying wines. The United States is the cheapest place of manufacture and should supply a large proportion of the demand for alcohol throughout the world. If this were possible, the price of corn would be materially raised, especially when there was a great surplus crop, since alcohol can be manufactured and stored at such times. Practically no spirits or alcohol is now exported. (824, 828, 846, 847.)

Mr. COOK considers that the decrease in exportation is partly due to the German bounty on exportation of spirits and partly to the difficulty and expense of complying with the regulations of our Government as to remission of tax. (245-247.)

According to Mr. LUYTIES one of the great drawbacks to exportation of spirits from this country is the high bond which is required by the Government—sufficient to cover the entire tax. (259.)

In Germany, according to Mr. LUYTIES, the Government considers it necessary to develop the spirits manufacture, especially on account of the feed secured as a by-product. Accordingly the amount which each distillery is allowed to produce is limited, and a tax of 50 marks per 100 hectoliters is levied up to that amount, while if more is produced the tax is 70 marks, unless the surplus is exported, when the entire tax is rebated. (256, 257.)

2. *Exportation of whisky.*—Mr. RICE states that, under the present statute, whisky which is held for aging must be taken out of bond and the tax paid at the end of 8 years, unless it is exported. Frequently it happens that the distiller has no market for his product in this country at the precise time when the 8 years expire, and in order to avoid the immediate payment of the tax he ships the whisky to Germany to be stored until he is able to dispose of it, when it is reimported. This is practically the only way in which whisky is exported. The Government attempts to prevent this evasion, but exporters make a mental reservation in the statement that the exportation is bona fide. (848.)

Mr. BRADLEY also points out that the prohibition of the law upon the holding of bottled whiskies in bond for exportation results in a great hindrance to the export trade. It is desirable that permission should be given to bottle whiskies in advance and hold them subject to orders for shipment. Mr. Bradley likewise points out that the amount of drawback upon the exportation of whiskies is only 90 cents per gallon, the law having been left unchanged, apparently by oversight, when the tax was raised to \$1.10. The law puts many other ridiculous obstructions in the way of the exportation of whisky. (824.)

STANDARD OIL COMBINATIONS.

	Page of digest.
I. History of Standard Oil combination	95
A. Organization and purposes	96
B. Growth of monopoly during the seventies	95
C. Organization of trust, 1882	96
D. Existing organization	96
E. Dividends and profits of combination	98
F. Ohio suits against Standard Oil Company	99
II. Pipe lines—control by combination	100
A. Early history	100
B. Absorption of competing pipe lines by Standard	100
C. Opposition of Standard to free pipe line law	102
D. Opposition to laying of independent pipe lines	103

94 THE INDUSTRIAL COMMISSION:—DIGEST OF EVIDENCE.

	Page of digest.
II. Pipe lines—control by combination—Continued.	
E. National Transit Company	104
F. Effect of pipe-line monopoly	105
G. Rebates and discriminations by pipe lines	106
H. Immediate shipment	107
III. Independent pipe-line and other organizations.	107
A. History of organizations	107
B. Character of independent organizations. Voting trusts	107
C. Attempts of Standard to control independent pipe lines	110
D. Propositions for combination with Standard	111
E. Effects of independent movements on producers and refiners	112
IV. Methods of attacking competing refineries and dealers.	112
A. Special cuts in particular places	112
B. Different prices to different dealers	117
C. Watching of competitors' business	118
D. Alleged fraud and deception by Standard	119
E. Competition in foreign markets	120
V. Output and prices of refined oil, profits, cost of refining, etc.	122
A. Monopolistic character of Standard Oil Company	122
B. Effect of combination on prices	125
C. Cost and profits of refining—by-products	129
VI. Economies of combination and consequent advantages in competition and to public.	130
A. Generally	130
B. Transportation, and location of refineries	131
C. Processes	132
D. By-products	132
E. Purchase of coal	133
F. Advantage in foreign trade	133
G. Quality of trust product	135
VII. Crude oil—effect of combination	136
A. Early history of oil industry	136
B. Statistics of production and prices	137
C. Method of leasing lands	138
D. Cost of drilling wells—wages'	139
E. Proportion of crude production controlled by Standard	139
F. Effect of Standard Oil combination on prices	140
G. Method of fixing prices	142
H. Restrictions of production	143
VIII. Effect of combination on labor	145
IX. Railway discriminations before interstate-commerce act	145
A. Discriminations admitted before interstate-commerce act	145
B. South Improvement Company	147
C. Later discriminations during the seventies	149
D. Arrangements between pipe lines and railways	152
E. Refusal to furnish cars	155
F. Discriminations against George Rice	155
X. Railway discriminations since interstate-commerce act.	158
A. General statements	158
B. Logan, Emery & Weaver case	161
C. Favorable rates from Standard shipping points	161
D. Short and long haul	164
E. Railway rates and pipe lines	164
F. Underbilling of cars	164
G. Tank and barrel shipments	167
H. Indirect advantages of Standard	170
XI. Relation of the press to the combination	172
A. Subsidizing of Ohio papers	172
B. Pittsburg papers	172
C. Oil City Derrick	172

LIST OF WITNESSES.

	Page of testimony.
Archbold, John D., vice-president of the Standard Oil Company of New York	508-549
Boyle, P. C., editor and proprietor of the Oil City Derrick	404-490
Clark, W. H., former agent of Standard Oil Company at Ohio stations	390-351
Davis, T. F., independent producer and refiner, Marietta, Ohio	351-365
Dodd, S. C. T., solicitor of the Standard Oil Company	798-800

	Page of testimony.
Emery, Lewis, independent refiner, and officer in independent oil organizations.....	602-671
Gall, Andrew D., manager Gall-Schneider Oil Company, Montreal, dealers in petroleum products	672-686
Lee, J. W., president of three independent pipe-line organizations	261-297
Lockwood, M. L., independent producer of oil, Zellenople, Pa	383-408
Mathews, B. A., selling agent of Standard Oil Company for central and southern Ohio	491-506
Monnett, F. S., attorney-general of Ohio	297-320
Page, Howard, vice-president of Union Tank Line Company	755-793
Phillips, Thomas W., independent producer, and officer in independent oil organizations	589-602
Rice, George, independent producer and refiner, Marietta, Ohio	686-755, 793, 794
Rockefeller, John D., president of the Standard Oil Company	794-798
Rogers, Henry H., president of the National Transit Company	581-589
Westgate, T. B., independent refiner, and officer in independent oil organizations	365-383

I. HISTORY OF STANDARD OIL COMBINATIONS.

A. Organisation and purposes.—Mr. EMERY quotes part of the testimony of Mr. Flagler before the Committee on Manufactures of the House of Representatives in 1888. This shows that in 1870 the firm of Rockefeller, Andrews & Flagler was formed to succeed the separate firms of Rockefeller & Co. and Rockefeller & Andrews. The capacity of the new firm was about 600 barrels of crude oil per day. This firm in the same year was reorganized under the name of the Standard Oil Company of Ohio, with a capital of \$1,000,000. (606.)

Mr. ROCKEFELLER made affidavit concerning the growth of the Standard Oil Company as follows:

"1. Q. What was the first combination in which you were interested of different establishments in the oil industry?—A. The first combination of different establishments in the oil industry in which I was interested was the union of William Rockefeller & Co., Rockefeller & Andrews, Rockefeller & Co., S. V. Harkness, and H. M. Flagler, about the year 1867.

"2. Q. What were the causes leading to its formation?—A. The cause leading to its formation was the desire to unite our skill and capital in order to carry on a business of some magnitude and importance in place of the small business that each separately had theretofore carried on. As time elapsed and the possibilities of the business became apparent we found further capital to be necessary, obtained the required persons and capital, and organized the Standard Oil Company with a capital of \$1,000,000. Later we found more capital could be utilized and found persons with capital to interest themselves with us, and increased our capital to \$3,500,000. As the business grew, and markets were obtained at home and abroad, more persons and capital were added to the business and new corporate agencies were obtained or organized, the object being always the same, to extend our business by furnishing the best and cheapest products." (795.)

It appears that the Standard Oil Company was reorganized in 1873 with a capital of \$2,500,000, which was again increased to \$3,500,000 in 1875, which remains the amount of capital of this particular company to the present time.

B. Growth of monopoly during the seventies.—Beginning early in the seventies the men interested in this company began to associate themselves with other refiners and to extend their business with great rapidity. They also secured control of the pipe lines of Pennsylvania, a process which is more fully described under a separate heading. (See p. 100.) Numerous refineries were either driven out of business altogether or were in some way led to affiliate with the Standard Oil Company. Certain witnesses attribute this growth of control over the refining business partly to the ownership of the pipe lines, but the chief reason assigned by many opponents of the combination is railroad favoritism, a detailed history of which is given later on. (See, e. g., RICE, 689, 693.)

Mr. EMERY especially refers to previously existing testimony to show the manner in which the Standard Oil Company, through the influence of railway discriminations, grew from a small concern in 1870 to a practical monopoly of the entire oil refining business in 1879. In 1870 there were approximately 250 refineries, most of them located in the oil regions. The Standard Oil Company then owned about 4 per cent of the refining capacity of the country. In 1879 Mr. Rogers and Mr. Bostwick, members of the Standard Oil Company, testified before the Hepburn committee that that company, or the combination which it represented, owned or controlled 90 or 95 per cent of the refining industry in America. There was a time, Mr. Emery declares, when he did not know of a single independent refiner.

The witness himself was interested in the Octave Oil Company at Titusville, having a capacity of about 800 barrels daily. This company was invited to join

the Standard Oil Company, but refused to do so. In the latter part of 1879 it was forced to sell out to that company, having been unable to maintain its business. The refinery cost \$85,000 and was sold for \$45,000. It was run for 2 or 3 years by the Standard Oil Company, but was finally dismantled.

In 1880 the witness built a new refinery in Philadelphia at the suggestion of the Pennsylvania Railroad, but was again driven out of business by discriminations, especially by the inability to obtain cars to ship oil from his wells to his refinery. (646-649).

Mr. DODD, in reply to a schedule of questions, made the following statement as to the process of growth of the Standard Oil combination:

"About the year 1872 the condition of the refined-oil business was disastrous, and failures were of constant occurrence. Leading refiners began to combine for the purpose of making the business successful. The combination was by means of purchase of stocks and interests of various companies, and, until 1882, the combination was solely by stock ownership in the hands of a limited number of individuals, who controlled the corporations as agencies in a common business. In 1882 these owners, whose names appear in Exhibit A, entered into the trust agreement. The companies whose stock they owned, in whole or in part, appear in the same agreement. They were not then competing companies. The individuals named as trustees controlled them by virtue of absolute ownership of a majority of their stocks. When the trust was dissolved, in 1892, the same fact existed. The individuals then trustees continued to control the companies by virtue of absolute ownership of a majority of their stocks." (799.)

Mr. ROCKEFELLER, in answer to interrogatories submitted by the commission, made affidavit as to the growth of the Standard combination. He attributed the extension of its business, not to crushing of competitors, but to the need of additional capital in order to employ the most effective methods of manufacture and transportation. From time to time it was discovered that existing methods were unsatisfactory and larger investments had to be made for improved methods. Thus to perfect the pipe-line system required some \$50,000,000 of capital. This could not be obtained without industrial combination. (795, 797.)

C. Organization of trust, 1882.—Up to 1882 there was no formal consolidation of the numerous refining and pipe line companies which were controlled by the officers of the Standard Oil Company or which worked in harmony with it. At this time the Standard Oil Trust was formed, being the first organization to take on that form. The various separate organizations placed the control of their stock or property in the hands of trustees, who were thus able to control completely the operation of all the concerns.

Mr. MONNETT, attorney-general of Ohio, testifies that there were altogether 39 companies which entered the Standard Oil Trust, 14 of which transferred all their stock and the remainder a controlling interest to the trustees. Besides this a large number of individual owners and firms entered the trust. There were 9 trustees, holding office for 3 years, with one-third retiring annually.

The trust certificates were issued in amounts equal to the appraised value of each plant transferred. According to Mr. Monnett, there was no attempt to inflate the valuation. Each company agreed that no stock should thereafter be issued excepting to the trustees. (300, 301.)

Mr. EMERY, on the other hand, testifies, but without submitting detailed evidence, that refineries and other establishments were taken into the trust at rates greatly in excess of their actual value, the chief consideration being the power of monopoly which was thereby acquired. (630.)

Mr. MONNETT testifies that the trustees themselves held 466,280 of the original 972,500 trust certificates. They also hold more than half of the shares of the present constituent corporations, while Mr. Rockefeller holds more than half of the number held by the trustees. (307.)

D. Existing organization.—1. *Reorganization into separate companies, 1892.*—The Standard Oil Trust, having been held illegal in various States, was dissolved in 1892, the separate establishments and plants being reorganized into 20 constituent companies having a capitalization of \$102,233,700. Trust certificates when surrendered were replaced by a proportion of the shares of each company, properly divided.

The following form of transfer was used to give holders of trust certificates proportionate shares in the capital stock of each of the constituent companies established at the time when the trust form of organization was abandoned:

Know all men by these presents:

That we, John D. Rockefeller, Henry M. Flagler, William Rockefeller, John D. Archbold, Benjamin Brewster, Henry H. Rogers, Wesley H. Tilford, and O.

B. Jennings, trustees for winding up the Standard Oil Trust, by W. H. Tilford, our attorney in fact, and John D. Rockefeller, of ———, do hereby constitute and appoint John Bensinger, of New York City, our true and lawful attorney for the purposes following, to wit:

Whereas John D. Rockefeller has placed in the hands of said attorney assignment No. A 865 for ~~§§§§§~~ of the amount of corporate shares held by said trustees on the first day of July, 1892, in each of the companies whose stocks were so held.

Now the said attorney is hereby authorized to secure from each of said companies transfer upon their corporate books of said stock and stock certificates for whole shares, and scrip for fractional shares thereof, and when the said certificates and scrip are received from all the companies referred to the said attorney shall deliver the same to John D. Rockefeller, and the said assignment No. A 865 shall at the same time be delivered to the said trustees.

And the said attorney hereby agrees to obtain the said certificates and scrip and to deliver the same and the said assignment as above specified.

(Signed in print.)

JOHN D. ROCKEFELLER.
HENRY M. FLAGLER.
WILLIAM ROCKEFELLER.
JOHN D. ARCHBOLD.
BENJAMIN BREWSTER.
HENRY H. ROGERS.
O. B. JENNINGS.
WESLEY H. TILFORD.

(Signed in ink.)

W. H. TILFORD, *Attorney in Fact*.
JOHN D. ROCKEFELLER, per GEO. D. ROGERS.
JOHN BENSINGER.

(MONNETT, 303, 307, 320; ARCHBOLD, 574–576.)

Thus, Mr. MONNETT testifies, the Standard Oil Company has several constituent corporations in Ohio. The Ohio Oil Company leases oil lands and purchases crude oil. The Buckeye Pipe Line Company, in conjunction with other pipe line companies owned by the Standard, makes a complete system which transports crude oil to the various refineries in Ohio and adjoining States. The Solar Refining Company engages in refining. The refined product is transported by the Union Tank Line Company, which has great advantages in the use of tank-car and terminal facilities. It is by this control of the means of transportation that the Standard secures its monopoly. (299.)

Mr. MONNETT further states that the Standard Oil Company of Ohio, on August 5, 1891, sold its tank cars to the Union Tank Line Company for \$3,500,000, most of which sum it transferred in 1892 to the Standard Oil Trust for distribution among the holders of trust certificates. This was in defiance of the order of the court, of 1892, prohibiting it from further relations with the Standard Oil Trust. Since then this company has paid no dividends, although it still pays salaries. Its accumulated funds have been apparently charged off for depreciation and profit and loss. Its officers refused to submit its books to the courts and are believed to have burned a large number of them. (302, 303.)

2. *Capitalization*.—Mr. DODD, in reply to a schedule of questions, stated that the property of the various companies entering the Standard Oil Trust was valued at \$75,000,000 in 1883. In 1892 the value was estimated at \$121,631,312. Perhaps 50 per cent of this additional value had come from profits invested, the remainder from additional capital subscribed. Up to 1896 about the same proportion of profits continued to be applied to improvements, but since that time the profits have been divided, as is seen from the higher rate of dividends. An average of 5.77 per cent has been allowed for annual depreciation. (799.)

The inventory referred to by Mr. Dodd is as follows (MONNETT, 301):

Companies.	Appraised value.	Capitalization.
Anglo-American Oil Co., Limited	\$6,913,639.49	\$5,000,000
Atlantic Refining Co.	8,681,376.67	5,000,000
Buckeye Pipe Line Co.	7,941,028.15	10,000,000
Eureka Pipe Line Co.	1,547,055.16	5,000,000
Forest Oil Co.	3,528,818.11	5,500,000
Indiana Pipe Line Co.	2,014,063.91	1,000,000
National Transit Co.	25,706,712.97	25,455,200
New York Transit Co.	4,998,300.00	5,000,000
Northern Pipe Line Co.	707,067.00	1,000,000

Companies.	Appraised value.	Capitalization.
Northwestern Ohio Natural Gas Co	\$1,396,760.00	\$3,278,500
Ohio Oil Co	8,280,378.04	2,000,000
Solar Refining Co	711,793.87	500,000
Southern Pipe Line Co	3,279,018.28	5,000,000
South Penn Oil Co	3,021,654.87	2,500,000
Standard Oil Co., Indiana	1,038,518.61	1,000,000
Standard Oil Co., Kentucky	3,604,800.78	1,000,000
Standard Oil Co., New Jersey	14,983,943.30	10,000,000
Standard Oil Co., New York	16,772,186.29	7,000,000
Standard Oil Co., Ohio	3,426,014.72	3,500,000
Union Tank Line Co	3,057,187.41	3,500,000
Capitalization 20 corporations	121,631,312.63	
Excess	102,233,700.00	
	19,397,612.63	

3. *Existing relations of constituent companies and trust.*—Mr. ARCHBOLD testifies that, although the Standard Oil Trust was dissolved in 1892, the men who were the former trustees have held a majority of the stock in all the different companies which made up the trust, so that they work together as harmoniously as before. The latest movement on the part of the combination, in order to secure more complete unity and to provide for the claims of small holders of trust certificates, is the organization of a New Jersey corporation entitled the Standard Oil Company. This corporation has a capital of \$100,000,000 of common stock and \$10,000,000 of preferred stock, and is authorized to own the stock of any of the different corporations connected with the Standard Oil Company and to buy from all parties who own such stock whenever they desire to sell. (574-576.)

Mr. MONNETT testifies that a man could not have his trust certificates converted into stock of the several constituent companies, and get out of the trust, unless he held \$66,000 worth. This enables the trustees and a few others holding large amounts to exchange their certificates for stock and thus to practically control all the constituent companies, while smaller holders retain their certificates and are still receiving dividends upon them. Altogether only 51 per cent of the trust certificates were converted into stock. Holders of fractional shares in the separate companies receive no dividends. (303, 307, 308.)

Replying to this testimony, Mr. ARCHBOLD states that the replacement of trust certificates by proportional shares of stock in the separate companies has been going on steadily, and that only a small number of trust certificates are still outstanding. He admits that the dividends when declared are at a certain percentage upon these outstanding certificates and a properly adjusted rate upon the capital stock of the different companies. The rate of dividend may be considered as if it were entirely upon the trust certificates at their former full amount.

The prices at which Standard stock is quoted on the market are still based on the old trust certificates, since practically the equitable interest in each of the separate companies corresponding to a share in the trust certificates is of the same value. If the purchaser should buy trust certificates on the market and take them to the company it would give him either a proportion of the shares of each of the separate corporations or an equal amount of the stock of the newly formed corporation, the Standard Oil Company, of New Jersey.¹

The Standard Oil Company has always kept its stocks and certificates off from the stock exchange, and there has been very little speculation in them. The officers and directors have bought and sold stocks only to a very limited extent, and usually for the purpose of increasing their own holdings. Mr. Archbold himself has bought and sold only 100 shares during 10 years. (574-576, 579.)

Mr. ROGERS states that when the Standard Oil Trust was dissolved those holders of trust certificates whose holdings were small received only fractional shares in the various separate companies, and on these shares they receive no dividends. The denominator of these fractional shares is about 975,000 and the numerator is often very small, so that the interest is so trifling that it would be impossible to pay a dividend. Nevertheless the Standard Oil Company is prepared to do whatever is fair regarding such fractional shares. (583, 587.)

E. Dividends and profits of combination.—According to Mr. RICE the Standard Oil Trust from 1882 to 1892 paid dividends equal to more than double its entire capi-

¹ Though practically a new organization, this seems to be in form a continuation of the old Standard Oil Company, of New Jersey, with an altered and amended charter, and with its capital increased from \$10,000,000 to \$110,000,000. See p. 1228.

talization in 1888. Since 1892, when the trust was nominally dissolved, 30 quarterly dividends of 3 per cent have been paid, and 77 per cent in special dividends since 1895, making a total of 167 per cent on its capitalization, or in all \$170,730,279. Aside from these dividends the company has invested millions of dollars of its net earnings in producing oil property. (688, 689.)

Mr. MONNETT's testimony confirms the above generally. He speaks specifically of extra dividends of 5 per cent in 1895, 19 per cent in 1896, 12 per cent in 1897, and 4 per cent in 1898. He adds that, judging from the recent rates of dividends, a prominent judge has said that the present value of trust certificates, whose face is \$97,250,000, would be \$486,250,000. (302, 307, 308, 309.)

Other witnesses also refer to the high value of Standard stocks as showing enormous profits. Mr. ARCHBOLD states on this point that the price prevailing at the time of his testimony, \$465 per share, was the highest ever known. (579.)

Mr. DODD submitted the following statement, showing all the dividends declared by the combination since 1892. In addition to these a stock dividend of 20 per cent was declared in 1897. He stated that no distinction had been made in the distribution of profits between the former owners of closed and dismantled plants and others. (799.)

	Per cent.		Per cent.
1892	5.25	1891	12
1893	6	1892	12.21
1894	6	1893	12
1895	10.50	1894	12
1896	10	1895	17
1897	10	1896	31
1898	11.50	1897	33
1899	12	1898	30
1890	12		

Mr. BOYLE believes that the profits of the Standard Oil Company have not been reduced by the depression in the price of crude oil. The capital stock of the company before its reorganization several years ago was \$100,000,000, and the witness has heard that it was worth \$500 per share. The stock of the Tidewater Pipe Line Company, which has a capital of \$10,000,000, was quoted at \$2,000 per share. There may be agreements between this company and the Standard, but it is not absolutely under the Standard's control. (480.)

See also as to profits, p. 1335.

F. Ohio suits against Standard Oil Company.—1. *General description.*—Mr. MONNETT, the attorney-general of Ohio, testifies that suit was brought against the Standard Oil Company of Ohio in 1891, and a decree was secured in 1892 directing it to withdraw from the Standard Oil Trust. In November, 1897, the attorney-general summoned the same company before the court on the ground that it had not withdrawn in good faith, but simply modified the form of organization. On the basis of answers to interrogatories submitted to Mr. John D. Rockefeller, information was secured which led to filing suits against all the constituent companies of the original trust which were then doing business in Ohio—the Buckeye Pipe Line Company, Ohio Oil Company, Solar Refining Company, and Standard Oil Company of Ohio. There were four causes of action: (1) As against public policy; (2) for confederating and attempting to evade the decree of 1892; (3) for violation of the Ohio antitrust act of 1898; (4) against the Buckeye Pipe Line Company for transacting telegraph business as a common carrier, which was ultra vires. This company was found to be exchanging business with the Western Union Telegraph Company. (297, 298.)

The present status of these suits (at the time of Mr. Monnett's testimony) is as follows: The officers of the Standard Oil Company of Ohio are before the court on the charge of contempt for refusing to produce their books. They are also held for violation of the original decree of the court, and it may inflict any fine it sees fit. An independent suit has been brought for taking away the charter of this company, and another suit for the same purpose is pending against the Buckeye Pipe Line Company, in which the witnesses are also before the court for contempt in refusing to answer questions. If the existing suits are won, the monopoly of the Standard Oil Company in the Ohio field, which depends on its control of the pipe lines, will be destroyed. (314, 315.)

Mr. ARCHBOLD, replying to the testimony of Mr. Monnett generally, points out that the attacks upon the Standard Oil Company in the courts of Ohio were injurious to the interests of the State, since that company, through the various corporations in which it is interested in Ohio, pays about \$250,000 taxes yearly and distributes \$3,250,000 as wages to 4,700 employees. (543.)

2. *Production of books.*—Mr. MONNETT testifies, in further detail, that in these suits the supreme court of Ohio has ordered the Standard Oil Company of Ohio to produce its books and records, and it has refused to do so, relying on its constitutional rights. The question as to the power to compel it to produce its books is still pending. According to Mr. Monnett, testimony before that court shows that a large number of books and papers were burned 2 or 3 days after the order requiring the production of books was made. The evidence of John McNirney on this subject is quoted in full. He was an employee in the car shops of the Standard Oil Company at Cleveland and assisted in lowering certain boxes which he believes to have contained books from the office of the Standard Oil Company. That same day and the following Monday he assisted in burning a large number of books, taken from such boxes, in the car-shop furnaces. The books were large books, apparently ledgers, and many loose papers and letter-press books were also burned. Altogether 9 chests and 6 sacks of materials were burned. (303-306.)

Mr. ARCHBOLD denies absolutely the fact of such burning of books by the Standard Oil Company. He states that at the time of the original inquiry on the subject the company offered to produce every employee who could have any knowledge on the subject, each of whom would have denied the statement. The attorney-general refused to have them sworn at the time, although he knew that the secretary of the Standard Oil Company of Ohio had made an affidavit that the books were in his possession. (543.)

3. *Alleged attempts at bribery.*—Mr. MONNETT refers to the alleged attempt of the Standard Oil Company to bribe himself, as attorney-general of Ohio, and offers to submit papers in the case, but presents no further evidence. (313, 316.)

Mr. ARCHBOLD testifies that affidavits have been filed with the supreme court of the State of Ohio denying specifically all of Mr. Monnett's charges of attempted bribery, and asking the court to appoint a commissioner to investigate the charges. The court has not acted upon the subject, but the company is anxious that it should do so. (544.)

I. PIPE LINES—CONTROL BY COMBINATION.

A. *Early history.*—Mr. BOYLE gives a somewhat detailed history of the development of pipe-line transportation in the oil business.

The first successful pipe lines were established in 1864 from Pithole to the Miller farm. Others were soon constructed in the same district. These were usually short, scarcely over 5 miles in length, and at first did not even connect directly with the wells themselves, although this practice was soon established. Numerous lines soon grew up in different parts of the oil region, but the first more extended systems date from 1869, when the Mutual Pipe Line was laid more or less throughout Clarion County. Vandergrift & Forman later established a system through Butler County which became the nucleus of what is now known as the United Pipe Line System.

The original pipe lines were only transporters of oil, but the nature of their work soon led them to purchase oil, although at first it was not in the name of the company itself. At times there were rumors casting doubt on the integrity and solvency of some of the pipe lines. The prices which purchasers of oil were willing to pay to pipe lines varied accordingly, since they were sometimes in doubt as to whether the oil would be forthcoming. It was quite common in those days for shortages to be discovered in the amount of the oil held by the pipe lines as compared with the amount which they owed to certificate holders. The lines would use oil or sell it and expect to make up the shortage by purchase later on. Mr. Boyle quotes from a published statement of the Atlantic Pipe Line in 1876 acknowledging a shortage of 6,000,000 barrels, but stating that 15,000,000 barrels had been purchased to cover it. (413, 420, 423, 424, 481, 482.)

Mr. EMERY also makes a brief statement of the early history of pipe lines. He states that the first attempt to combine separate pipe lines into a more complex system was made by William H. Abbott and Henry Harley, beginning about 1866. By 1869 they had a capital of nearly \$2,000,000, and 500 miles of pipe centering in the Miller farm. The concern was then known as the Pennsylvania Transportation Company. (603, 604; compare also Lee, 262, 265.)

B. *Absorption of competing pipe lines by Standard.*—1. *History.*—Several witnesses describe the process by which the Standard Oil Company gradually secured control of the various pipe lines throughout the oil regions. The opponents of the trust attribute the success of the Standard Oil Company in this movement to the railway discriminations upon oil received from pipe lines controlled by that company. It appears that for a considerable period a rebate of 22 cents per barrel

was allowed on oil from pipe lines maintaining the agreed rates of pipage. These discriminations are more fully described under the head of *Railway Discriminations* (pp. 149, 150). Other opponents of the combination ascribe its success in driving out competing pipe lines largely to the practice of paying premiums upon oil in the territory of such competing lines.

Mr. BOYLE gives the fullest statement of the growth of the pipe-line consolidation during the seventies, and attributes it to the natural advantages arising from large capital and from skill in organizing. He testifies that during the early part of that decade very numerous pipe lines had been established. These were at first constructed on a small scale by separate oil producers, but having entered the business many producers were inclined to extend their lines and form a system. There thus arose an excessive number of competing lines, and the solvency and integrity of some of them became a matter of doubt. This excessive competition was the cause of driving the pipe lines into a more complete organization. As early as 1873 or 1874 a pooling arrangement was made by some of the pipe lines, and rebates were paid by railways on oil received from such lines. The United Pipe Line Company was established in 1877, with a capital at first of \$3,000,000, and acquired by purchase a large number of lines. The new company included many producers and stockholders of the smaller companies, but it is estimated that the persons controlling the Standard Oil Company had somewhat more than a one-half interest in the United Pipe Lines. The National Transit Company is the present owner of the United Pipe Lines System, and the Standard Oil Company controls the National Transit Company. (424-426, 474.)

Mr. ARCHBOLD states that the small pipe lines which existed during the early period were inadequately capitalized and inefficient in many cases; that consolidation was welcomed by all producers and resulted in a lowering of charges for pipage from 40 to 20 cents per barrel. (513.)

Mr. ROCKEFELLER also speaks of the necessity of very large capital to conduct the pipe-line business advantageously. (797.)

2. *Premiums on oil reached by competing pipe lines.*—Mr. LOCKWOOD declares that, by means of the high rebates which the pipe lines controlled by the Standard secured from the railways, they were able to offer higher prices for oil to the producers and to sell at lower prices to refiners than independent pipe lines were. In this way 26 pipe lines, built during the early seventies, were driven into bankruptcy, and were absorbed by the United Pipe Line and the American Transfer Company. These pipe lines were practically shut out of the market.

A similar policy has been pursued in attacking independent pipe lines built later. Thus, in 1887, Craig, Elkins & Kimble built the Western and Atlantic Pipe Line. The price of oil at that time was 69 cents, but by the time the new pipe line was fairly in operation, in 1888, the price was raised to 88 cents per barrel, while the white-sand oils in the counties reached especially by the new pipe line were placed at a premium by the Standard Oil Company, which paid from \$1.08 to \$1.18 for oil at the wells. In November, 1889, the price of this oil had reached \$1.30, and the witness, as a producer in that district, was drilling many wells in the hope of very large profits. About this time the new pipe line was bought by the Standard Oil Company at the price demanded by its owners, and the very next day the premium on oil from this district was taken off, while the price of crude generally fell gradually to 53 cents. The witness and other producers suffered great losses from this reduction, while the Standard Oil Company made sufficient profits by it to recompense itself for the purchase of the pipe line. The price of refined oil was not reduced. This great decrease in price could not be attributed simply to the increase in production. (388, 394, 395.)

Mr. PHILLIPS also testifies to the practice of the pipe lines controlled by the Standard Oil Company of paying premiums on oil for the purpose of attacking competitors. He also believes that the Standard recoups itself for the cost of pipe lines purchased by lowering prices to producers and raising them to consumers. (592.)

Mr. BOYLE considers the paying of premiums upon oil in fields reached by independent pipe lines a necessary method of competition. The new pipe lines make it a practice to cut charges for pipage in order to secure business, and the Standard Oil Company practically merely meets such cuts by paying premiums upon oil from the district, while keeping its nominal pipage charge the same. The witness referred especially to the Peerless or Keystone pipe line, which fixed a pipage rate 5 cents below that of the National Transit Company, so that the latter was forced to bid a premium of that amount in order to get oil. The same condition of affairs existed regarding the Craig-Elkins line referred to by Mr. Lee. On being questioned further concerning the amount and purpose of such premiums, Mr. Boyle stated that he had knowledge of premiums being placed on

oil regardless of any superiority in quality, and of premiums being taken off, but that he had no knowledge of the purpose of such premiums. (474, 475.)

Mr. ARCHBOLD states that the premiums paid by the pipe lines controlled by the Standard Oil Company for oil from particular districts are usually due to superior quality of the oil, this being the case at present with Franklin, North Lima, and Scio oil. But "where we have found, after providing these special facilities, which have no value for any other purpose, that our business was attacked by a newcomer, we have, of course, endeavored to protect it." Mr. Archbold admitted specifically that when the American pipe line was built through to Philadelphia a premium was put on the oil from the large fields in Butler County and Washington County, and that this premium was taken off as soon as the pipe line had been purchased. "We would do the same thing again." The premium in these cases was due to the competition, unquestionably. (576, 577.)

Mr. ROGERS confirms Mr. Archbold's testimony in every particular. He states that at present the only premiums which are paid are on account of superior quality. In most cases the Standard Oil Company has been forced to pay premiums by competitors reducing pipage or paying higher prices. A premium is not to be considered as of the nature of a rebate, since it goes to the producer, while pipe-line charges are paid by the refiner or exporter, and rebates would go to them. (582.)

3. *Existing independent pipe lines.*—Aside from the competition of the Producers and Refiners' Pipe Line, hereafter referred to, the Standard Oil Company meets competition in the Ohio field from the Maulattan Oil Company, and in the Indiana field from the Cudahy pipe line. There is trifling competition in the Scio field. (Rogers, 581.)

C. *Opposition of Standard to free pipe-line law.*—Opponents of the Standard Oil Company declare that a further means by which the combination prevented the establishment of competing pipe lines and secured its monopoly was the preventing for a long time of the passage of a law in Pennsylvania permitting the exercise of the right of eminent domain throughout the State for the laying of pipe lines.

Mr. EMERY testifies that the first pipe-line companies were chartered by special acts of the legislature, and that privileges were given only to a favored few. The indignation over the exposure of the South Improvement Company scheme in 1872 forced the legislature to pass a law granting any person the right to lay pipe lines, with the privilege of eminent domain, within 8 of the leading oil counties. The witness at that time sought to persuade Mr. Scott, president of the Pennsylvania Railroad, to permit this law to be made general, with a view to enabling pipe lines to reach competing lines of railway and water transportation. This Mr. Scott refused to do, and the act did not apply to Allegheny County, so that pipe lines could not reach the city of Pittsburg.

Numerous pipe lines were established under this act, but it was practically repealed by the Wallace corporation act in 1874, and within a few years the Standard Oil Company, by a corrupt bargain with the railroads for discriminating rates, forced all but 1 of these lines into bankruptcy, and bought them up. Since 1876 the entire oil district has been under the complete dictation of the trust, until the organization of the new independent pipe lines, beginning about 1890. (605, 606.)

Mr. EMERY, who was a member of the Pennsylvania legislature, and actively engaged in pushing the passage of the free pipe-line bill from 1874 to 1883, further declares that the Standard Oil Company did directly oppose that bill. In 1883, when he and Mr. Lee were making speeches in behalf of the bill in various parts of the State, the Standard Oil Company attempted to influence the farmers by arguing that pipe lines would injure their property. The witness refers specifically to a meeting which was held in favor of the bill at Lancaster, Pa., at which dodgers were scattered headed: "Look out for false prophets." The dodgers declared that "these people are endeavoring to pass a law that will destroy the springs of your farms; it will blow up your houses; it will create havoc in your fields when the pipe bursts, killing the grass. Most dangerous of all laws." Mr. Archbold, so Mr. Emery declares, is mistaken in his testimony on this point. (659, 660.)

Mr. LEE's testimony states practically the same facts as Mr. Emery's on this point, in less detail. He adds that in 1883 the Standard Oil Company probably controlled 90 per cent of the crude oil transported, and it has sought to secure control of all new lines since that time, so that it still has practically the same proportion. (262, 265.)

Mr. ARCHBOLD denies that the Standard Oil Company opposed the passage of the free pipe-line law in Pennsylvania. The company was entering the business largely and understood the importance of the measure to the entire petroleum

trade. He denies the issuing of any circular opposing the measure, but modifies this statement by saying that he does not know of any being issued. (513.)

Mr. BOYLE knows of no direct opposition of the Standard Oil Company to the passage of the free pipe-line law in Pennsylvania or to the laying of independent pipe lines, although he knows of a single instance where the Standard Oil Company secured a right of way in order to prevent another pipe line from being built. (474.)

D. Opposition to laying of independent pipe lines.—1. Charged against Standard.—Another method which has been employed by the Standard Oil Company to prevent the laying of competing pipe lines appears to be the purchase of land intended to be crossed by such pipe lines and the influencing of railways to oppose the crossing of their tracks by such lines.

Mr. LEE testifies that this practice was employed during the earlier history of the pipe lines. The most active opposition to the laying of such pipe lines, however, was manifested when the independent oil interests in Pennsylvania attempted to establish the United States Pipe Line to the seaboard. Mr. Lee's testimony on this point is substantially the same in general import as that of Mr. Emery, given below, but is less detailed. (364, 267.)

Mr. EMERY gives a detailed history of the attempt to lay the United States Pipe Line, of which he was a prime mover and the first president. He states that in 1890 he determined personally to build a line to the coast, if possible, to avoid the excessive transportation charges. He first went to the president of the Reading Railroad with a view to securing a contract for transporting oil by that railroad from Williamsport, Pa., pending the further extension of the line. After some delay he received the reply: "If we give you this contract, we shall disturb our relations with the Standard Oil Trust, and we can not do it." He then determined to lay the line along the boundary of New York and Pennsylvania to Hancock, N. Y., and to secure a contract with the New York, Ontario and Western for transporting oil to the Hudson, with a right to construct a pipe line later along its tracks. This contract having been secured, he approached the Erie Railroad, and was told by Mr. Thomas, its president, that he would be permitted to cross the road at Bradford and to pass under its bridge over the Delaware at Hancock or through the bank of the road.

Meantime Mr. Emery had been employing experts to secure right of way for the pipe line. As soon as the movement became known a number of men, who the witness knows were connected with the Standard Oil Company, began to seek a right of way over this same territory. They bought mortgages against pieces of land along the route to induce the owners to give them another right of way. They bought a number of strips of land in New York, just beyond the Pennsylvania State line, crossing the pipe line. In New York the former free-pipe-line law had been so amended as to be practically ineffective. All these difficulties were, however, finally overcome after great delay and expense.

When the attempt was made, however, to lay the pipe line under the Erie Railroad at Bradford, the witness was surprised to find it opposed by force. His employees drove away the railroad men, but the laying of the pipe was afterwards prevented by injunction of the courts, although it had been intended to cross at the same place where the two Standard pipe lines had been permitted freely to cross. At Hancock also, without warning about such opposition, the men building the new pipe line were met at the bridge of the Erie Railroad with forcible opposition. They remained there 3 months, but were finally compelled to give up the attempt. At the same time the New York, Ontario and Western violated its contract, and the pipe line was finally forced to go back 70 miles, to the Susquehanna River, and to build from Athens to Wilkesbarre. It was necessary to make legal contests for the crossing of every railroad, and the witness comments on the fact that almost identically the same briefs were presented by lawyers of different railroads at different places in their opposition. The various expenses of litigation, loss of time and business, entailed a loss of \$150,000 in reaching this point.

For some time the pipe line transported oil from Wilkesbarre by rail over the New Jersey Central. It then sought to extend its line farther toward the coast. It succeeded in crossing the Pennsylvania Railroad by obtaining ownership of an acre of land. When it reached the Delaware, Lackawanna and Western a farm was bought over which the railroad passed, and it was believed that the line could legally be laid under a culvert where the owner of the land has an undisputed right of passage. Nevertheless the line was built by night, and was strongly secured in place and guarded. The employees of the pipe-line company forcibly prevented a large number of railroad employees from taking up the pipe line. It was arranged that men on each side should be arrested in order to make a peaceable legal fight, but while these proceedings were going on a couple of locomotives

were brought up by the railroad, and hot coals, hot water, stones, etc., were thrown at the men below. The railway employees were finally driven away; the pipe line employees secured arms and held possession of the field for 7 months. The lower courts decided in favor of the pipe line, but after 4 years of litigation the supreme court of New Jersey has decided that the pipe line must be removed. The line does absolutely no harm. The line will ultimately have to build to Philadelphia.

The pipe line company now transports oil from this point 50 miles over the New Jersey Central to the coast. The amount paid for freight is not, as stated by Mr. Archbold, \$6 or \$7 per car, but about \$10 per car, a high rate for that distance. The actual rate is 7.8 cents per barrel on refined and 8½ cents on crude. (650-655.)

Mr. EMERY believes that New Jersey and other States should pass laws allowing pipe lines to be laid wherever desired, by taking land by eminent domain and paying the damages, just as is the practice in laying railways. He has attempted to secure the passage of such an act in New Jersey, but implies that corrupt influences prevented it. (662.)

Mr. PHILLIPS testifies that it was the belief of the independent interests that the opposition to the laying of the United States Pipe Line through New Jersey was instigated by the Standard Oil Company. Mr. William Rockefeller is a director, he has been informed, of the Delaware, Lackawanna and Western Railroad. (593.)

2. *Denial.*—Mr. ARCHBOLD testifies that the opposition of railways, especially the Delaware and Lackawanna, to the crossing of their tracks by the United States Pipe Line Company was not caused by influence of the Standard Oil Company in any way whatever. In this particular case the pipe-line company had carried its line across the railway surreptitiously, on a Sunday, and had then placed an armed force to protect it. The supreme court of New Jersey finally decided that the pipe-line company must remove its line.

The freight rates now received by the United States Pipe Line Company from the terminus of its line to the seaboard, over the Central Railroad of New Jersey, are lower than the Standard Oil Company has ever received for an equal distance.

The crude oil is carried 52½ miles at the rate of \$7.93 per tank car containing 20 tons, and the railroad returns the empty cars free. This contract is for 100 years, and may be abrogated by the pipe line company upon 5 years' notice, the railway having no right to cancel it. Mr. Archbold regards this as a case of discrimination. (513, 520.)

Mr. BOYLE is inclined to believe that the methods used by the Standard Oil Company in opposing the laying of pipe lines by the independent oil men are entirely justifiable. It is just as fair to purchase land in front of a pipe line to prevent its passage as to purchase land desired by a competitor for any other purpose, by offering a higher price than the competitor can afford to pay. The duplication of pipe lines generally is wasteful and inexpedient. (445.)

Mr. BOYLE also cites an instance where the Standard Oil Company itself encountered opposition to the laying of its pipe lines by other refiners. In 1874 the National Transit Company undertook to lay a pipe line from Parkersburg to Macksburg and were stopped at several points by the leasing of land by Mr. Ogle at the instance of Mr. George Rice. Contracts were made with farmers to secure the exclusive right to cross their lands at exorbitant prices. Mr. Rice actually built a pipe line, but not in accordance with these contracts, his sole purpose being to prevent the laying of the Standard's line. (486.)

E. National Transit Company.—1. *Charter.*—The present charter of the National Transit Company is identical in its terms with the charter held by the South Improvement Company. Mr. EMERY submitted the full text of both charters and described the manner in which the National Transit Company secured its charter, proving his statement by official records. On March 22, 1871, a charter was granted to the Overland Contract Company, the incorporators being the same persons who received the charter of the South Improvement Company on May 6, 1871. Both companies were given the powers contained in the charter of the Pennsylvania Company, passed April 7, 1870. The name of the Overland Contract Company was changed, on May 16, 1871, to the Southern Railway Security Company. This company failed to pay taxes on its capital stock to the State of Pennsylvania and in 1873, the amount then due the State being \$18,345, its charter was seized by the State and was held until 1881. At that time it was sold by the State for \$16,251 to individuals who later transferred it to the National Transit Company.

The witness dwelt especially upon the fact that the existing National Transit Company has the same excessively wide powers as were given to the South Improvement Company, and implies that it is abusing these powers in essentially the same manner as that company did. (608, 609, 619-622.)

2. *Efficiency of pipe lines.*—Mr. BOYLE submitted an extract from the Pittsburgh Commercial Gazette of May 5, 1892, showing the manner in which the National Transit Company had met the immense demand for new facilities for storing and transporting oil during the rapid development of the McDonald field in 1891. In July of that year the output of the McDonald field was only about 3,000 barrels daily. By the middle of August it had reached 15,000 barrels, but by the 1st of September the National Transit Company was able to handle 36,000 barrels per day. By the 1st of October it could handle 40,000 barrels per day, and when in November the production of oil reached nearly 80,000 barrels per day the capacity of the pipe lines had been raised above that figure. Iron tankage of the capacity of 3,000,000 barrels was erected during these few months and 53 miles of pipe of different sizes were laid within a territory of 12 square miles. Many powerful pumps were installed to force the oil through the pipes. In round numbers 10,000 tons of iron and other building materials were shipped into the McDonald field for erecting tankage alone.

The witness refers to this experience as showing the necessity of large consolidated capital to meet the exigencies of the oil business. It would not have been possible, even if numerous large pipe lines had existed, growing up under a free pipe-line law, for them to cope with such a sudden demand unless by constant and thorough cooperation. The new independent pipe lines have not shown themselves at all competent to meet the needs of the producers. (471-475.)

3. *Amount of business, etc.*—Mr. ROGERS states that the amount of residuum in the bottom of the tanks of the National Transit Company is published monthly. The company owns about 35,000 miles of pipe, ranging from 2 to 8 inches in diameter. The estimated amount of oil in pipes of 5 inches in diameter and over on October 1, 1899, is 535,528 barrels. The witness submitted the following statement of the credit balances outstanding against the National Transit Company from 1889 to 1899. (583, 584.)

Credit balances in National Transit Company.

[In barrels of crude oil of 42 gallons each.]

Time.	Barrels.	Time.	Barrels.
June 30, 1889	3,217,749.16	December 31, 1891	1,044,255.13
December 31, 1889	3,160,156.81	June 30, 1895	783,502.96
June 30, 1890	3,794,873.84	December 31, 1895	1,809,825.78
December 31, 1890	2,758,654.30	June 30, 1896	3,275,075.49
June 30, 1891	5,406,170.38	December 31, 1896	4,215,060.28
December 31, 1891	3,201,351.34	June 30, 1897	5,113,417.10
June 30, 1892	5,987,319.53	December 31, 1897	4,523,054.39
December 31, 1892	5,532,079.21	June 30, 1898	4,450,703.02
June 30, 1893	4,340,713.15	December 31, 1898	3,422,987.28
December 31, 1893	2,705,563.20	June 30, 1899	4,010,451.22
June 30, 1894	2,453,417.82	September 30, 1899	5,349,302.54

According to Mr. DAVIS, the pipe-line companies (in the Ohio field) have their own experts for gauging tanks, although the producer may have a representative present when the tanks are gauged. The pipe-line company deducts 2½ per cent of the amount of oil received from the producer on account of the waste and evaporation. There is considerable sediment and surplus in the tanks belonging to the Standard Oil Company, but it is supposed that this is partly sold to refiners and partly charged up against producers. When losses by fire occur the producers in the locality are assessed by a reduction of their credit balances, although the witness believes there is no contract authorizing this. (354.)

F. *Effect of pipe-line monopoly.*—1. *Control of competition.*—It was pointed out by several witnesses that the almost complete control of the pipe-line system by the Standard Oil Company gives it great power in fixing the prices of crude oil, since producers can dispose of their product only through the pipe lines, especially in view of the further fact, which is alleged, that railway rates on crude oil are by agreement kept at least as high as, if not higher than, the pipe-line charges. The pipe-line system also gives the combination great advantage over other refiners, who must pay the rates of pipage fixed by the Standard, which are claimed to be excessively high, or the high rates of freight. The evidence in detail as to the arrangements between the railways and the pipe lines is given under the heading "Railway discrimination" (pp. 152-155). The evidence as to pipe-line charges follows. (See also MONNETT, 310, 311, 322.)

2. *Purchase of crude oil by pipe lines.*—The practice of the pipe-line companies controlled by the Standard Oil Company is to receive all oil produced by the wells

with which their pipes are connected, gauging the amount and recording the quantity received from each producer. The producer can then at any time, by the custom of the business, although not by contract, receive from the company the value of his oil in store at the price for that day. He can instead receive "pipe-line certificates" for 1,000 barrels each, which are negotiable in open market. The independent pipe lines apparently follow the same practice and often pay from 1 to 9 cents per barrel more than the Standard Oil Company. (LEE, 285, 286; see also under heading "Crude oil.")

3. *Pipe-line charges.*—Mr. LEE, Mr. PHILLIPS, Mr. EMERY, Mr. DAVIS, and Mr. RICE maintain that the pipe-line charges of the Standard Oil Company are excessive. The rate for local pipage is 20 cents per barrel, and for the transportation of oil to the seaboard 45 cents per barrel. These rates have not been reduced for fully 20 years. The rate charged by the independent pipe-line organizations for local pipage is 15 cents per barrel. (Davis, 381; Emery, 666.)

Mr. PHILLIPS testifies that he has been informed that the cost of transporting oil through the United States Pipe Line, when carrying about half of its capacity, is about 5 cents per barrel as far as the terminal in New Jersey. The cost of gathering oil in the producing field is estimated at from 3 to 5 cents per barrel. (594; confirmed by Emery, 666.)

Mr. LEE points out that the cost of 2-inch pipe has fallen from 35 to 6 cents per foot. He believes the cost of local pipage is from 7 to 8 cents a barrel. (280, 284.)

Mr. RICE believes that the cost of local pipage does not exceed 5 cents and that the cost of pipage to the seaboard is about the same. In proof of this Mr. Rice refers to a paragraph in a contract between the National Transit Company and the Tidewater Pipe Company, referring simply to their local lines. In this contract a division of traffic is arranged for, and it is provided that if either party shall gather by its local lines more than its percentage it shall pay to the other three-fourths of the local charge, i. e., 15 cents on each barrel of such surplus. In accordance with the customary method of pooling, there is a certain implication, although not conclusive, that the actual cost of piping is 5 cents, the profits from the surplus charge above actual cost being paid over to equalize the traffic. (734.)

Mr. ROGERS, president of the National Transit Company, believes that the pipe-line charges of the company, 20 cents per barrel, are reasonable, although they have not been lowered for twenty years. The company undertakes to lay pipe lines without extra charge to new wells, even though 15 or 25 miles distant, if there is a reasonable prospect of considerable production. Such laying of pipes involves considerable risk, since the production may prove slight or may decline. Although the company takes up the pipe lines which are no longer needed and uses the material elsewhere, this involves very considerable expense. The witness does not believe that the independent pipe lines, which make a lower pipage charge, are prepared to furnish facilities wherever demanded; their systems are confined to narrow fields.

The practice of charging the same price to all producers is, on the whole, fair, in view of the constant change of conditions regarding each well.

The witness does not know the actual cost of gathering oil or the profits of the National Transit Company. The charge for carrying oil to the seaboard is 45 cents per barrel, and the witness does not think that anybody knows what the actual cost is.

The cost of pipage in any case does not affect the producers, but comes from the purchasers of oil. The receipts given by the pipe lines apply to oil received at the wells, and are immediately merchantable. (581, 588, 589.)

On being questioned as to the reason why no further reduction in pipage charge had been made, Mr. ARCHBOLD testified that the cost of laying pipes had been sometimes more and sometimes less than before, and that the long distances for which pipes have frequently been laid to reach new fields have involved heavy outlay. (553.)

G. *Rebates and discriminations by pipe lines.*—Mr. BOYLE submitted a series of letters between Mr. R. P. Crawford and Mr. H. McSweeney, and also a letter from Mr. S. C. T. Dodd, solicitor of the Standard Oil Company, all these letters bearing dates during 1884, referring to the matter of rebates granted by the pipe lines during the seventies. In his letter Mr. Dodd states that about 1879 Mr. Crawford and others brought suit against the United Pipe Lines, a Standard organization, asking for forfeiture of its charter on the ground that it had made discriminations in pipage charges between different individuals. Criminal suits on the same ground were brought at the same time. Mr. Dodd found that, so far as any discrimination had existed, it was due to contracts for special rates which had been inherited from

pipe lines absorbed into the United Pipe Line Company, among which was one between Mr. Crawford, for the Bear Creek Oil Company, and the Mutual Pipe Line Company. Such discriminations were believed by Mr. Dodd to be against public policy and he ordered them discontinued. The letters from Mr. Crawford to Mr. McSweeney demand the payment of 5 cents per barrel upon all oil received from certain wells between 1879 and 1884 on the ground of this previous contract with the Mutual Pipe Line Company for a 15-cent rate of pipage. The demand was finally refused by Mr. McSweeney in view of the information furnished by Mr. Dodd in his letter. (476-479.)

H. Immediate shipment.—Mr. BOYLE states that there has been considerable confusion in the public mind in regard to the meaning of the phrase "immediate shipment" in connection with oil. This practice was first resorted to in 1872, but was most prominent during the excessive production in the Bradford field. At this time it was impossible for the pipe line companies to furnish tankage with sufficient rapidity, and it became the custom to take oil for immediate shipment, so that purchasers might come into the market owning tankage and having cars to ship oil and purchase oil at a lower price than prevailed on the regular markets. (482.)

III. INDEPENDENT PIPE LINES AND OTHER ORGANIZATIONS.

A. History of organizations.—Much testimony was given concerning the various organizations recently formed by the independent oil producers and refiners, their relations to one another and to the Standard Oil Company.

According to Mr. BOYLE, these movements grew out of the earlier Producers' Protective Association, which during 1887 and 1888 had formed an agreement among producers and between them and the Standard Oil Company for restricting production. He states that this organization first attempted to build an independent refinery, but impractical men were put in charge and it failed.

The first pipe line company to be organized was the Producers' Oil Company, Limited, which built a pipe line from the refineries in Titusville and Oil City to the new McDonald oil field. The next company to be formed was the Producers and Refiners' Oil Company, which brought in the independent refiners to assist in the movement. According to Mr. Boyle this new company, capitalized at \$250,000, practically took over the property of the Producers' Oil Company, capitalized at \$600,000. It appears from other witnesses also that these two companies are substantially identical, although maintaining separate organizations.

The United States Pipe Line Company was the next to be organized, the purpose being the transportation of both refined and crude oil to the seaboard. The last company formed was the Pure Oil Company, organized in June, 1895. Mr. Boyle declares that previous to the formation of this company an attempt had been made to combine the other independent organizations, which was checked by suit of some of their stockholders. One of the chief purposes of the new company was to secure control of the other two companies. It was organized as a New Jersey corporation in 1897, with an authorized capital of \$1,000,000, of which about \$377,000 has been paid in. (462,464.)

The testimony of Mr. Boyle concerning the organization of the Pure Oil Company and its purpose of securing control of the stock of the other independent companies is confirmed in most particulars by Mr. LEE, and especially by Mr. PHILLIPS, who said that the four independent organizations are practically controlled by the same individuals. The persons who took stock in the first company were also stockholders in the others. The purpose of the organization of the Pure Oil Company is largely to prevent the Standard Oil Company from securing control of any of the other independent organizations, as it has repeatedly attempted to do. It is expected that ultimately a majority of the stock of each of the other companies will be held by the Pure Oil Company. It has been proposed to increase the capital of the company to \$10,000,000. The Pure Oil Company is also engaged in marketing refined oil, and has been specially successful in Germany. (Lee, 261; Phillips, 596.)

B. Character of independent organizations—Voting trust.—There was considerable controversy between the witnesses defending the Standard Oil Company and those opposing it as to the precise character of the Pure Oil Company. Mr. Boyle and Mr. Archbold declared that it was a trust of the closest possible kind, basing this statement both upon the fact that it was seeking to combine other corporations, and especially upon the fact that its stock has been put in control of a voting trust.

1. Text of agreement of Pure Oil Company.—Mr. BOYLE and Mr. ARCHBOLD each cited in full the former voting-trust agreement of the Pure Oil Company. Mr.

LEE later furnished the commission with a copy of the present voting trust agreement, which contains some important changes from the earlier one. (464-466, 508-513.)

This agreement states that the purpose of its formation is to prevent at all times a diversion of the resources and business of the Pure Oil Company from their intended use and courses, in opposition to monopoly in the business, and to permanently protect and maintain what are known as the independent interests in the petroleum industry. The holders of 16,000 shares, being more than a majority, vest the voting power of such shares in 15 persons for 20 years, and it is agreed that one-half of all shares hereafter subscribed shall similarly be transferred to the trustees. The ownership of the shares may be transferred, but this shall not give to purchasers any right other than provided in the trust agreement. The trustees are to vote for the election of all directors to the full number of shares so held, as a unit. In case of difference of opinion among the trustees a four-fifths vote of the shares held in trust shall decide the matter. One-third of the trustees retire annually and their successors are elected by the general stockholders. Any trustee may be summarily removed by three-fifths of the trustees together with three-fifths of the shareholders in trust. By similar vote, but in no other way, the trust agreement may be modified.

2. *Rules of Pure Oil Company.*—Mr. BOYLE also submitted the by-laws and regulations of the Pure Oil Company. The following quotations will give a clearer idea of the precise nature of this organization. They show clearly the purpose of the Pure Oil Company to acquire control of other corporations, and to prevent the stocks of such corporations from falling under the control of outside interests.

"1. The business of the company shall be the producing, purchasing, transporting, storing, and selling of crude petroleum and its products, and aiding other companies and parties in the production, transportation, storage, manufacturing, and sale of the same. The corporation may acquire, hold, manage, and dispose of any stocks, shares, bonds, and other interests in or issued by any corporation, joint stock company, or limited partnership association engaged in, or aiding, or promoting the producing, transporting, storing, refining, and selling of crude petroleum or its products, or in any business incident thereto."

"5. Interests of the company will be represented by shares which may be divided into classes, including preferred, common, and deferred shares, to be issued, held, and transferred, subject to the by-laws and regulations of the company."

"6. A majority of all the shares of the company shall be held in a permanent trust approved by all the shareholders, to secure the control of the company and the faithful maintenance of the policy agreed on for conducting the business of the company in the interest and for the protection of all concerned in its affairs. The shares so held shall be designated as trust shares."

"8. No preferred stock shall be issued except as cash to the extent of one hundred dollars for each share of such stock issued shall be paid into the treasury of the company to the credit of capital, or of surplus, or of the guaranty and redemption fund, to be created as prescribed in section 12 hereof, as may be deemed advisable."

"9. The deferred shares of the company may be issued for cash, investment securities, property, services, payment of expenses, making disbursements of any kind, and in exchange for shares of other classes issued by the company at the discretion of the directors, with the written consent of the owners of a majority of the shares of the company at the time outstanding.

"10. The holders of preferred stock shall be entitled to receive cumulative dividends thereon of one dollar and a half per share quarterly, in full, before any dividend shall be payable on the common stock."

"12. The guaranty and redemption fund shall be applicable to the general uses of the company, but may be applied to buying shares of all classes, in the order of their priority or right to dividend, as stipulated, at the lowest rates at which any shares of the same class can be bought, not over one hundred and ten dollars per share, on demand of the several owners and holders of shares, respectively, made within a prescribed time after the payment of dividends."

"13. * * * The shares of any class so purchased may, when authorized by the owners of a majority of all the shares of the company, be resold at any time, at the discretion of the directors, at any price not less than that at which they were severally purchased; or they may be retired from the classes to which they belong, and be placed in the treasury of the company, to be held, reissued, and sold for its use and benefit, subject to such conditions as the directors may prescribe, in accordance with the regulations of the company."

"15. The owners of a majority of the trust shares, acting together, shall have the right to convey to the company, absolutely or in trust, permanently or temporarily, and subject to such conditions as may be stipulated in such transfer, any securities regularly yielding net income, provided that the receiving and holding of such securities shall not subject the company to any prejudice, or embarrassment, or legal liability to pay any money on account thereof; and no such temporary transfer in trust shall be terminable until the well-established net income of the company from its regular business and other sources of permanent revenue shall be equal to the maximum amount to which it may be raised by such temporary transfer in trust." (466-470.)

3. "*Trust*" character of *Pure Oil Company*.—On the basis of this voting trust agreement Mr. BOYLE and Mr. ARCHBOLD declare that the organization of the Standard Oil Company was fully as justifiable in its nature as that of the Pure Oil Company, and that the latter is as much a trust as the former ever was. Mr. Boyle especially emphasizes the clause seeking to make the voting trust, as he states, perpetual, by providing that it may be dissolved only by the winding up of the Pure Oil Company, or by the consent of the equitable owners of four-fifths of the shares held in trust, together with four-fifths of all other shares of the company, after providing for the redemption of all preferred and common shares of the company then outstanding at \$110 per share. It is to be noticed, however, that this clause is modified by the new voting-trust agreement, which provides that the trust may be canceled by a vote of three-fifths of both classes of shareholders, on the redemption of the preferred shares only, at \$110 per share. Moreover the charter of the company itself expires in 46 years. (Boyle, 443-463; Archbold, 507.)

4. *Denial of "trust" character*.—Mr. PHILLIPS and Mr. EMERY are exceedingly emphatic in denying that the Pure Oil Company is a trust in any such sense as the Standard Oil Company is. The sole duty of the trustees, as holders of a majority of the shares, is to vote along with other stockholders in electing directors. The directors manage the affairs of the company. The large number of the trustees, 15, is due to a desire to make the body representative of the interests of the oil country.

The formation of the voting trust was rendered absolutely necessary by the attempt of the Standard Oil Company, through the National Transit Company, to secure control of the Producers' Oil Company and the United States Pipe Line Company, through the purchase of shares—a transaction which Mr. Phillips describes fully.

The Pure Oil Company was not organized for the purpose of securing a monopoly, as the Standard Oil Company was, but to prevent a monopoly and to preserve competition in the petroleum industry. It is not the purpose of the Pure Oil Company to get control of any other person's business or to absorb its competitors, but merely to put the business of its own constituents in such a form as to prevent its destruction. The company and its members desire only a fair portion of the oil business, not the whole of it. If it were possible for this company to obtain a monopoly of the entire market, Mr. Phillips would not desire to be connected with it; the responsibility would be too great. Although the Standard Oil Company does not control the entire industry, yet its control over 80 per cent of it is sufficient to constitute a monopoly and to enable it to fix prices. The Pure Oil Company, on the other hand, has none of the characteristics of a trust in the sense of an industrial combination or monopoly, as defined in statutes, dictionaries, and common thought. (Phillips, 589-591, 595-598, 600; Emery, 657, 658.)

Mr. EMERY added also that the independents feared that when the voting trust of the United States Pipe Line expires, as it will in a short time, the Standard Oil Company will secure control of still more of its stock and attempt to control it. This is one of the motives for the organization of the Pure Oil Company, and the attempt to secure control through it of the stock of the other independent corporations. It has not yet, however, been decided finally that the Pure Oil Company shall consolidate the others, but it is being seriously discussed. (657, 659.)

5. *Voting trust of United States Pipe Line Company*.—Mr. ARCHBOLD also cited in full the voting-trust agreement of the United States Pipe Line Company. This agreement states that the voting trust is created in view of the fact that the company is organized by persons each interested pecuniarily in the oil business, and for the purpose of securing and furnishing to each an independent outlet for his products, both crude and refined, not controlled or influenced by others hostile to their respective business interests. In order to keep the control of the stocks of the

company in hands friendly to the independent interests, the signers of the agreement vest their respective interests in the stocks of the company in A. D. Wood as trustee for the period of 5 years from April 1, 1893, unless sooner terminated by a vote of three-fourths of the stocks so held in trust. No sales of stocks so held in trust shall be made by the equitable owner thereof during the continuance of the trust. The trustee has the full power to elect officers, but is bound to vote for persons interested in the business of refining, producing, and exporting oil, and to fulfill the general purpose of the contract. (507 508.)

Mr. EMERY replies to this that the voting-trust arrangement of this company also was rendered necessary by the attempts of the Standard Oil Company to control it. (656.)

C. Attempts of Standard to control independent pipe lines.—Mr. LEE, Mr. PHILLIPS, Mr. EMERY, and others testify that the Standard Oil Company has made attempts to secure control of all of the independent pipe lines and organizations and of the Pure Oil Company by purchasing their stock. Through the National Transit Company it secured a large proportion of the shares of the Producers' Oil Company, Limited, and placed them in the name of John J. Carter. He brought suit to secure a right to a voice in the organization, but since it was a limited partnership, the courts upheld the rights of the company to deny him admission. The Standard Oil Company purchased, through the National Transit Company, \$388,000 of the capital stock of the United States Pipe Line Company, and has successfully brought suit to secure the right to vote this stock. (Lee, 270.)

Mr. DAVIS, who speaks from information rather than from personal knowledge, gives essentially the same facts.

He adds that the Standard Oil Company has bought up a considerable number of oil wells along the independent pipe line of the Producers and Refiners' Oil Company, forcing it to lay longer pipe lines to other wells. The Standard paid high prices for these wells. (380, 382.)

Mr. ARCHBOLD admits these purchases of stock in the Producers' Oil Company and in the United States Pipe Line. They were made as an investment, "and with a view to having such knowledge as we could have rightfully through such ownership—as we should acquire in the progress of the affair." The proportion held by the Standard Oil Company was actually less than one-half in each case. The company was so opposed in the exercise of its ownership in the Producers' Oil Company that it sold out to Mr. Carter. This sale was in good faith and the Standard had no control over the stock after the transfer. At one time Mr. Carter did own more than a majority of the stock, but under the Pennsylvania law, which the witness considers "a very queer one," the courts held that he could have no voice in the company, which was a limited partnership, without its consent.

The courts have upheld the ownership of the Standard Oil Company in the United States Pipe Line, and it is recognized on the board of directors. It has never done anything to injure the business of that company, and "if that iniquitous voting trust is ever dissolved the shareholders will awake to a feeling that somebody else than those who have managed it could do something for it." (577, 578.)

Mr. ROGERS confirms the testimony of Mr. Archbold generally on this subject, although he is uncertain as to the proportion of the stock of the Producers' Oil Company held by the Standard and by Mr. Carter. He does not know whether Mr. Carter was furnished the money to buy this stock by a trust company in New York to which he was introduced by the Standard Oil Company, although it is possible. (584, 585.)

Mr. PHILLIPS's description of the purchases of stock in the independent pipe lines by the National Transit Company differs from that of Mr. Archbold in certain details. As high as \$20 was paid for stock in the Producers' Oil Company, although it was then earning no profits. In March, 1894, before the time when the Standard claims to have sold its stock to Mr. Carter, it turned over the stock to him temporarily, and he attempted to vote it at an important meeting. On January 16, 1896, he claimed that he bought this stock from the National Transit Company. On the trial of the suit by which he attempted to secure admission to the company it was proved that he had borrowed the \$300,000 for the purpose from a trust company in New York; and when questioned Mr. Archbold and other agents of the Standard Oil Company declined to answer regarding the ownership of that money. (590.)

Mr. PHILLIPS testifies that the amount of the stock of the United States Pipe Line Company secured by the National Transit Company was \$383,000 out of a total

of \$1,190,000. When suit was brought to secure the right of attending the meetings of the company and of voting the stock, which had been refused by unanimous vote of the other stockholders, the lower court decided in favor of the National Transit Company. The suit was never tried on its merits in the supreme court of Pennsylvania, but the appeal was quashed on a technicality. The Standard Oil Company takes advantage of its one director upon the board of the United States Pipe Line Company to secure information and to injure that company. This testimony is confirmed by Mr. Emery (p. 656).

Regarding a letter submitted to the commission declaring that, through its ownership of stock in the independent companies, the Standard Oil Company had brought them into virtual harmony with itself, Mr. Phillips denied the charge entirely. (590, 595, 596.)

D. Propositions for combination with Standard.—1. *Facts as to such propositions.*—In connection with the attempts of the Standard Oil Company to get control of the present independent interests, Mr. ARCHBOLD testifies that approaches with a view to combination with the Standard have been made from the side of the independents. Nearly every prominent independent, including Mr. Lee, Mr. Phillips, Mr. King, and others, has made some proposition or advance looking toward a combination of interests, but the Standard Oil Company has declined, believing such combination to be illegal, and lacking faith in the men proposing it. Mr. Archbold denies specifically that the Standard ever sent an agent to propose a combination. On being questioned as to whether such advances on the part of the independents were not forced upon them by the fact that the Standard had secured control of a large part of the stock of their pipe-line companies, as well as by the crippling of their business in Germany, Mr. Archbold states that he believes that these matters had nothing to do with the proposition. He says that the proposition was simply for a division of business, so that each interest should have a share of the market; not for sale to the Standard Oil Company. (530, 531, 548.)

Mr. PHILLIPS replies to these statements of Mr. Archbold that it is true that 3 or 4 years ago he himself and certain others did call upon the officers of the Standard Oil Company. This was after the Standard had bought up a number of the independent refineries connected with the independent pipe lines, and also large amounts of the stock of the independent pipe lines. The Standard also was making every possible effort to prevent the independents from marketing oil in Germany, and had bought out Mr. Poth, who had been acting for the independents there. The independents sought simply to obtain cessation of hostilities. In lieu thereof the Standard Oil Company proposed to buy the pipe-line system, and when this was refused one of its officers, proposed to buy the producing territory of these independents, which was also refused. There have been no recent overtures by the independents to the Standard Oil Company.

Mr. Phillips states further that the Standard Oil Company has frequently sought to secure the moral support of independent refiners and producers, or to withdraw them from opposition, by buying their property and otherwise. The Standard Oil Company once bought from Mr. Phillips a large amount of oil lands and attempted to influence him at the same time to consent to cease all opposition to that company. Certain of the refiners who have been bought out have been given positions in connection with the Standard Oil Company. (593, 594.)

Mr. EMERY also testifies that there has been no proposition on the part of the independent pipe lines to combine with the Standard Oil Company. At the time when he was president of the United States Pipe Line Company a resolution was passed for the appointment of a committee to confer with the Standard Oil Company to ascertain if some arrangement could not be made by which it would permit that pipe line to be laid under the railroads. The resolution did not give any authority to discuss the sale of any portion of the property, and the witness is sure that the committee made no such propositions. (659.)

As to opposition to crossing of railways, etc., see above, pp. 103, 104.

2. *Reasons for refusing to combine with Standard.*—Mr. LEE testifies that a Pennsylvania law formerly prohibited the consolidation of competing pipe lines, but the Standard Oil Company secured its repeal in 1895. The independent local and seaboard pipe line could sell out at a high valuation to the Standard Oil Company, but they are largely owned by the producers of crude petroleum, who believe that the price of their product is increased by the competition of these pipe lines and of the independent refiners who secure their oil from them. The owners of from 40 to 50 per cent, probably, of the crude production are shareholders in these pipe lines. (298.)

Mr. PHILLIPS declares that the producers of crude oil who are interested in the independent pipe lines feel that they can not afford to allow the stock to pass into the hands of the Standard Oil Company at any price. He is unable to state the value of their stocks, but since the Pure Oil Company has succeeded in getting a fair market in Germany, he considers them very valuable, especially for the reasons already cited.

Mr. Phillips further states that the producers of crude oil are undoubtedly receiving much higher prices, probably 25 cents per barrel, on account of the competition of the independent lines with the Standard in purchasing oil. During the time when the Standard was cutting prices most severely against the independent refiners the independent pipe lines reduced their charges, the producers making the sacrifice for the benefit of the refiners. The independent line has, however, never paid producers less than the Standard was paying, and has frequently taken the initiative in advancing prices from 1 to 5 cents per barrel.

There is no doubt, also, that the independent refiners are much better off because of these pipe lines; in fact, without them none would be in existence to-day. The producers and refiners have united for mutual protection. (590, 598, 599.)

E. Effects of independent movements on producers and refiners.—The reasons just stated by the defenders of the independent pipe-line organizations for their refusal to sell to the Standard Oil Company point out the beneficial effect of these pipe lines upon producers and refiners.

This beneficial effect is denied by Mr. BOYLE. He believes on the whole that these independent lines have been wasteful. They have not paid dividends, save a single dividend of 5 per cent by the United States Pipe Line at a time when it had no fixed charges for indebtedness; so that the capital invested in them has been to that extent a burden on the oil industry. The Producers' Pipe Line has not sufficient capital back of it to enable it to handle large quantities of oil with the rapidity and certainty with which the Standard Oil Company can do so. Thus the first pipe line built by the independent organization into the McDonald field in 1891 reached only a few wells on the outskirts of that field, while the National Transit Company, controlled by the Standard Oil Company, was forced to build new tanks and lay pipes with enormous rapidity to keep pace with the exceedingly rapid development of that field. On the whole, apparently, the producers, so far as they are actually reached by the independent pipe lines, have, in Mr. Boyle's judgment, profited somewhat by the higher prices for oil. The independent pipe lines pay from 1 to 9 cents per barrel more than the Standard Oil agency, so that the real charge for pipage, which is nominally 15 cents per barrel, may fall to 6 cents as compared with the 20 cents charged by the Standard Oil Company. But what is thus gained by the producers is lost by them in the failure to receive dividends from their investments in the pipe lines.

The independent pipe lines have not had the effect of reducing the price of refined oil, nor have they in any way benefited consumers. They have enabled independent refiners to make money much faster than ever before.

Mr. Boyle does not consider that the transportation of refined oil by means of a pipe line is an achievement of any particular significance. (441-445, 474.)

IV. METHODS OF ATTACKING COMPETING REFINERIES AND DEALERS.

A. Special cuts in particular places.—*1. Evidence of opponents of combination.*—Several witnesses make the broad statement that it is the practice of the Standard Oil Company to attack its competitors by making special reductions in prices in the places where they seek to do business, while maintaining prices at higher rates at noncompetitive points, and also by special cuts to individual customers. These witnesses testify that the Standard Oil Company often secures full information as to shipments by its competitors and as to the persons who are their customers, and use this information to drive them out of business. Where a dealer purchases oil from independent refineries, the Standard Oil Company sometimes establishes competing dealers or threatens to do so. (LEE, 277; LOCKWOOD, 401-402; MONNETT, 317.)

Many specific statements on this subject were made by the different witnesses, a summary of which follows:

Mr. MONNETT, attorney-general of Ohio, submitted the following list of prices at competing and noncompeting points in the State of Michigan (317):

Name of town and State.	Condition of trade.	Price of kerosene.	Price of gasoline.
		Cents.	Cents.
Detroit, Mich.	Competition	5.5	7
Adrian, Mich.	No competition	8	
Ann Arbor, Mich.	do	7.75	
Clifford, Mich.	do	8	
Howell, Mich.	do	8	
Grand Rapids, Mich.	Competition	5.5	6.25
Monroe, Mich.	No competition	7.5	8.75
Kalamazoo, Mich.	Competition	5.5	
Bay City, Mich.	No competition	7.75	
Lansing, Mich.	Competition	6	7.25
Coldwater, Mich.	No competition	8.25	
Jackson, Mich.	Competition	6.5	7.75
Saginaw, Mich.	do	8	
Mount Clement, Mich.	No competition	8	8.5
Marlette, Mich.	do	8	
Muskogon, Mich.	do	8	
Battle Creek, Mich.	Competition	6.25	
Benton Harbor, Mich.	No competition	7.25	
Cleveland, Ohio.	Competition	4.75	6
Sidney, Ohio.	No competition	8.75	10
Dayton, Ohio.	Competition	6.5	6.5
Xenia, Ohio.	No competition	8	
Hamilton, Ohio.	do	7.5	
Oberlin, Ohio.	do	7.5	
Troy, Ohio.	do	7	
Youngstown, Ohio.	Competition	6	
Canton, Ohio.	do	6	
Warren, Ohio.	do	5.75	
Galion, Ohio.	No competition	8	
Newark, Ohio.	do	8	

Among the leading competitive points are New York, Philadelphia, Pittsburg, Chicago, Milwaukee, Rock Island, Evansville, Memphis, St. Louis, Des Moines, and Kansas City. Competition is seldom possible, except where there is water transportation competing with the railways. The independents have little opportunity on the Pacific coast on account of the rules of the railways. (LEE, 269.)

Mr. EMERY is emphatic in his testimony on this point. He himself attempted to distribute oil in Philadelphia between 1891 and 1896, but lost more than \$50,000 on account of the cutting of prices by the Standard Oil Company. He was forced to sell oil at 3 cents per gallon when it was being sold in New York at 8 cents. Within 4 weeks before the time he testified he had sent oil to a certain point and the Standard Oil Company had reduced the price 1 cent per gallon at that point immediately.

The Standard Oil Company employs persons to watch the business of its competitors, and often sends in advance, when it learns that a shipment of oil has been made to a particular market, and cuts the price before the oil arrives there. The witness makes this statement from his personal experience. It is confirmed broadly by Mr. Lee. (277.)

In certain cases the first cuts in prices are made by the competitors of the Standard Oil Company. This is sometimes necessary where a customer declares that he is in the habit of buying from the Standard or prefers to do so. Ordinarily the aim of the witness and of other independent refiners is to maintain prices, merely securing a fair proportion of the business, and the beginning of cutting usually comes from the other side. (629-632.)

2. *Competition at New York City.*—Mr. LEE testifies that in New York, Brooklyn, and Jersey City, in March, 1896, the price to local dealers was 9 to 9½ cents per gallon, while the witness maintains that 7 cents would have paid a handsome profit. When the Pure Oil Company began marketing oil in opposition, the Standard Company cut the price to 5½ cents per gallon, where it has remained practically unchanged. The decline in the price of crude oil at the same time was scarcely more than 10 per cent. A similar experience was met with in Philadelphia, where prices are now even lower than in New York. The purpose of these excessive cuts was to destroy the competitors. The number of competitive points, however, is increasing as the independent interest is growing in strength. These points are usually at a great disadvantage in rates of transportation. (265-266.)

Mr. WESTGATE corroborates the testimony of Mr. Lee as to the cutting of prices below cost in New York City and Philadelphia after the Pure Oil Company began business there. Prices were reduced from March 20 to April 4, 1896, from 9½ to 7 cents. Oil is still sold at a loss there. (365.)

Referring to the above testimony of Mr. Lee, Mr. ARCHBOLD testifies that the average price of refined oil to retail dealers during March, 1896, was 7.98 cents, instead of from 9 to 9½ cents per gallon. In the same month the average price of crude oil per barrel at the wells was \$1.42. In April the Standard Oil Company's price for refined oil in New York was 7.31 cents, the price of crude being \$1.22. In May, refined 6.94 cents, crude \$1.14; in June, refined 6.72 cents, crude \$1.15; in July, refined 6.23 cents, crude \$1.09. No oil was sold at 5½ cents per gallon, as stated. It would be entirely impossible to make considerable variations in price between different customers. Such variations would very soon be made known, and the practice would be dishonest. (The figures above shown appear to indicate that the reduction in the price of refined oil during the period referred to was about twice as great as the reduction in crude. A fall from \$1.42 to \$1.09 per barrel amounts to approximately three-fourths cent per gallon, while the fall in the average price of refined oil was 1.65 cents.) (Archbold, 528, 529.)

3. *New York State, etc.*—Mr. WESTGATE has found that the Standard Oil Company will not cut prices where he does only a limited proportion of the business in any particular place. Thus at Syracuse the prevailing price of water-white oil has recently been 7½ cents a gallon, and the witness handles only about one-tenth of the business. But at Auburn, 25 miles south, the price has been about 2 cents less, because the witness has attempted to handle one-third or one-half of the trade. He has found it his best policy to compete on a small scale. He knows of one instance, however, where an independent refiner sent a barrel of oil as a gift to a friend in Maryland, not for selling but for his own use. The Standard Oil Company discovered the shipment, and sent at once a carload of what was considered the best oil the people there had ever received, at the same time making a heavy cut in price.

The witness cited the following as specific instances of special cuts made by the Standard Oil Company to customers of independent refiners. A letter to him from Shortsville, N. Y., March 23, 1899, from a firm dealing in oil, states that an agent of the Standard Oil Company had said to one of their customers that the Standard was going to force them to buy oil from it, and had cut the price of oil to 7 cents (it had formerly been 10). The witness was accordingly compelled to furnish oil to this firm at such a figure that it should not lose money, which took away all his profit. The witness also submitted a letter sent by the agent of the Standard Oil Company at Portland, Oreg., to a dealer in South Bend, Wash., who had informed the agent that oil manufactured by the witness was being sold there. The letter states: "You can rest assured that if another carload of Sunlight oil arrives at your place it will be sold very cheap. We do not propose to allow another carload to come into that territory unless it comes and is put on the market at one-half its actual cost. You can convey this idea to the young man who imported the carload of Sunlight oil." The letter is signed "Standard Oil Company, by George C. Flanders." In Hoboken, N. J., a threat was made against a German dealer that his business would be ruined unless he bought Standard oil, which was offered to him at cut prices. He declared that he would blow up the Standard warehouse with dynamite if his business was ruined, and the Standard agent made an arrangement to furnish him oil, while still allowing him to handle independent oil. At Fulton, N. Y., the Standard established retail peddlers to drive out a man who was peddling Mr. Westgate's oil. To compete the more effectively, they furnished their men with Mr. Westgate's own oil, bought through other parties, and they cut the price from 1 cent to 4 cents a gallon. (366-370.)

Mr. ARCHBOLD replies to these charges by stating that the peddler at Fulton, N. Y., referred to by Mr. Westgate, had been enticed away from the Standard Oil Company, and was cutting prices against that company so that it was forced to put on a competing peddler.

The man at Hoboken referred to by Mr. Westgate was a man of violent temper and an anarchist. He has not been in the oil business for a number of years. The agent of the Standard Oil Company at Jersey City denies having threatened him with a cut of prices, and also having come to any agreement or understanding with him.

As to the letter written by Mr. Flanders to a dealer of South Bend, Wash., it was a foolish action, for which Mr. Flanders had no authority whatever. The letter was in fact intended to be jocular and to deny a claim that he was selling oil of an inferior quality, a charge which is often brought against the Standard Oil Company unjustly. (549-552.)

4. *Southern States.*—Mr. RICE testifies that he has been engaged in refining petroleum since 1876 at Marietta, Ohio. He has repeatedly been driven out of various local markets which he has sought, especially in the South, by special cuts made by the Standard Oil Company in particular towns and to particular customers. He declares that the Standard Oil Company has temporarily cut prices below cost to his particular customers, leaving the prices unchanged to nine-tenths of the dealers in town. "They can clean me out on any one car I may send to any one town."

The Standard Oil Company has also made threats against dealers handling Mr. Rice's oil. At one time the Chess Carley Company wrote to Mr. Rice's agents at Nashville, Wilkinson & Co., threatening to establish a grocery store and cut prices on all goods as well as on oil. The company did afterwards set up a grocery store at Columbus, Miss., in order to force merchants to buy its oil. In 1885 the Chess Carley Company made a contract with R. M. Ong, of New Orleans, a copy of which was submitted by the witness in evidence, with a declaration that it was undoubtedly genuine. By this contract Mr. Ong was to be paid a sum of \$48,000 in monthly payments during 5 years. In exchange therefor he sold to the Chess Carley Company the entire profits of the business on illuminating oils and other petroleum products. He was himself to conduct the business and to make no charge except for drayage actually paid out. Mr. Ong agreed to sell no petroleum not supplied by the Chess Carley Company, and to conduct this branch of the business in the best manner possible to promote the interest of that company, and under its general directions. (704-709, 711.)

Regarding the above testimony of Mr. Rice, Mr. PAGE states that the Chess Carley Company did actually establish one such grocery store at Columbus, Miss., but no other. This was before the Standard Oil Company possessed complete control of the Chess Carley Company, and the witness believes that the Standard itself has never made any such threats or actually established competing stores. (764.)

5. *Competition in Ohio.*—Mr. Clark testified that he had been employed as a warehouseman by the Standard Oil Company in Marietta, Ohio, and later at Springfield as a country tank-wagon man, at Columbus as cashier, at Urbana as manager for the Standard Oil Company at that place, and finally at Newark as manager, the latter station being much more important than Urbana. The witness gave the following account of the reasons for his leaving the employ of the Standard Oil Company:

The Standard Oil Company has in Ohio an inspector, Mr. Lockwood, who goes over three States, inspecting the condition of the various stations, the work of the agents, etc. The form of inspection report is given by the witness. When this inspector visited the witness during his agency at Newark, at one time the witness was in a bad humor and, not knowing the official position of the inspector, he objected to receiving suggestions from him. This led to his being suspended, although he was told that this was not a discharge. Suggestions have since been made by the Standard Oil Company with a view to taking him back, but the witness is unwilling to return. He objects especially to the practice of deducting from the salary of the agent any losses due to errors, whether of himself or of others. (842, 844.)

Mr. MATHEWS, selling agent of the Standard Oil Company for the central and southern parts of Ohio, testifies in detail in refutation of the evidence of Mr. Clark. He states that Mr. Clark's evidence was obviously prompted by spite, owing to the fact that he had been dismissed from the service of the Standard Oil Company on account of a shortage in his accounts and not for the reason stated by Mr. Clark in his testimony. The inspector referred to by Mr. Clark as having visited his station at Newark was the traveling auditor and had nothing to do with the regular inspecting system. Mr. Clark had been negligent in sending in his regular reports and on investigation was found to be short in his accounts. The final amount of shortage was \$281, part of which was made up by Mr. Clark and the remainder by his bondsmen. He would have been indicted by the grand jury for embezzlement save for the fact that the various items taken were small and could not be joined together in the indictment, so that the offense was only petty larceny.

Mr. Mathews testifies further that Mr. Clark never held such responsible positions under the Standard Oil Company at various places as he claimed. He had not had the opportunity to be familiar with details of business concerning which he testified.

Neither Mr. Mathews nor any other employee of the Standard Oil Company has made propositions to Mr. Clark with a view to reengaging him in the company's service. An affidavit by Mr. Foutz to this effect was submitted. (491, 504, 505.)

Mr. CLARK states that in Ohio no two stations have the same price for oil, and

the differences are not due solely to freight rates. At competitive points the prices are considerably lower. Thus in 1898 the price of gasoline at Newark, where there was no competition, was 7½ cents, while at Columbus, under competition, it was 5½ cents. At the same time oil was about 2 cents cheaper at Marietta than at Newark, although there was no difference in the conditions of competition. When competition has been driven out, prices are raised to the old high level or to one still higher. Thus at Newark at one time oil was sold as low as 4 cents, but afterwards was raised to 13 or 14 cents. The Standard Oil Company, where it has to meet competition, usually keeps oil at a somewhat lower price than its competitors. There may be times when its price is higher, but the average is lower. Many dealers are willing to pay more for independent than for Standard oil. (345, 346, 349, 350.)

While Mr. CLARK was employed by the Standard Oil Company at Marietta, the company hired a man named Davis to compete with a tank-wagon driver named Curtis, who had been buying oil of the independent Argan Refining Company. He was furnished a horse and wagon and sold oil so cheap that the competitor had to come to the Standard company to arrange to buy oil from it. The price had been 7 cents during this competition, but was then raised to 12 cents. The competitor again began to buy Argan oil, and was again brought back to the Standard company by the employment of a Mr. Elbright, who "played the farmer racket" in selling against Mr. Curtis. (331.)

Concerning the alleged fraudulent methods of competition at Marietta, Ohio, testified to by Mr. Clark, Mr. MATHEWS states (substantiating his evidence by a certified transcript from the testimony of William Elbright and by an affidavit of W. A. Reed, local agent at Marietta when Clark was employed there) that Mr. Clark was then only an office and warehouse boy, entirely unfamiliar with the conduct of the business, and that his evidence was untrue and malicious in every particular. The man Davis referred to was not employed by the Standard Oil Company at any time. He was an independent oil peddler and bought oil outright at the ruling market prices from the Standard Oil Company, selling it at prices fixed entirely by himself. The man Elbright was in precisely the same position as Mr. Davis. It was not true that he pretended to be a farmer or otherwise deceived concerning his character in business. (491-492.)

While Mr. CLARK was manager for the Standard Oil Company at Urbana, Ohio, a man named Helmick, whose father had been 20 years a dealer in oil, established a competing business, buying oil from the Cleveland Refining Company. The witness, accompanied by two traveling agents of the Standard, visited Mr. Helmick and threatened him with excessive cuts in prices. Some cuts were actually made, from 8 to 6 cents, and through these and the threats the competitor was forced to give up business and finally went to the poorhouse. He had put up a building to handle oil and this was an entire loss. The witness believes that this excessive competition by the Standard was the cause of his failure, not his own incompetence. (337, 338.)

Mr. MATHEWS, replying to this testimony of Mr. Clark, states that Mr. Helmick bought only one carload of oil from independent dealers, and after he had sold about one-half of it became satisfied that he would lose money on account of leakage and poor quality, and the Standard Oil Company took the remainder off his hands. The Standard Oil Company did not drop prices while Mr. Helmick was in business, nor were threats made by the two agents of the Standard Oil Company referred to by Mr. Clark. Both of these agents submitted affidavits denying Mr. Clark's allegations. Mr. Hurley, a notary public, also submitted an affidavit that he had seen Mr. Helmick and that the latter had declared the testimony of Mr. Clark in reference to himself untrue, especially in regard to the cause of his going to the poorhouse. Another affidavit shows that Mr. Helmick continued in the oil business about 2 years after the time referred to by Mr. Clark; that he afterwards went to the poorhouse, but that on August 31, 1899, he was employed in a canning factory at Wapello, Iowa. Mr. Cone, a township trustee of Urbana township, furnished an affidavit that he believed Mr. Helmick's going to the poorhouse was due to the extravagance of his family and other domestic troubles. Mr. Powers, a drayman who had hauled oil to Mr. Helmick's building, stated that it was a mere shed built of refuse lumber and not worth more than \$10. (496-499.)

Mr. CLARK states further that at Columbus, while he was employed by the Standard Oil Company, one Shoemaker was hired at a regular salary and furnished oil at prices so low that he could undersell representatives of the Cleveland Refining Company. Customers supposed that he was an independent dealer. A boy was also hired to watch the tank cars received by competitors and the amount of oil sold. The prices were then cut so that the competing dealers were forced to agree to maintain prices at a fixed point. (334, 335.)

All these statements are denied by Mr. MATHEWS in detail. (496.)

While Mr. CLARK was agent of the Standard Oil Company at Newark, a Mr. Donaldson started business, buying oil from the independent firm of Scofield, Shurmer & Teagle. The witness was told that he should have a 2 weeks' vacation if he would get rid of this competitor. He became friendly with the owner of the shed where Mr. Donaldson stored his oil, promised him work for the Standard Oil Company, and succeeded in buying the shed, in the absence of Mr. Donaldson, for \$2.50. He removed the barrels and tanks and had the shed hauled away. While Mr. Donaldson was competing, a boy had been hired to follow his wagon and discover his customers. Mr. Mathews, the canvassing agent of the Standard Oil Company, would then visit these customers, test the quality of oil in their lamps, and offer oil at reduced prices. The Standard Oil Company also, after buying the shed, hired the driver formerly employed by Mr. Donaldson and had him deliver oil to Mr. Donaldson's customers. Mr. Mathews sent a letter to the witness complimenting him upon his success in the transaction. (340, 341.)

The statement of Mr. Clark as to the manner in which Mr. Donaldson was driven out of business at Columbus is denied by Mr. MATHEWS, supported by the affidavit of Mr. Hollingsworth. Mr. Clark bought the so-called warehouse, which was only a small shed, about 4 feet by 4, entirely on his own responsibility and without direction from any superior officer. He was reprehended afterwards for having done so. The price of \$2.50 paid was all the shed was worth. Donaldson was not driven out of business by this purchase, but rented a barn and continued thereafter. (502, 503.)

6. *Statement of policy by combination.*—Mr. ARCHBOLD testifies that he has no doubt that the Standard Oil Company, when closely pressed with competition at any point, tries to hold its trade by cutting prices, and would not declare that it had never cut prices below the cost of production, although such a case would be a rare one. Such cutting of prices is the natural law of trade. Mr. Archbold believes that ordinarily the competitors of the Standard begin the fight. He does not consider it advisable in most cases to sell goods at a loss for any purpose, but believes that if prices were cut to cost or below it the Standard Oil Company could endure the strain much longer than a smaller competitor. (568, 569, 571.)

Mr. DOBB states, in reply to a schedule of questions, that the prices of refined oil are the same throughout the United States, allowing for cost of transportation, and that they average lower, transportation considered, than in foreign countries. He stated that agents have no authority to make special cuts in special sections of the country, but has no doubt that prices have been cut to meet lower prices made by competitors. (790.)

Mr. PAGE also admits that the Standard tries to keep its trade and makes prices to do so. He presumes that during such competition prices are lower than where there is no competition, to a reasonable degree. But he adds that the Standard's policy is regularly to sell as cheaply as possible in order to increase the volume of business. (792.)

Mr. MATHEWS states that the Standard Oil Company never cuts prices first in any field, but when a competitor reduces prices it does not hesitate to meet the cut in order to hold its business. (506.)

Mr. BOYLE also states that oil refiners generally, like most other manufacturers, find themselves with surplus stocks during certain years and certain seasons, and hold out inducements to purchasers to take off the surplus at reduced prices. This is the only method, unless a combination can be formed sufficiently strong to hold back goods for higher prices. The Standard Oil Company especially aims to extend its markets in foreign countries, and to do so often sells with little or no margin of profit, especially when it has a surplus production. (This is also admitted by Mr. Archbold.) The Standard doubtless cuts prices for a similar reason in this country from time to time, just as other manufacturers do. The witness has heard that it has the further object in making such cuts of driving out competitors from particular localities, but he has never personally seen such a case, his observation being limited to the oil-producing country itself. (432, 433.)

B. *Different prices to different dealers.*—Mr. CLARK testifies that it was customary for the Standard Oil Company, at the stations where he was employed in Ohio, to make different prices to different dealers in order to hold their trade, these prices being often based on reports from local agents as to purchases of competitive oil. The witness states various instances, but especially one at Newark, where one dealer was charged 7 cents for gasoline and his next neighbor 9½ cents. In another case, Showman Brothers were charged 7½ cents for oil, Mr. Rankin 6 cents, while Mr. Hagmeier was given rebates on the nominal prices of 1 cent on gasoline and 2 on oil. (336, 339.)

These charges are denied by Mr. MATHEWS. The various tank-wagon drivers are not allowed to discriminate between one buyer and another, but must charge

all the same price for the same grade of oil. Mr. Clark could not cut the price when he was a tank-wagon driver without paying the difference out of his own pocket. A statement that at Columbus empty barrels were taken back at an exorbitant price in order to hold customers is also false.

It is nevertheless true that at times there may be some differences between different customers, owing to the existence of contracts for furnishing oil at certain prices for a period of time. It was true that at Newark, while Mr. Clark was there, there were such differences in the price of gasoline, owing to the marked advance in the general price, while some dealers remained under previous contracts. The statement specifically made that Mr. Rankin was charged 6 cents for oil and Showman Brothers 7½ cents is entirely untrue. Mr. Rankin, in fact, was charged 14 cents per gallon more than Showman Brothers, because he bought oil in barrels instead of in bulk, but an equivalent amount was refunded when the barrels were returned empty. Mr. Hagmeier was allowed a rebate of one-half cent per gallon on both oil and gasoline under a special contract, but did not receive such rebates as 1 or 2 cents. An affidavit of Mr. Hagmeier to this effect was presented, and also an affidavit stating that Mr. Clark had secured his previous statement acknowledging the receipt of rebates under a pretense that it was necessary to explain a shortage in his accounts.

The witness has never known of discriminations between different buyers under such special contracts which amounted to more than one-half cent per gallon. Such rebates are granted in consideration of an agreement that the dealer shall buy exclusively from the Standard Oil Company. Differences in prices of lubricating oil also exist under special contracts, being largely conditioned on the quantity of oil purchased and on the expense of delivering it. (494, 496, 499, 500, 505.)

C. Watching of competitors' business.—1. *Evidence of opponents of combination.*—Several witnesses testify to a practice of the Standard Oil Company of securing information as to the business of competitors, their shipments, customers, etc. It is believed by some that the employees of competitors are hired to furnish such information.

Thus Mr. WESTGATE testifies that the Standard Oil Company keeps an accurate record of every barrel of oil that the independent refiners ship to each place. The information may not be received from the local freight offices, but perhaps from junction points. The witness knows that this is the case because his customers have told him that traveling men of the Standard Oil Company have informed them that they knew of shipments coming. The traveling men report whether dealers buy Standard or independent oil and the reason. Customers of independents will then sometimes be offered oil under cost. (366, 367.)

Mr. MONNETT testifies that the Standard Oil Company frequently employs agents to follow up rival companies, ascertaining their customers, and then seeking to take them away. They drive competition out from certain places and are then enabled to charge rates sufficiently high to establish a fund for attacking competition elsewhere. (316, 318.)

Mr. MONNETT further states that testimony was given in the Ohio suits to show that clerks of competitors, for example, of Scofield, Shurmer & Teagle, of Cleveland, had been bribed to furnish information as to the amount of oil shipped, names of customers, and other details of the business of these competitors. In this case the person bribed disclosed the fact to his employer. (316.)

Mr. EMERY believes that the Standard Oil Company still receives statements from railway companies as to shipments by others, such as were agreed upon in the contract with the South Improvement Company. He states, as an example of the practice, that about a year ago he shipped two barrels of oil, along with a larger shipment, to a gentleman in Dubois, Pa. These barrels were not placed in the car until after business hours, and no one knew of their shipment. But before the oil reached Dubois the purchaser was met by an employee of the Standard Oil Company who complained of the fact that he was dealing with Mr. Emery. Other cases where information must have been given by railway officers are numerous. (614, 615, 629.)

Mr. GALL, a wholesale dealer in refined petroleum products at Montreal, testifies that the Standard Oil Company frequently sent a man to open tank cars shipped by independent refiners to the Gall-Schneider Company, to see exactly what they contained. The witness was recently able to detect a man in the act, and the explanation that it was due to a mistake is not to be believed. A representative of the Standard Oil Company at an earlier period jokingly told the witness the numbers and contents of several cars of oil which had just been received.

Mr. Gall testifies further that it is common for the Standard Oil Company to

send men to watch the delivery of oil, and then to send their own agents to the purchasers, cutting prices, and otherwise seeking to prevent competitors from securing trade. (684.)

Mr. DAVIS has been engaged in an independent refinery in Marietta, Ohio. At one time his shipping clerk was approached by an agent of the Standard Oil Company, who offered to pay him for reporting the names of persons to whom oil was shipped, the invoice, price, etc. The witness believes that every barrel of oil he shipped from his works was made known to his competitors. Their traveling men would then follow each shipment and often it would be necessary to reduce the price in order to retain the customer. In such cases the consumer probably received no benefit from the lowered prices, but only the dealer. (356, 357; as to Mr. Davis's experience, etc., p. 123, footnote.)

Mr. CLARK testifies that, while agent of the Standard Oil Company, he was required to make reports each week of the business of competitors, the customers supplied by them, the prices, etc. On the basis of these reports, the general manager at Columbus would send instructions as to methods of holding or taking away customers. Sometimes the manager would come himself and make special arrangements as to prices.

The following letter shows the practice of requiring reports as to competition:

MAY 25, 1897.

DEAR SIR: I forward to you to-day a supply of blanks, same as sample herewith inclosed, which is to take the place of the little slip that has formerly been used for reporting daily competitive oil. Will you kindly fill out one of these blanks weekly, commencing with June 1, and whenever the month ends in the middle of the week, make out one on the last day of the month for the portion of the week not covered in the last week you report? Enter upon this report all competitive oil or gasoline that you have been able to locate during the week, and if during the week you have been unable to locate any competitive shipments, then write across the face of the blank 'Nothing to report' and mail it to this office. Be sure to mail it whether you have competitive receipts to report or not. If there is anything about this report that you do not understand, please confer with me at once, as it is very important that it should be made out promptly and forwarded regularly. Trusting that I will have your hearty cooperation,

I am, yours, very truly,

B. A. MATTHEWS.

W. H. CLARK, Newark, Ohio.
(336, 339.)

2. *Reply of Standard Oil witnesses.*—Mr. ARCHBOLD declares that it is not the policy of the Standard Oil Company to obtain information from employees of its competitors, and that if through the action of some overzealous employees this were attempted it would be disapproved. The company does naturally seek information from its own agents as to the business of competitors, but none which they can not rightfully secure. (573, 574.)

Concerning the watching of the business of competing dealers, referred to by Mr. Clark, Mr. MATHEWS testifies that it is the practice of the Standard Oil Company to ask its salesmen and agents to keep their eyes open and inform the company as to those from whom different dealers are buying, and as to the general condition of business. This is required as much for the sake of ascertaining that the agents are attending to business as for any other purpose. The witness does not recall any case where anyone has been employed to follow a competitor's wagons and find out at what prices he sells. In no case has the Standard Oil Company secured reports as to the business of rivals from employees of those rivals. (505, 506.)

D. *Alleged fraud and deception by Standard.*—1. *Different grades from same tank.*—Mr. CLARK states that while he was agent of the Standard Oil Company at various places in Ohio he made it a practice, under direction of the company, to sell nominally different grades of oil at different prices from the same tanks. There are only three different grades actually handled—the Diamond White, Water White, and Ecene. As many as eight different prices are made with from one-fourth to one-half cent difference between them. Thus at Marietta prices ranged from 6 to 10½ cents. If a customer considered a certain price too high he would be offered a lower grade at a lower price, but the oil would be drawn from the same tank. At Springfield a man was hired to run a tank wagon, but resigned when directed to carry out this practice. If a customer demanded oil direct from Cleveland, barrels would be painted red and branded with a stencil sent from Cleveland. At Newark the oil was sold directly to tank-wagon men, and they learned from an

employee of the company the practice of selling different grades from the same tank. Each customer is thus satisfied and given what he wants. (331—333, 338, 341, 342.)

Mr. MATHEWS denies in detail all the allegations of Mr. Clark concerning fraudulent practices in selling nominally different grades of oil at different prices from the same tanks, and submits affidavits of W. A. Reed and C. W. Foley, agents of the Standard Oil Company, at the different places where Mr. Clark was employed, and of W. W. McMahon and C. M. Taland, tank-wagon drivers at Springfield, stating that no such practices have been at any time resorted to either by the Standard Oil Company directly, or, through its suggestions, by the tank-wagon drivers. On the contrary, specific orders were always given prohibiting such deception. The facts are that at Marietta, for example, the company has really three different grades of oil, but sells them under several different names, although at precisely the same price for oil of the same grade. Thus Water White, Red Star Water White, Silver Light, and Crystal are simply trade names for the one grade, water-white oil. They have been established by custom in different localities to meet local demands. At a few points near Marietta, Eocene, a better grade of oil, is furnished customers under the name of Hyperion, on account of the saving in freight in doing so.

Mr. Mathews also submitted affidavits of C. W. Foley and R. A. Foutz, stating that the tank-wagon driver at Springfield, who, as stated by Mr. Clark, resigned because he did not desire to deceive in the quality of oil, really resigned because he did not like tank-wagon work and for no other reason, and had so stated to the affiants.

The quality of oil does not depend on the degree shown by the fire test. The three grades sold by the Standard Oil Company all have the same fire test of 120 degrees by the Foster cup. Oils may be of exactly the same fire test but different in illuminating power, and the latter determines quality. (492-494.)

Mr. WESTGATE incidentally gives testimony which may corroborate Mr. Mathews. He states that in his refinery he manufactures five grades of oil, varying in price from 3.90 cents to 4.50 cents, at present. Special brands are sometimes put upon oil to suit different customers, but this does not imply any deception as to the quality. The witness bills his oil at the names and prices of his own brands, but affixes any name desired. (366.)

2. *Deceptive tests.*—Mr. CLARK also states that the oil sold by the Standard Oil Company in Ohio is mostly refined from Lima oil, and of inferior quality, smelling of sulphur. A German has invented a method of brushing the sulphur out of the oil. The Standard Oil Company controls this patent, but the method is exceedingly expensive. The Standard Oil Company seeks to deceive customers as to the quality of its oil by unfair tests. The witness has been directed orally by his superiors as to methods of making such tests, but has no written evidence. The deception is accomplished largely by turning the wick in the lamp high when Pennsylvania oil is being used and low when Ohio oil is being used. The oil handled by independents is mostly Pennsylvania oil and of higher quality. (345, 346.)

Mr. MATHEWS denies that the Standard Oil Company resorts to unfair tests of lamps to show the superior quality of its oil. Competitors in Ohio had been marketing oil at a reduced price containing some oil made from Ohio crude. Dealers sometimes mixed these inferior oils with oil furnished by the Standard Company, and the latter was forced to visit the customers, especially retail storekeepers, and show by actual tests the superior quality of the Standard's oil. It would have been entirely impossible to deceive by turning the flame higher in one case than in the other, as alleged by Mr. Clark. The various agents and employees of the Standard Oil Company, to whom Mr. Clark specifically refers as having knowledge of the frauds in lamp tests, all submitted affidavits denying that such frauds had been practiced and stating that similar lamps, burners, wicks, and chimneys were used in testing different kinds of oil, and that at the beginning of the test the height of the flame in each lamp was the same. (500, 502.)

3. *Adulteration of lubricating and similar oils.*—Mr. CLARK testifies that at Marietta he mixed gasoline worth 7 cents per gallon with turpentine worth 38 or 40 cents, under direction of his superior, in order to cheapen it. At Columbus, so-called boiled linseed oil was made by heating raw oil to 125 degrees and adding a small quantity of Japan drier. Miner's oil was made by mixing 2 gallons of "miner's stock," which costs about 6 or 6½ cents, with 3 gallons of cotton-seed oil. The product sells at from 22 to 34 cents. Paraffine oil was sent from Cleveland in blank barrels, and these were labeled as different qualities of machine or rubbing oil and sold at different prices without change of quality. The witness is not aware that the same methods have been used by independent refineries. (333, 334.)

Mr. MATHEWS denies in detail these charges, and submits the affidavit of Adam Paulus, mixer at Columbus, to support his evidence. The dryer used in making boiled linseed oil at Columbus was pure linseed-oil drier, which cost 10 cents per gallon more than linseed oil and increased the cost of the prepared oil, and the oil was heated to 225 degrees. The statement that miner's oil is made by compounding cotton-seed oil with 40 per cent of petroleum is false. The Ohio law, which is rigidly enforced, would absolutely prevent more than about 14 per cent of petroleum being used. The price of miner's oil is regulated by the price of cotton-seed oil, running about 2 cents per gallon below. The prices charged for miner's oil are lower than stated by Mr. Clark.

The statement that lubricating oil is received in barrels with blank heads and shipped out to meet the requirements of the trade without regard to the actual contents is untrue and absurd.

The statement that gasoline was mixed with turpentine is also false. Any buyer can detect such adulteration of turpentine instantly by the use of an ordinary hydrometer, which all druggists keep. (492, 495.)

Mr. DAVIS gives evidence tending somewhat to confirm that of Mr. Clark. He states that most refineries have a department in charge of an expert who compounds mineral oils with animal oils and makes various extractions from paraffine. There are wide differences in grade of such compounded oils, and there is much opportunity for experience and skill. It is possible for oils of practically the same quality to be sold at very different prices. The witness believes that the Argon Refining Company sold a quality of lubricating oil at 70 or 80 cents which was practically identical with that sold by his company at 22 or 23 cents. (356, 358.)

4. *Copying of brands, etc.*—Mr. WESTGATE testifies that he is manufacturing a high quality of oil known as Sunlight. The Standard Oil Company has copied this brand for sale in New York State, putting its own name on the barrels. At Fulton, N. Y., the Standard Oil Company established two retail peddlers to compete with one who had been purchasing oil from the witness. They were furnished with oil refined by the witness, and it was offered to customers, under the brand put on it by the witness, at a reduced price. This oil was probably obtained from the Merchants' Refining Company of Buffalo, to which a shipment had been made a little time before by the witness. (366, 369.)

Replying to the above statement of Mr. Westgate, Mr. ARCHBOLD testifies that on careful investigation he finds that, so far from the Standard Oil Company using Mr. Westgate's brands, the opposite is the case. The Standard had long been using yellow barrels in certain territory, and when Mr. Westgate began to do business there he used the same color, with a view to thereby furthering his trade. Mr. Archbold denies absolutely the charge of copying brands. (549, 550.)

Mr. DAVIS also testifies that the refinery in which he was interested at Marietta made special brands of oil for particular customers. It sometimes found that these names were used by other refineries, apparently for the purpose of taking away trade. At one time a shipment of oil to the Cleveland and Marietta Railroad was made, and it was later discovered that several of the barrels contained 5 or 6 gallons of water each. These had the brand of the witness's refinery, but he has the impression that they had been substituted by competitors for the purpose of injuring his trade, or else that the water had been put in by a competitor. (357, 358; see statement of Mr. Archbold as to character of witness, p. 123, footnote.)

E. Competition in foreign markets.—Mr. LEE testifies in some detail as to the conditions of competition in foreign markets, especially Germany, his evidence being confirmed by less detailed statements of Mr. WESTGATE.

Prior to 1895 the Standard Oil Company had cut prices abroad so that export oil was sold in New York below the cost of crude at the refinery. The independents had long been marketing oil in Germany through a man named Poth, but he sold out to the Standard in 1896. The Standard used unfair methods of competition, tying up all the tankage. To enable the independents to compete, the Pure Oil Company was organized, and the refineries agreed to sell it oil at cost, leaving to it the marketing of oil abroad. It erected stations at Hamburg and Rotterdam, is erecting one at Mannheim, and it has rented one at Amsterdam. It has its own tank steamers and tank cars, and is now doing a profitable business, prices in Europe being reasonable. Mr. Lee states, though he does not clearly explain the method, that the German government prevents excessive competition, because it will not allow business to be conducted at a loss. This statement is made on the basis of experience of Mr. Poth and of the agents of the Pure Oil Company. (LEE, 273-278; WESTGATE, 380, 381.)

Mr. EMEY also describes the competition of the Standard Oil Company with the independents in Germany. After the Standard had bought out Mr. Poth, Mr. Emery was sent to Germany by the independents, and immediately let a contract

for the construction of tanks in Amsterdam. In Hamburg the legislative body passed a law furnishing ground on which to build tanks. The Russians suffered equally with the Americans from the competition of the Standard Oil Company.

Mr. EMERY likewise testifies that the government of Germany in some way secures to all competitors fair conditions and prevents unfair competition, but he is not certain as to the precise method by which this is done. In 1895 he went with Mr. Poth, the agent of the independents in Germany, before the imperial ministry at Berlin to make complaint of the fact that oil was being sold on the Rhine at from 1½ to 2 cents a gallon less than on the Elbe. Mr. Emery also had a conference at St. Petersburg with the prime minister of Russia and with Mr. Nobel, the great Russian oil producer. Their views agreed with those of the independent American refiners—that they were suffering unfair competition in Germany, and that they desired to see it rectified. The independents have secured an official permission from the German government to sell oil, being required to file their American charter and being subject to a certain supervision, the precise nature of which Mr. Emery does not know. (616, 617, 623.)

Mr. ARCHBOLD declares that Mr. Lee's statements concerning governmental control of competition in Germany are "silly." (532.)

According to Mr. ARCHBOLD's testimony, below quoted under the heading "Crude oil" (p. 143), the prices of refined oil are constantly kept in substantially the same relation to those of crude, although there are sometimes variations one way or the other. In reply to a question as to whether refined oil was not sometimes sold at the seaboard at less than the price of crude, Mr. Archbold said, "I should say that is a very exceptional case. I do not recall. * * * In competing with the Russians at certain times for certain markets, we have made prices for refined that were as low as the crude product * * * but they have been very exceptional cases, and it is not the case to-day." These cuts have been made especially in the far east, and the company has relied on the profits from by-products to offset them. (571, 572; see also BOYLE, 433.)

V. OUTPUT AND PRICES OF REFINED OIL, PROFITS, COST OF REFINING, ETC.

A. Monopolistic character of the Standard Oil Company.—1. *Generally.*—There is a general consensus among the opponents of the Standard Oil combination that it has a sufficient control of the markets for refined oil to practically constitute a monopoly. The business of independent refiners is confined to a few sections of the country, and the larger proportion of their oil is sold abroad. It was testified that the Standard Oil Company now controls from 90 to 95 per cent of the business of refining. Mr. Lockwood declared that the independent refiners, including the Ohio field, handle about 4 per cent of the oil product. (LEE, 272, 286; LOCKWOOD, 401.)

Mr. PHILLIPS declares that, although the Standard Oil Company has no legal advantages under the laws incorporating it, it has practically been able to monopolize the oil business. Controlling at least 80 per cent of the business of refining, it is able largely to fix prices. The witness believes that but for the Standard the public would have been better served, at lower prices. (596, 600.)

Mr. ARCHBOLD submitted, in reply to the evidence of Mr. Lockwood and others, the following statement showing the amount and proportion of oil refined in the United States by the Standard Oil Company and by other refiners during the years 1894 to 1898, inclusive. (560.)

Year.	Standard Oil Co.		Others.		Total.
	Barrels.	Per cent of total.	Barrels.	Per cent of total.	Barrels.
1894.....	18, 113, 933	81.4	4, 145, 232	18.6	22, 269, 165
1895.....	18, 248, 051	81.5	4, 084, 720	18.2	22, 332, 771
1896.....	18, 341, 161	82.1	3, 509, 719	17.9	21, 850, 880
1897.....	18, 141, 479	82.4	3, 876, 706	17.6	22, 018, 185
1898.....	19, 999, 939	83.7	3, 914, 999	16.3	23, 914, 938
Total.....	90, 949, 563	82.3	19, 591, 376	17.7	110, 540, 939

2. Competing refineries.—Mr. DAVIS testifies that there are about 12 or 15 independent refineries in Pennsylvania. They are not formally combined, but have common interests in pipe lines. They refine about one-tenth of the oil. (380, 381.)

Mr. LEE and Mr. EMERY testify that the various independent refiners are not at all directly connected with one another, although each owns stock in the various independent pipe lines and in the Pure Oil Company, which markets a part of their production abroad. It has been proposed to combine the refineries completely. The Producers and Refiners Pipe Line sells oil to the independent refiners, the United States Pipe Line conveys their oil to the seaboard, and the Pure Oil Company buys oil from them. Any dividends of these companies go to the refiners as far as they are stockholders. The separate refiners market their own oil to a considerable extent. Some of them have stations and special agents, but most sell to ordinary merchants.

Mr. EMERY adds that the various independent refiners compete actively with one another, both in the domestic and in the foreign trade. Although part of the export oil is sold through the Pure Oil Company, the refiners also sell separately in almost every European country. (Lee, 290, 291; Emery, 656, 657.)

Mr. MONNETT testifies that the Standard Oil Company has practically no opposition in Ohio from competing pipe lines or refineries. He believes that Scofield, Shurmer, and Teagle have some arrangement by which they are allowed to survive. Other apparently competing companies are under the control of the Standard Oil Company in one way or another. (318, 325, 326.)

Replying to this testimony (on the hypothesis that Mr. Monnett includes in his statement the production of crude petroleum, as well as its transportation and refining), Mr. ARCHBOLD testifies that in the Lima district alone there are more than 1,600 companies, partnerships, and individuals engaged in producing oil, in which the Standard Oil Company has absolutely no interest whatever. There are 8 large active concerns refining oil, which the witness names, besides several smaller concerns. These companies during 5 years, from 1894 to 1898, have done a business of 14,647,949 barrels. (543-546.)

Mr. LEE refers to the list of independent refineries published in the report of the Committee on Manufactures in 1888. Of these he is aware that the following have been absorbed by the Standard Oil Company: New York, Borne, Scrymser & Co., Lombard, Ayers & Co.; Pittsburg, Bear Creek Refining Company, Globe Refining Company; Oil City, Keystone (torn down); Franklin, most of the refineries shut down; Bradford, no refineries now in existence; Parkersburg, one absorbed by the Standard; Titusville, Schwartz's, National, and Western refineries combined into Union Refining Company, absorbed by Standard and torn down, also International Works torn down; Philadelphia, Bosshart & Wilson. The Standard Oil Company has also leased a number of refineries at high rates and then shut them down, thus paying a bonus for idleness. The purpose is to check competition. (270-272.)

Mr. DAVIS was largely interested in a small refinery at Marietta, Ohio. It handled chiefly Macksburg oil, which is rich in paraffine and lubricants. These had been sold in considerable amounts to the Baltimore and Ohio Southwestern Railroad, but its managers became interested in the Argan Refining Company, at Marietta, and the withdrawal of its patronage, together with discriminations in rates, which the witness believes to have existed, led largely to the closing of his refinery. A further difficulty was that the Buckeye Pipe Line Company charged 35 cents per barrel for piping oil from wells owned by the witness and his associates in the Corning field, 40 miles distant. The railways also charged a similar rate for hauling crude oil from the field to the refinery.¹ (351-353.)

3. *Colorado refineries.*—In evidence before the subcommittee on mining in Colorado, it was brought out that the refineries handling the product of the oil field in that State are forced to sell all their output to a distributing company, which is only a branch of the Standard combination. Mr. ARCHBOLD, when questioned on this subject, stated that there was certainly no compulsion, as had been charged, upon the refiners to sell to the Standard. He declared that he was not familiar with the subject, but the act must be voluntary. Mr. BOYLE also stated that he was not familiar with the situation in Colorado, although he has understood that the Standard does not itself refine the product of that field, but buys the output of the other refineries. (Boyle, 384; Archbold, 379.)

4. *Control by Standard in Canada.*—Mr. GALL, who is a wholesale oil dealer at Montreal, testifies that the total amount of refined oil products manufactured in

¹ Mr. ARCHBOLD testifies that Mr. Davis has had practically no experience in refining oil. He has an interest in a "little alleged refinery at Marietta." He sought to sell this property to the Standard Oil Company, which declined to buy on the ground that it was of no value to it. After his appearance before the Industrial Commission Mr. Davis again offered to sell the property to the Standard Oil Company. Mr. Archbold submitted a letter from him regarding this proposition, dated July 13, 1899, together with the reply of Mr. Archbold declining to purchase the property. (546.)

Canada in 1898 was 21,153,192 gallons, of a value of \$1,723,293. The Standard Oil Company in July or August, 1898, secured complete control of all the refineries in Canada, of which there were 5 then in operation and 4 temporarily closed. All of these except the former Imperial Oil Company plant and one at Sarnia have been dismantled. Mr. Gall believes it possible, however, that these existing refineries have almost as great capacity as the old ones, and sufficient to refine the entire Canadian production of crude oil. In fact, owing to the tariff of 5 cents per gallon on the importation of oil, it is much cheaper for the Standard to refine oil in Canada. (673.)

Mr. GALL testifies further that his company formerly handled largely Canadian oil, but that since the Standard Oil Company secured control of the refineries there it has been impossible for his company or any other organization to obtain oil from the Standard Oil Company except by promising to buy exclusively from it. The Standard Oil Company has 2 or 3 times sent men to the Gall-Schneider Company making such a proposition for exclusive patronage of the Standard. (677, 678.)

Mr. ARCHBOLD testifies that the condition of the refining business in Canada has been very much disorganized; that the Standard Oil Company has comparatively recently entered the field, and that it now is doing, he thinks, about 75 per cent of the refining in Canada. (572, 575.)

5. *Purchase of refineries by Standard Oil Company.*—Mr. LEE, Mr. WESTGATE, and Mr. EMERY all testify concerning the recent attempts of the Standard Oil Company to buy out competing refineries. One main purpose in this attempt is to secure the stock held by those refineries in the United States Pipe Line and the other independent pipe-line organizations. Quite high prices have often been offered for these properties, but in most cases the owners have declined to sell, largely as a matter of sentiment, even though they expected to be driven into bankruptcy from long-continued losses through the competition of the Standard Oil Company. Offers have been made, Mr. Lee believes, to all of the independent refineries.

Three large independent refineries in the oil regions have been bought out since 1895 by the Standard Oil Company and have been dismantled. One of these belonged to Mr. Ramage, another was the National Refining Company, and the third the Continental Refining Company. All of these were first class and modern, but they have been entirely dismantled. To destroy them thus was a waste of capital which it had taken years to build, and the purpose of the Standard Oil Company was undoubtedly to destroy their competition as well as to injure the independent pipe lines. All of these refineries had contracts to take oil from these pipe lines, and the withdrawal of their patronage has involved a serious loss, since it costs little more to handle a larger quantity of oil through the pipe lines. The Standard declined to sell any of the material of the dismantled plants to other independent refineries. (Lee, 288, 290; Westgate, 370, 371; Emery, 657.)

Mr. ARCHBOLD admits that the Standard Oil Company has frequently purchased and dismantled plants of its competitors:

"We have at times bought refineries with the expectation of succeeding to the volume of business done by them. We have universally replaced the capacity of these refineries by better ones and better-equipped construction at more favorable points. We would not buy refineries and dismantle them for the pleasure of doing it."

"Q. Incidentally, in connection with that, it might be a more convenient way of holding your market in a locality where competition would figure?—A. Precisely."

Mr. Archbold testifies further that the purchase of refineries in Titusville was no exception to the above statement. The Standard Oil Company utilized the property of one of these refineries in establishing a plant in Puerto Rico and of another in establishing one in Kansas. There is at all times an excess of capacity in the refineries of the country, and the sole purpose in abandoning any plant is to conduct the business at a point where it can be more economically done. (572.)

Mr. DAVIS states that the Argan Refining Company, at Marietta, was recently leased to one of the branches of the Standard Oil Company at 6 per cent on \$200,000 for 10 years. The owners have since practically sold out to the same parties, this apparently being due to the suit brought against them for joining the trust. The witness believes that he could put up as good a plant for \$75,000, but he does not think that the Standard Oil Company often pays high prices for competing plants. He believes that Scofield, Shurmer & Teagle are making profits. (351-353, 361, 362.)

6. *Control of competition by pipe lines.*—Several witnesses testify, directly or by implication, that one of the chief means by which the Standard Oil Company

has been enabled to drive out competitors has been its control of the pipe lines for handling crude oil. Compare on this subject the testimony under the headings: Pipe Lines (pp. 105, 106); Railway Discriminations (pp. 152-155.)

Mr. DAVIS, who is interested in wells in the new Corning field near Marietta and in a refinery at Marietta, testifies that the price of the Corning oil is fixed by the pipe line at 17 cents less than Macksburg oil, although it is in some ways of as good quality. The witness desired to pipe oil from his wells to the refinery at Marietta, but was charged 35 cents per barrel pipage, the ordinary rate throughout the oil fields being 20 cents. Practically he was forced to sell oil at the Corning field to the pipe-line company and to buy from it oil of about the same quality at 17 cents more. This was one means used by the Standard Oil Company, apparently, to drive his refinery out of business (352, 353.)

7. *The Matthews case.*—Mr. LOCKWOOD refers to the case of Mr. Matthews, of Buffalo, and the alleged conspiracy of the Standard Oil Company to blow up his refinery, but does not state the facts in detail. He refers to the fact that Matthews's partner, who had been bribed to betray him, was kept under cover for 4 years, with an assumed name, but finally confessed to Matthews. Matthews secured verdicts for \$270,000 against the Standard Oil Company in civil damage suits, but his creditors, under the receivership to which he was forced to submit, had to settle for \$17,000. (389.)

Mr. ARCHBOLD submits a detailed statement of the facts concerning the case referred to by Mr. Lockwood. In 1881 Matthews and two others were confidential employees of the Vacuum Oil Company, whose chief officers were H. B. and C. M. Everest. The Standard Oil Company was interested in the stock of this company, but had no control of its affairs. Matthews and his associates conspired to leave the employ of the Vacuum Oil Company and to establish a small business in Buffalo, taking advantage of their knowledge of the processes and patrons of the Vacuum Oil Company, and expecting that that company would be forced to buy them out. The Vacuum Company brought suit for infringement of its patents. At this time one Miller, who had left with Matthews, was reemployed, at his own solicitation, by the Vacuum Company. Later, however, he again left this company, went over to Matthews, and through his statements an indictment was brought by the grand jury against all the directors of that company, charging it with conspiracy against the Buffalo concern. The balance of evidence in the case was overwhelmingly in favor of the Vacuum Company. The judge held that there was not any evidence against the directors belonging to the Standard Oil Company and directed the jury to acquit them, but Messrs. Everest were held guilty by the jury, plainly under the influence of the plea of the district attorney. Mr. Archbold declares that all the charges concerning the attempted blowing up of the Buffalo works are the purest fiction, and submits a copy of an affidavit signed during 1888 by 6 of the jurors in the case, stating that it was not their intention individually, nor, as they believe, the intention of the jury as a body, to hold the defendant guilty of conspiracy to destroy the Buffalo works, but that the conviction was based on the enticement of Miller from the employ of that company. These jurors also recommended that the punishment be limited to fine without imprisonment. A note is appended to the signature of one of the six, saying that he swore to the recommendation only.

The statement that Matthews secured civil verdicts for \$270,000 is untrue. He brought a suit for \$30,000, and the judge set aside the verdict of the jury granting that amount as excessive. He later brought suit for \$250,000, which was never brought to trial. Mr. Archbold does not know concerning any settlement that may have been made of this suit out of the courts. (554-556.)

B. *Effect of combination on prices.*—1. *General statistics.*—All the witnesses testifying in opposition to the Standard Oil combination express the opinion that it has not reduced the price of refined oil as compared with crude oil to any such degree as would be the case under open competition. They especially argue that care must be exercised against the fallacy of failing to distinguish between the reduction of the price itself, which depends largely on the price of crude oil, and that of the margin between refined and crude. The reduction of this margin is generally admitted, but it is declared to be by no means commensurate with the improvements in the processes of refining. The greatly improved uses of by-products are especially pointed out as having made possible a much greater reduction in prices.

On this point of the effect of combination on prices, reference should be made to the table showing the prices of crude and refined oils on pages 137 and 138 (noting that about 2½ cents per gallon is to be subtracted from the price of refined oil as representing the value of the barrel). A clear view is obtained by consulting the diagram in the Introduction.

It is to be observed especially that the prices of refined oil given in the tables ordinarily quoted are the export prices at New York. Export oil is of a somewhat lower grade than the water-white oil used in this country.

According to Mr. BOYLE's testimony there are no satisfactory records showing the price of water-white oil in this country. The price varies from place to place according to the cost of transportation, special contracts, etc. The witness believes that if it were possible to find some one standard market in this country where a record has been kept of the prices of a standard grade, such as water-white oil, from year to year, these figures would give a fair basis for judging the influence of the Standard Oil Company upon American consumers. Cincinnati was suggested as a point where such records had been to some extent maintained. (447, 448.)

2. *Statements of opponents of combination.*—In addition to the general opinions, above-referred to, as to the effect of the Standard combination on prices, specific statements were made as follows:

Mr. LEE believes that the cost of refining has fallen during the past 20 or 25 years from 2½ cents to one-half cent per gallon, while the margin of difference between crude and refined has fallen little. The prices for refined oil fixed by the Standard are not based on the cost of refining or of crude oil, but are entirely arbitrary. To a considerable extent, probably, it sells oil ahead and afterwards puts up the price of crude, so that its competitors will not be able to meet its prices for refined. (275, 276.)

Mr. RICE declares the claim that the Standard Oil Company has reduced the price of refined oil to be absurd. Mr. Thurber's comments on this point (p. 129) pay practically no attention to the influence of the price of crude oil upon refined. There was a reduction in the price of refined oil from 6½ cents in 1861 to 2½ cents in 1870, before the Standard Oil Company came into existence. Mr. Rice also dwells upon the great difference between the price of export oil and that which domestic consumers have to pay. During the severe competition in foreign markets in 1896 the price of refined oil to retail dealers in New York was 9½ cents per gallon, and that of export oil 4½ cents per gallon. In 1892 oil was selling in Texas, Utah, Idaho, and other Western States at four times the export price, and in many nearer States, such as Missouri and South Carolina, at double the export price. (733, 734.)

Mr. PAGE declares that it is unfair for Mr. Rice to compare the export prices of oil, which are prices practically at the mouth of the refinery, with those at distant points, where the freight rates and expenses of distribution are high. He says that it is the general policy of the Standard to reduce the cost of refining in every way and to sell as cheaply as possible, with a view to increasing the demand of the consumers by lower prices. (791.)

Mr. WESTGATE testifies that the reductions in the price of refined oil are not due simply to the advantages of the Standard Oil Company in production. In the early days the by-products—benzine, gasoline, tar, etc.—were entirely worthless. They constitute about 20 per cent of the crude product and are now worth about as much as refined oil. The quotations of prices ordinarily given are those in barrels at the seaboard. The barrels were formerly worth \$2 or \$3, now 88 cents, which makes a difference of about 2 or 4 cents per gallon in the price of oil. The export price, moreover, gives no information as to the average prices received in this country. When a cut is made in the export oil it may easily be offset by increasing prices of domestic oil. Nevertheless, the witness believes that the Standard Oil Company employs the best brains in manufacturing oil and has brought forward many improvements and inventions. But if the company now possesses any superior methods, the independent refiners do not know it. The independents can produce as good goods, and as economically, the witness believes, as the Standard Oil Company. (371, 372.)

Mr. EMERY believes that the people generally would get oil at 50 per cent less than at present if there were active competition over the entire country. In another place he estimates that European consumers get their oil, quality considered, 25 per cent cheaper than the average American consumer.

The witness has bought refined oil in California in cans at 20 cents per gallon, of precisely the same quality that he was selling at his factory in Pennsylvania for 4½ cents. Similarly he has bought gasoline at 25 cents per gallon of a kind which he was selling at 4 cents. The freight, according to open rates, from Pennsylvania to the Pacific coast is about 6½ cents per gallon, allowing for leakage and other losses, so that oil might be sold there at from 10 to 12 cents per gallon. The witness does not know what proportion of the prices charged was the retail dealer's profit. (629, 632, 633.)

Mr. MONNETT admits that the Standard Oil Company has taken advantage of various improvements in production and transportation—pipe lines, tank cars, development of by-products, etc.—but declares that it can no more claim to have reduced prices by its own efforts than to have reduced the price of calico from 75 cents to 4½ cents per yard. It has been profiting by many millions through non-competitive prices, notwithstanding such general decrease in price. (317, 318, 323.)

3. *Canada*.—Mr. GALL submitted a statement of the prices which he paid for refined oil at St. Johns, Quebec, before and after the Standard Oil Company secured control of the refineries of Canada (August, 1898). The price, delivered, ranged from 11 to 14½ cents between September, 1892, and June, 1899. At the latter date it was 13½. Since then the Standard Oil Company has raised the price to 17½ cents. The price of crude oil in Canada has not risen with such rapidity as in the United States. During 1898 it stood at \$1.40 per barrel, and in June, 1899, at \$1.45. It has since been raised to \$1.60, but this represents an increase of only one-half cent per gallon during a time when refined has been raised 4 cents. The increase in the price of crude has been made with a view to encouraging production, since it is cheaper for the Standard to refine Canadian oil, on account of the tariff on importation. (674, 679.)

Mr. GALL attributes the high prices of oil in Canada largely to the tariff on refined oil, which is now 5 cents per gallon, having been reduced somewhat by the last Conservative government in 1896. The present Liberal government has promised to remove the tariff altogether, but has so far failed to do so. The tariff is excessively high. The cost of Ohio oil at Toledo ranges from 3 to 5 cents, so that the tariff is fully 100 per cent. The rates on other commodities under the Canadian tariff are from 10 to 50 per cent. The only remedy for the monopoly of the Standard Oil Company and the maintenance of excessive prices is the removal of this duty.

Owing to the likelihood of the removal of the Canadian tariff on oil, it is considered a very risky investment to establish a refinery there now, since without the duty it would be entirely unprofitable. Nevertheless, the Standard Oil Company has made enough profit from the Canadian business to cover the cost of the refineries it purchased. (680-682.)

4. *General reply of Standard's defenders*.—Replying to the above testimony that the Standard Oil Company has not lowered prices to consumers, Mr. ARCHBOLD referred to the table showing the comparative prices of crude and refined oil since 1870 as proving the contrary (pp. 137, 138). He also submitted the following tables showing the average prices of oils in New York, Chicago, and Cincinnati as proving the same point. (634-548.)

Average prices received for deliveries of standard white illuminating oils at New York City, Chicago, Ill., and Cincinnati, Ohio, during years 1885 to 1899, inclusive.

[Prices given are cents per gallon in bulk, exclusive of the package; 2½ cents per gallon added will give average price, including barrel.]

NEW YORK CITY.

Month.	Year.														
	1885.	1886.	1887.	1888.	1889.	1890.	1891.	1892.	1893.	1894.	1895.	1896.	1897.	1898.	1899.
January	6.16	6.40	5.69	5.39	5.62	4.66	4.47	3.86	5.80	4.03	4.50	4.09	3.80	3.06	4.28
February	6.09	6.47	5.52	5.49	5.57	4.87	4.44	3.77	5.01	4.00	4.42	4.83	3.31	3.09	4.84
March	5.96	6.12	5.45	5.44	5.44	4.63	4.42	3.88	4.87	3.73	4.50	4.78	3.49	3.80	4.01
April	6.03	5.90	5.09	5.55	5.17	4.54	4.48	3.77	5.42	4.02	4.53	4.49	3.58	3.62	4.08
May	6.09	5.99	5.21	5.54	5.01	4.40	4.44	3.57	5.33	4.26	4.96	4.09	3.54	3.63	4.05
June	6.02	5.59	4.73	5.56	4.82	4.32	4.18	3.08	5.10	4.73	4.55	4.40	3.55	3.83	3.98
July	5.88	5.76	4.85	5.47	4.81	4.72	4.13	3.29	5.07	4.29	4.49	3.60	3.31	3.96	...
August	6.08	5.65	4.71	4.52	4.81	4.81	3.96	3.25	5.09	3.88	3.79	3.47	3.30	4.05	...
September	6.11	5.62	4.67	4.73	4.78	4.81	4.08	3.26	4.66	3.87	3.80	3.32	3.14	4.02	...
October	6.35	5.49	4.61	4.81	4.72	4.85	3.97	3.27	4.48	3.87	3.81	3.70	3.04	4.22	...
November	6.51	5.41	4.67	5.06	4.85	4.87	3.99	4.09	4.34	3.81	4.65	3.74	3.05	4.10	...
December	6.47	5.49	4.94	5.10	4.77	4.69	3.70	4.37	3.71	3.78	5.06	3.44	3.25	4.15	...
Total year	6.21	5.77	5.01	5.01	5.01	4.67	4.16	3.61	4.73	4.07	4.58	3.96	3.61	3.79	...

128 INDUSTRIAL COMMISSION:—DIGEST OF EVIDENCE.

Average prices received for deliveries of standard white illuminating oils at New York City, Chicago, Ill., and Cincinnati, Ohio, etc.—Continued.

CHICAGO, ILL.

Month.	Year.														
	1885.	1886.	1887.	1888.	1889.	1890.	1891.	1892.	1893.	1894.	1895.	1896.	1897.	1898.	1899.
January	4.83	6.08	4.88	5.31	5.13	5.03	4.05	3.82	3.51	3.58	3.17	4.90	3.06	2.77	3.18
February	4.88	6.00	4.90	5.51	5.22	4.83	4.34	3.72	2.03	3.09	3.09	4.52	3.00	2.82	3.80
March	5.07	5.56	4.71	5.40	5.23	4.81	4.04	3.74	3.57	3.57	4.08	4.12	2.96	2.97	3.00
April	5.00	5.37	4.74	5.18	5.17	4.81	4.01	3.38	3.47	3.54	4.85	3.89	3.03	3.09	3.53
May	4.93	5.19	4.03	5.03	5.07	4.94	4.08	3.28	3.75	3.24	3.91	3.75	2.84	3.04	3.52
June	4.86	5.02	4.70	4.93	5.07	4.82	4.06	3.28	3.70	3.51	4.06	3.47	2.79	3.04	3.52
July	5.20	4.98	4.59	4.92	5.02	4.50	4.06	3.42	3.65	3.15	3.64	3.18	2.77	3.03	
August	5.27	4.97	4.52	4.70	5.20	4.80	3.89	3.34	3.00	3.51	3.25	3.25	2.79	3.03	
September	5.51	4.95	4.53	5.03	5.25	4.33	4.13	3.29	3.04	3.72	3.26	3.31	2.80	3.19	
October	5.70	4.93	4.50	5.35	5.23	4.34	3.97	3.38	3.56	3.47	3.74	3.24	2.53	3.43	
November	6.04	4.88	4.79	5.18	5.08	4.97	4.03	3.40	3.63	3.54	4.41	3.06	2.78	3.48	
December	6.09	4.96	4.92	5.01	5.21	4.18	4.04	3.40	3.80	3.36	4.89	3.13	2.80	3.50	
Total year	5.40	5.23	4.07	5.14	5.10	4.59	4.01	3.48	3.57	3.57	3.96	3.05	2.93	3.29	

CINCINNATI, OHIO.

Month.	1885.	1886.	1887.	1888.	1889.	1890.	1891.	1892.	1893.	1894.	1895.	1896.	1897.	1898.	1899.
January	4.56	5.81	4.61	5.04	4.86	4.65	3.99	3.32	3.33	3.06	3.11	4.70	2.82	2.67	3.68
February	4.61	5.73	4.63	5.24	4.95	4.40	3.77	3.32	3.33	3.06	3.39	4.31	2.82	2.67	3.68
March	4.80	5.29	4.44	5.13	4.96	4.40	3.50	3.32	3.33	3.06	3.82	3.90	2.82	2.98	3.44
April	4.73	5.10	4.47	4.80	4.90	4.90	3.40	3.32	3.33	3.07	5.95	3.94	2.65	2.92	3.43
May	4.96	4.92	4.41	4.76	4.80	4.20	3.48	3.33	3.33	3.02	5.08	3.46	2.59	2.91	3.40
June	4.59	4.75	4.43	4.66	4.81	4.20	3.55	3.33	3.16	3.07	4.87	3.07	2.62	2.91	3.40
July	4.93	4.71	4.32	4.65	4.75	4.20	3.50	3.33	3.05	3.06	4.32	3.15	2.80	2.91	---
August	5.00	4.70	4.25	4.43	4.93	4.17	3.02	3.34	3.03	3.02	3.81	3.00	2.80	2.91	---
September	5.24	4.68	4.20	5.76	4.98	4.12	3.47	3.33	3.03	3.05	3.83	3.07	2.65	3.00	---
October	5.43	4.66	4.23	5.08	4.98	4.02	3.33	3.25	3.06	3.03	3.84	2.98	2.61	3.32	---
November	5.77	4.61	4.52	4.91	4.81	4.02	3.34	3.31	3.08	3.06	4.18	2.83	2.65	3.32	---
December	5.82	4.69	4.65	4.74	4.94	4.02	3.33	3.33	3.07	3.06	4.82	2.85	2.64	3.45	---
Total year	5.13	4.96	4.40	4.87	4.80	4.18	3.52	3.31	3.18	3.06	4.12	3.46	2.71	3.07	---

To the statement that were it not for the existence of the Standard Oil Company consumers would get oil at a much lower price Mr. ARCHBOLD replies that it would evidently tend to increase prices if two-thirds or three-fourths of the active capital and equipment engaged in refining should be withdrawn, and also that the opponents of the Standard are inconsistent in testifying that at existing prices the independents can not make a fair profit. If it is true, as claimed by Mr. Lee, that the Standard makes \$1.50 to \$2 on every barrel of oil, while the independents would be satisfied with 10 cents, the independents are not now efficient servants of the public. (531, 532.)

In reply to Mr. Lee's statement that if there were 50 concerns engaged in manufacturing petroleum just as wide markets would be obtained throughout the world as at present, while consumers would secure as low prices and all refiners would make a fair profit, Mr. ARCHBOLD submitted a list of 66 refineries now existing independent of the Standard Oil Company, the average duration of operation of which has been 14 years. (540-542.)

Mr. ARCHBOLD further expresses the opinion that the Standard Oil Company, notwithstanding the fact that it controls more than 80 per cent of the refined-oil production in this country, is unable permanently to exact excessive prices. He admits that it might temporarily have such power, but declares that if it exercised the power injuriously or arbitrarily the combination would lose business and perhaps provoke heavier competition. He hopes, and on the whole believes, that the Standard Oil Company is able to get prices higher than it could do under severe competition, admitting that there is a certain amount of monopolistic power coming from the aggregation of capital itself, but he adds that this monopolistic power is very slight at present. The lessened cost of doing business on a large scale more than compensates to the consumer, in Mr. Archbold's opinion, for the monopolistic power of getting higher prices. Part of Mr. Archbold's testimony in detail is quoted below:

"Q. Now, the general result, then, is this: By virtue of your greater power you are enabled to secure prices that on the whole could be considered steadily somewhat above competitive rates?—A. Well, I hope so. I think we have better merchandizing facilities, better marketing facilities, better distributing facilities, and better talent than a competitor can have.

"Q. I am not asking with reference to your power of making profits, but it is with reference to getting the prices from the consumer.—A. Prices are what make the profit. If we had a better average price, we could get a better profit.

"Q. You think, generally speaking, that you get prices for oil slightly above competitive prices?—A. Well, I should think so; I could not answer—that is a very general question and very difficult to answer. I could not answer that specifically. I hope that we do.

"Q. Of course, in this investigation we are seeing if we can get some general principles on which legislation might be based, and these questions are to bring out, if we can, the power that so great an organization has in fixing prices. Would you say; then, that in the case of an organization that controls perhaps 80 per cent of the markets of the country there is a monopolistic element that enters in which enables them to hold prices above the regular rate? Is there a monopolistic power that comes merely from the power of capital itself?—A. Undoubtedly, there is an ability, and when that ability, as I have said, is unwisely used, it is sure to bring its own defeat.

"Q. If that ability goes to get an exorbitant price, of course it will invite competition, but when that ability is kept within modest limits, would you still say that it was in the power of such an organization to get the benefit of the monopolistic power that comes merely from the power of capital itself?—A. Well, I should say that that would be a very restricted power, a very restricted limit. The competitors in this country are very active.

"Q. What?—A. The competitors are very active; they are alert at all points with their small offerings in the hope to find just such a condition as you describe.

"Q. Certainly.—A. But, as I say, as business is and as it has been for many years, we could not have that ability to any considerable extent as merchants.

"Q. If the ability were operative only to a slight extent, would it still be enough, do you think, to make a difference between what we may call a moderate dividend, say 6 or 7 per cent, and a pretty high dividend of between 15 and 20 per cent?—A. Well, that involves so nice a question that I could hardly undertake to answer it; but generally, as to the effect on the community, I should say—

"Q. Generally on the prices in the United States?—A. I should say that the lessened cost incident to doing business in a large volume would more than compensate the consumer for any ability in getting higher prices.

"Q. Then, that leads to this point, whether the large capital does itself give an organization the power to get a somewhat higher price than it could in the market provided the competitors were substantially equal in power?—A. Oh, it may be so; but that is a difficult question to answer." (509, 570.)

Mr. THURBER expresses the belief that the reduction in the price of refined oil was from 25.7 cents in 1871 to 5.7 cents in 1898. This is attributable partly to increased production of crude oil, but more largely to improvements in manufacture and transportation attainable only through aggregation of capital. (4.)

Mr. BOYLE believes that the Standard Oil Company has been beneficial to the producers as a whole and to the public generally. The producers now are prosperous and satisfied with the prices they are obtaining. Without the organization of the Standard Oil Company the business could never have been developed as fully as it has been, through the superior organizing and marketing ability of the combination. (488-490.)

C. Cost and profits of refining—By-products (see also DIVIDENDS, p. 99; ECONOMIES, p. 130).—Closely connected with the subject of prices is the cost of refining and the rate of profit. Opponents of the combination believe that it makes excessive profits on each barrel of oil refined, and confirm this by pointing to the high dividends and the great value of the stock of the Standard Oil Company.

Thus Mr. LEE testifies that with refined oil selling at 9½ cents in New York, as it did in 1896, the Standard Oil Company should have received a profit of nearly 100 per cent above the cost of refining. The witness believes that the Standard now makes from \$1.50 to \$3 on every barrel of oil. The difference in price between crude and refined oil during the past 20 years has decreased only slightly, while the cost of refining has fallen from 2½ cents to less than one-half cent a gallon, so that profits have greatly increased. (269, 273, 275, 276.)

Mr. PHILLIPS estimates that the Standard Oil Company has made an average profit of \$1 per barrel on all oil produced during its existence. He declares that its existing plants have practically been paid for entirely out of its profits. The value of its stock is nearly \$500,000,000, and the number of barrels of oil produced during the past 17 years is about 500,000,000, these figures representing to the Standard a profit of about \$1 per barrel. The average price of crude oil itself has been only about 90 cents. Mr. Phillips, like Mr. Lee, declares that the independent refiners would be satisfied with a profit of 10 cents per barrel, which is more than they

earn now. He admits that the higher profits of the Standard are partly due to superior utilization of by-products. (590, 591, 602.)

Detailed estimates as to the cost of refining and the margin of profit were not presented in evidence. Several witnesses pointed out that the by-products of refining, which are of great value, must be considered, and that they complicate the calculation. (See p. 132.)

Mr. WESTGATE, an independent refiner, testifies, broadly, that the cost of refining oil is about one-half cent per gallon, but adds that where crude oil is 3 cents and refined oil is sold at 4 it does not follow that the clear profit is one-half cent. There is a loss of quantity of from 5 to 7 per cent in refining, and some by-products of lower grade are sometimes worth as much as refined oil, but sometimes less (368.)

Mr. MONNETT states that it has been brought out repeatedly in the Ohio suits and trust investigations that refined oil could be delivered in Ohio at a cost of 4 cents a gallon or even lower. (315, 316.)

Mr. RICE declares that from 1871 to 1880 the cost of refining oil did not exceed 1 cent per gallon, from 1880 to 1890 one-half cent, and since 1890 one-fourth cent, although to the average independent refiner the cost has been about one-eighth cent higher than this. He states further that during the past 10 years oil could have been sold in this country, on the average, at 2½ cents per gallon. He calculates that the market price of crude oil has averaged only 1½ cents per gallon; that the cost of local pipage and pipage to the seaboard has not exceeded one-eighth cent each, while he adds one-fourth cent for the cost of refining, and one-half cent as the average rate of freight paid by the Standard Oil combination to interior places. The Standard makes a still higher profit on oil refined from Ohio crude, which costs very much less per barrel. (735.)

Mr. DAVIS states that the cost of fuel and some of the chemicals used in refining has been considerably less during the past 3 or 4 years than before. The independents themselves buy their sulphuric acid chiefly from the Standard Oil Company, which furnishes it cheaper than other dealers. Twenty years ago the by-products, benzine, tar, etc., were largely thrown away, but they are now often worth more than the refined oil. (358, 360.)

Mr. ARCHBOLD testifies that the improved methods of utilizing by-products in recent years have greatly increased their sale, and that they substantially equal in value the refined oil itself. On its being pointed out that notwithstanding the increased profits from this source the margin of price between refined oil and crude oil had not been materially decreased during a number of years, Mr. Archbold states that there is a point below which it is not possible to reduce prices, and that, in his opinion, the profits of the Standard Oil Company have not increased during the past 6 years. He also states that in calculating the profits of refining illuminating oil is not considered by itself, but the value of all products jointly is taken, the price of each being fixed according to demand. (570, 571.)

VI. ECONOMIES OF COMBINATION AND CONSEQUENT ADVANTAGES.

(See also PRICES, p. 125)

A. Generally.—Mr. ARCHBOLD declares that large corporations are necessary, especially in view of rapidly growing foreign commerce, and maintains that the Standard Oil Company has done very much to develop foreign trade in petroleum. It has also been beneficial to the consumers generally in furnishing them goods of vastly improved quality at greatly reduced prices, and in distributing oil to the most remote sections of the country promptly and cheaply. During the early years of the petroleum industry the methods of production, manufacture, and transportation were very crude and the average quality of oil unsatisfactory. The Standard Oil Company brought to the business ample capital, employed the best possible talent in all branches, used the most progressive methods and the most perfectly equipped and favorably located refineries, and inaugurated new systems of transportation. One of the chief advantages of combination is that the best formulas and processes can be employed in every one of the separate establishments. (562-564, 580.)

Mr. JOHN D. ROCKEFELLER, in an affidavit, replying to interrogatories from the commission, states: "I ascribe the success of the Standard to its consistent policy to make the volume of its business large through the merits and cheapness of its products. It has spared no expense in finding, securing, and utilizing the best and cheapest methods of manufacture. It has sought for the best superintendents

and workmen and paid the best wages. It has not hesitated to sacrifice old machinery and old plants for new and better ones. It has placed its manufacturing plants at the points where they could supply markets at the least expense. It has not only sought markets for its principal products, but for all possible by-products, sparing no expense in introducing them to the public. It has not hesitated to invest millions of dollars in methods for cheapening the gathering and distribution of oils by pipe lines, special cars, tank steamers, and tank wagons. It has erected tank stations at every important railroad station to cheapen the storage and delivery of its products. It has spared no expense in forcing its products into the markets of the world among people civilized and uncivilized. It has had faith in American oil, and has brought together millions of money for the purpose of making it what it is, and holding its markets against the competition of Russia and all the many countries which are producers of oil and competitors against American oil." (796.)

Mr. BOYLE believes that the success of the Standard Oil Company proves that it was the fittest to survive, and that its methods have been most skillful. There was nothing 20 years ago to prevent other organizations from being formed to control pipe lines and to develop the oil business, but they failed to do so. The Standard then invested \$3,000,000 in one pipe line, incurring what was considered a very great risk. Its officers had the courage, energy, and ability to strike out where others feared to enter. But the pipe-line system has been only one factor in the success of the Standard. Its greatest superiority has been in its ability to market its products, in its organizing mercantile capacity. Mr. Boyle does not consider that the Standard Oil Company is especially superior in its methods of manufacturing. Neither the Standard Oil Company nor the independents have the monopoly of inventive genius. The Standard, however, is entitled to more credit than it has received for its achievements in refining Lima oil satisfactorily.

The witness believes that the ability of the Standard Oil Company has had a great influence in making the oil business as extensive and prosperous as it is to-day. Without this organization the business would be carried on on a much smaller scale. (486, 488-490.)

B. Transportation, and location of refineries.—Mr. DODD, solicitor of the Standard Oil Company, in his statement summarizes the advantages of the methods of the Standard in regard to transportation as follows:

"1. They have cheapened transportation, both local and to the seaboard, by perfecting and extending the pipe-line system; by constructing and supplying cars by which oil is shipped in bulk; by building tanks for storage of oil in bulk; by purchasing and perfecting terminal facilities for receiving, handling, and reshipping oils; by purchasing and building steamers and lighters for river and harbor service; by building wharves, docks, and warehouses for foreign shipments; by purchasing and building ocean steamers for carrying oil in bulk, and by employing in foreign countries the same special methods for storing and transporting oils in bulk, by which means alone the markets of Europe are to-day held for American oil against Russian competition." (799.)

Mr. ROCKEFELLER and other witnesses emphasize the economy of the pipe-line system, and the need of large capital to make it successful. (See pp. 101, 105.)

Mr. DODD states that some of the refineries which entered the Standard Oil Trust were abandoned because of unsatisfactory location or ill adaptation for the desired work, being replaced by others at more convenient locations, and superior plants. In fact, during the past 18 years all the plants of the combination have been practically made over and rendered more effective. (798; see also, as to dismantling of refineries," p. 124.)

Mr. PAGE urges with special emphasis that the Standard Oil Company has considerable advantage over its competitors in the cost of transporting oil by rail, owing to the fact that it has many refineries in different places and can supply the consumer from the nearest point, while the owner of a single refinery has to ship much longer distances. The point is made in reply to charges that the Standard secures lower freight rates than its competitors, and is more fully summarized under the heading "Railway discriminations" (p. 161.)

Mr. LEE believes that oil can be refined cheaper in the interior than on the seaboard. Land, labor, and fuel are all cheaper and water is abundant. (268.)

Mr. EMERY testifies that the Standard Oil Company has in recent years been inclined to rebuild refineries in Pennsylvania, and to do a relatively small proportion of its business near New York and elsewhere on the coast. Fuel is cheaper in Pennsylvania and it is in every way the proper place for refining oil. The Standard Oil Company has spent millions in new plants in Philadelphia and also in the oil districts. (649, 650.)

C. Processes.—Mr. DODD summarizes the advantages of combination in regard to the processes, etc., as follows:

"By uniting the capital, skill, and acts, and the various processes and patents of a number of persons, as well as their secret processes and by building up manufacturing on a more extensive and perfect scale, with improved machinery and appliances, and by locating them in the centers of the trade they were intended to reach, the manufacture of oil has been much cheapened and improved.

"By spending large sums in the investigation of methods of utilizing Ohio and Indiana oils, and by purchase of various patents, they have succeeded in making a superior article of illuminating oil out of what for some years seemed an almost worthless product.

"By uniting with the business of transporting and refining businesses necessarily collateral thereto, to wit, the manufacture of barrels, tin cans, boxes for inclosing cans, paints, glue, sulphuric acid, etc., and by union of capital and skill, obtaining the best machinery and manufacturing on a large scale, they have cheapened these products."

Mr. DODD enumerates the patents held by the Standard Oil Company in 1883, on machinery and processes. Most of these have to do with the manufacture of cans, boxes, and barrels. There is one patent upon stills for refining and distilling oils, one on an apparatus for separating petroleum products, and several upon the manufacture of lubricating and hydrocarbon oils, paraffine, and vaseline. (798.)

Mr. LEE believes that the Standard Oil Company has no appreciable superior processes or economies in production. There may be some slight difference in favor of large refineries, but one with a capital of \$500,000 would be able to secure every by-product at the lowest possible cost. The independents produce oil as cheaply as the Standard, and of better quality. The making of tin cans and barrels can also be done as cheaply by other manufacturers. (268, 269, 278.)

Mr. EMERY declares that the Standard Oil Company has not improved the methods of refining especially, but that, on the contrary, if the business had been entirely open to competition, there would have been more rapid development than has taken place. As early as 1872 the company with which the witness was connected was employing every device which is now used for making illuminating oil. The process of distillation, in fact, is not difficult, and is practically the same now as in 1860, cylinder stills being used both then and now. (624.)

Mr. WESTGATE does not consider competition against the Standard Oil Company impossible so long as fair conditions prevail. Mere aggregation of capital is not the difficulty. The advantages in the matter of transportation and the cutting of prices below the cost of production are the causes of the Standard's ability to drive out competitors. These evils should be checked by law. (382, 383.)

D. By-products.—Considerable testimony was adduced as to the superior advantages of the large capital of the combination in manufacturing and marketing the by-products of petroleum. This advantage was quite generally admitted by the opponents of the Standard.

Mr. ARCHBOLD testifies that there has been a decided increase in the value of by-products in the refining of oil during the past 10 or 15 years. The leading products are gasoline, naphtha, paraffine, lubricating oils, and vaseline products. He does not consider that a refinery with a capitalization of only \$500,000 could secure these by-products in anything like as economical a manner as the Standard Oil Company does with its great specialization of methods. The by-products are now substantially equal in value to the illuminating oil itself. (570.)

Mr. EMERY testifies that fully 200 by-products of petroleum are used for medicinal purposes, besides the use of aniline dyes. Lubricating oils and paraffine wax are not, strictly speaking, considered by-products. The wax may be taken out of refined oil at a certain period of distillation, if it is profitable to do so, or it may be broken up by heat and left in the illuminating oil. Until recently the various by-products were not of very great value. The witness has sold paraffine wax as low as 1½ cents per pound within 3 years, but it is worth to-day from 3 to 4 cents per pound. Paraffine wax is used largely in making joints of pipes, and in covering all electrical conductors, as insulators. It is mixed with stearin for making candles.

Mr. Emery acknowledges that the Standard Oil Company has greatly developed the amount, quality, and sale of by-products, but declares that other active refiners could have devised the same methods if they had had the opportunity. As a matter of fact, during a long period of time the Standard Oil Company had the exclusive control of the refining business, and naturally was the only one to make improvements. Many of the inventions in this regard have been made in Europe.

Mr. Emery does not know whether the by-products of petroleum may equal in value the refined oil, as stated by the Standard Oil Company. His own refinery uses Bradford crude oil, which is specially rich in lubricants. He makes, for the most part, only the crude stock for refined by-products, such as cosmoline, but sells from \$30,000 to \$35,000 worth of them monthly. (627, 628.)

Mr. PHILLIPS believes that so far as the processes of producing and refining crude oil are concerned, the independents are on a par with the Standard, but the Standard has an advantage in selling, because of its accumulated capital enabling it to handle all the by-products, etc. The superior utilization of the by-products partly accounts for the greater profits of the Standard Oil Company. (599, 602.)

Mr. DAVIS states that a large refinery with facilities for making gasoline and other by-products is much more profitable than one which makes only illuminating and lubricating oil. But it is scarcely a safe investment to attempt to manufacture these by-products. The railways are large consumers of lubricating oils, and these deal almost exclusively with the Standard Oil Company. Even a large investment would be likely to prove unprofitable. The refinery controlled by the witness had a capacity of about 8,000 barrels per week. A refinery of that size is confined to the manufacture of illuminating and lubricating oil. This refinery sold its by-products, without finishing them, to Scofield, Shurner & Teagle, and elsewhere, but never secured a profit from them. (355, 356.)

E. Purchase of coal.—Mr. LEE believes that the Standard Oil Company, like other large consumers of coal, is able to secure it at low prices. It practically fixes what it will pay. This has an injurious effect on the wages of coal miners. (378.)

Mr. ARCHBOLD denies that the Standard obtains special rates on coal and declares that it buys in the open competitive market. (533.)

F. Advantage in foreign trade.—Mr. ARCHBOLD urges especially, as a justification of the methods of the Standard Oil Company, that large aggregation of capital has been absolutely necessary to the successful development of the export trade in petroleum. Any restriction in the amount of capitalization allowable would greatly hamper that company and other large American corporations in competing with foreign corporations. The Standard Oil Company has been conspicuously active in reaching out and securing markets over the entire world. If it had not been so energetic, the producers of oil in Russia and elsewhere would have secured a very much larger proportion of the foreign markets than they now possess. The Standard Oil Company constantly meets strong competition, probably on the whole growing competition, from oil produced in other countries. Mr. Archbold submitted a partial list of corporations and firms engaged in producing and refining petroleum in Russia and various other countries, with their approximate capitalization, showing how extensive is the investment and how vigorous the competition encountered by the Standard Oil Company. The Standard Oil Company has no interest in any of these concerns. In Russia, especially, the business is getting into the control of men of great wealth and ability—such as the Rothschilds, Nobel Brothers, and prominent English capitalists. There is a rapidly developing petroleum industry in Japan, Sumatra, and Java.

The witness submitted the following statements, showing the amount of refined and of crude oil, respectively, produced in different countries, with the percentage of the total assigned to each. He maintains that most of the refined oil produced by each country is the product of crude oil obtained in that country. (562-567.)

World's production of refined illuminating oil, 1897.

[Barrels of 50 gallons.]

Product of—	Barrels.	Per cent of total.	Product of—	Barrels.	Per cent of total.
United States	25,268,628	64.23	Mexico	104,267	0.27
Russia	9,160,700	23.28	Cuba	58,413	.15
France	1,277,701	3.25	Brazil	35,506	.09
Austria-Hungary	1,046,359	2.66	Germany	34,822	.09
Sumatra	914,000	2.32	Peru	19,193	.05
Scotland	331,857	.84	Italy	15,136	.04
Canada	251,843	.64	Japan	13,689	.03
Java	230,362	.59	Puerto Rico	8,236	.02
Romania	230,000	.59			
India	180,685	.46	Total	39,398,991	100.00
Spain	157,684	.40			

World's production of crude petroleum, 1897.

[Barrels of 42 gallons.]

Country.	Barrels.	Per cent of total.	Country.	Barrels.	Per cent of total.
United States	60,486,489	47.86	France	70,000	0.06
Russia	57,084,303	45.20	Peru	68,452	.05
Austria-Hungary	2,087,617	1.66	Argentina	21,000	.02
Sumatra	1,777,560	1.41	Italy	18,149	.01
Scotland (1896)	1,316,894	1.04	Other countries (estimated)	200,000	.16
Canada	809,199	.64			
Java	726,373	.58	Total	126,138,528	100.00
Roumania	570,886	.45	Total production 1897	118,298,631	
India (1896)	430,203	.34			
Japan	283,571	.23	Increase	7,837,897	6.6
Germany	165,822	.13			

Mr. Archbold also submitted the following statement showing the proportion of the total export trade in petroleum products done by the Standard Oil Company. (568.)

Value of exports.

Total value of petroleum products exported from United States for the years 1861 to 1871, inclusive, amounted to	\$199,030,333
Value of exports from 1872 to 1898, inclusive (i.e., since the organization of the Standard Oil Company)	1,246,846,381
Value of exports by Standard Oil Company	1,126,401,021
Standard Oil Company, 90.34 per cent of total.	

Mr. PAGE states that the Standard owns a number of bulk tank ships, and also some sailing vessels which are used for shipping oil in cases to the far East. The Standard has many agencies throughout the world, mostly under charge of American citizens.

Mr. Page testifies further that the price of Russian crude oil is much lower than that of American oil and that the Russians are competing actively in various markets, but especially in the Asiatic trade. They have tank steamers for transporting oil to India and even to China and Japan.

The witness has heard and believes that the German government recently issued an order requiring the government-owned railroads to burn exclusively Russian oil in preference to American. (791, 792.)

Opponents of the combination present little evidence about foreign oil, although they make statements concerning the conditions of export trade generally, the efforts of independent refiners to find foreign markets, and the methods of competition of the Standard Oil Company against these. (On this subject see p. 121.)

Mr. PHILLIPS, however, maintains that the Standard Oil Company was not the pioneer in shipping oil abroad, but that before its existence a large proportion of the foreign countries had already been reached. He believes that a wider distribution of petroleum would have existed if the Standard had never been formed. The Standard Oil Company has no better talent than others engaged in the same business. (600, 601.)

On the general subject of export trade Mr. LEE states that ordinary export oil would not be permitted to be sold in some of our States, but is still of quite high quality. (Compare pp. 135, 136.) The independent oil is superior to that sold by the Standard, which, the witness believes, is partly refined from Lima oil. About 40 per cent of all the crude oil manufactured is exported in the shape of refined oil, while lubricating oils and by-products would bring the proportion up to fully 50 per cent. Germany is the largest oil market in the world, both the Standard and independents doing extensive business there. Russian oil is not largely used in Germany. The Standard Oil Company controls most of the business in France. The independents do little business in Asia, Africa, or South America. (273-278; compare Phillips, 600.)

Mr. EMERY submitted an estimate of the amount of American oil consumed in European countries. Germany consumes about 6,000,000 barrels; Great Britain, 3,000,000; France, 2,000,000; Norway and Sweden, 1,200; Denmark, 600,000. Practically all of this is sold by the Standard Oil Company, the largest exportation of the independents in any one year having been about 400,000 barrels, almost entirely sold in Germany. (617, 623.)

Mr. LEE believes that the Standard Oil Company is not transporting oil from this country in tin cans as largely as it formerly did, but that it is supplying its Eastern markets largely with Russian oil and making tin cases abroad.

In reply to this Mr. ARCHBOLD submitted a statement showing the number of tin cans manufactured by the Standard Oil Company in this country and elsewhere from 1894 to 1898. These figures show, for the most part, a steady increase in the number manufactured in the United States, and relatively less increase abroad. A total of 223,116,660 5-gallon cans were manufactured in this country and less than 18,000,000 abroad. The company is compelled by freight rates and tariffs to manufacture some tin cans in Mexico and in Italy, but nowhere else.

During the same five years there have been exported from the United States 109,861,221 cases (each case containing two tin cans) of petroleum, all but 7,463,041 by the Standard Oil Company, while the exports from Russia have been only 53,128,120 cases. The witness submitted a detailed statement of exports to different countries by the Standard Oil Company and by other American refiners, to show the enterprise of the Standard Oil Company in securing foreign markets. (533-538.)

G. Quality of trust product.—Mr. LEE believes that the oil refined by the Standard Oil Company has deteriorated in quality within 20 years, since the company has used a considerable proportion of Lima oil for refining, which contains arsenic and sulphur. (275.)

To this statement Mr. ARCHBOLD replies that, as the result of careful work on the part of the Standard Oil Company, it has been possible to secure refined oil from Ohio crude fully equal to that from Pennsylvania crude. The independent refiners of Pennsylvania have done a great injustice to the producers of Ohio by depreciating the quality of their product and attempting to keep it from being considered on the exchanges as a good delivery. (532.)

Mr. EMERY denies, from his experience as a refiner, having in his employ as good a chemist as can be found, that sulphur can be entirely eliminated from oil containing it. The chemists of Europe who test the quality of oil imported always detect the presence of sulphur, and on that account practically exclude oil refined from Ohio crude. Such oil is confined in its use almost altogether to the United States and Mexico. (624, 625.)

Mr. RICE declares that Ohio oil is decidedly inferior, and that, despite modern improvements in refining it, the sulphur and other impurities can not all be removed. The refined oil from Ohio crude is mixed with that from Pennsylvania crude, but even then it forms a white film on the lamp chimney, gives an offensive smell, and is otherwise unsatisfactory. Mr. Rice quotes a circular from the Waters-Pierce Oil Company, issued in 1890, in which Ohio crude is stated to be inferior. The company issuing this circular was a member of the Standard combination.

Up to 1895 oil manufactured from Ohio crude was not acceptable on the New York exchange, but in that year, under the influence of the Standard Oil combination, it was made a good delivery. Mr. Rice declares that the profits of the Standard Oil Company on oil refined from Ohio crude are much higher than on other oil, owing to the lower price of the crude. (735, 736.)

Mr. GALL says that his Canadian customers seem to consider the American oil which he sells them much better than what the Standard was selling as Pennsylvania oil. He believes that the Standard had been giving them the Ohio product for years, and putting it off as Pennsylvania oil. Mr. Gall sells Ohio oil also, and makes a difference, generally of about a cent or a cent and a half a gallon, between it and Pennsylvania oil. (681.)

Mr. MONNETT refers, without quoting it in detail, to a pamphlet issued in England declaring that American oil furnished by the Standard Oil Company is inferior to Russian oil, and describing the illegitimate means resorted to by the Standard Oil Company to prevent Russian oil from entering English markets. (319.)

Mr. ARCHBOLD declares that this pamphlet referred to is a scurrilous publication issued by one of the yellow journals of London, which has been practically subsidized by Russian producers. A committee of Parliament investigated the quality of American and Russian oil and fully upheld the safety and quality of American oil. (546.)

Mr. Emery explains in detail the methods of refining and the various qualities and tests of oil. When the crude oil is distilled the lighter products pass over first—first the volatile gas, next gasoline, benzine, etc. The first illuminating oil to pass over is the lightest in weight, and will burn at about 110 degrees (fire-test). It will flash at 85 degrees, but will then go out. This grade of oil was

formerly legally used in most of the American States, but later laws have raised the fire test, so that most oil used in this country is from 120 to 150 degrees fire test. Only a limited amount of oil of this higher test can be obtained from crude, and in obtaining it the quality of the lighter grades of oil is lowered.

Mr. Emery considers that 110-degree oil is entirely safe for ordinary use. It will not give so bright a light as 150-degree oil, but will last longer in burning.

One hundred and ten degree oil is the ordinary export oil. The Germans apply a rigid test to secure the maintenance of this standard. Mr. Emery believes that, in view of the lower price of such oil, it is the most economical for use, and that this is the reason why it is admitted freely by Germany. (623-626.)

VII. CRUDE OIL.—EFFECT OF COMBINATION.

A. Early history of oil industry.—1. *Discovery and progress.*—Mr. BOYLE presented detailed statements concerning the early development of the oil industry. Oil was refined from coal and shale in considerable quantities during the early part of the present century. Rock oil or petroleum was often observed in connection with salt wells and springs in Pennsylvania and Kentucky and elsewhere, and in 1829 a large flow of oil was secured from a salt well in Kentucky. As early as 1853 and 1854 there was organized effort to produce petroleum from oil springs and surface gravel in Pennsylvania. E. L. Drake was the first to experiment in drilling especially for oil, and he was first successful in August, 1859.

The industry developed very rapidly, but was greatly hampered by the difficulty of transportation—since the oil district was 30 miles from the nearest railway—and by the lack of barrels for transportation. The first flowing wells were struck in 1861, and produced so largely that prices declined from \$20 per barrel to practically zero, there being then no way of storing and transporting oil in such quantities. There was a marked improvement in 1862, and during 1863 transportation by boats enabled oil to reach markets more readily and improved prices. In order to float boats the device was used of damming the water in Oil Creek and letting it out in sudden floods. Small pipe lines for conveying oil were introduced about this same time, and during 1863 and 1864 railways were constructed into the oil territory. During the latter year many stock companies were formed and speculation was excessive. The price of oil was forced up in July, 1864, to \$13.75 per barrel. The cost of transportation was still very great, and during the war a tax on crude and another on refined petroleum was levied by the National Government.

In 1865 improvements in drilling, such as the use of casing, torpedoes, etc., were introduced, and pipe lines began to be used more extensively for transporting oil from the wells to railway points. The cost of transportation of oil from Pithole to New York in December, 1865, was \$5.55 by one route and \$4.59 by another.

During 1866 and 1867 production increased rapidly and prices fell greatly. There were a number of bank failures. Mr. John Ponton, in a pamphlet entitled "The Crisis in the Oil Region," estimated that a profit of \$504 could be secured during the first year of production of the average oil well, costing \$3,500, by the use of gas as fuel for pumping; but if coal should be necessary for pumping there would be a loss of \$1,507. He advocated a restriction of output. But meantime improvements in transportation were being made, which soon brought renewed prosperity to the oil producers.

In 1869 the Petroleum Producers' Association of Pennsylvania was organized especially for the purpose of securing statistics of production, and thus protecting the producers from the depression of prices by speculators. A circular stating the objects of this association was submitted by the witness. Prices were higher than during any of the three previous years. There was, however, a decline during 1870. About 1871 the first discoveries of oil in the Bradford field were made, but the field was not developed until considerably later. During 1872 the Butler and Clarion fields were rapidly developed, so that there was soon an overproduction of oil. (BOYLE, 405-421, 454.)

Mr. EMERY also makes a brief statement of the early history of the oil business, dwelling especially on the history of pipe lines. (603, 604.)

2. *Oil exchanges and speculation.*—In the early days of the oil business the prices received by producers were determined in part by the so-called dump men, owners of "dumps" or tanks, who gathered up, and sold again, the oil of the small producers. The dump man developed into a refiner later on; and as a refiner he especially made a business of handling oil from the bottoms of tanks, not salable on the general market. The agents of larger refineries went from place to place, buying oil directly from producers and often following the prices of the dump men. Later on these agents became more systematic in their methods and finally met regu-

larly at special places to deal with producers. Thus originated oil exchanges, which at first were more in the form of chambers of commerce, but later took on more distinctly the form of exchanges. The oil exchanges at Titusville, Oil City, and Franklin were organized formally about 1871. These became numerous and speculation upon them rapidly increased, both among producers themselves and among outside persons. The producers who refrained from speculation invariably got wealthy, while those who speculated became poor. (BOYLE, 448-451.)

B. Statistics of production and prices.—Crude oil is produced in a number of different States of this country and in numerous foreign countries, especially Russia. For statistics of the world's production, by countries, see above (p. 134). The quality known as Pennsylvania oil, which is also found largely in New York, West Virginia, and a part of Ohio, is considered much superior to Ohio or Lima oil and that found in California and other States, as well as to Canadian and Russian oil.

The following statement was submitted by Mr. Archbold. (568.)

Crude oil production, by States, years 1896, 1897.

[Barrels of 42 gallons.]

States.	1896.	1897.	Increase or decrease.	Increase or decrease.	Average value per barrel.	
					1896.	1897.
				<i>Per cent.</i>		
Pennsylvania	19,795,770	18,439,180	1,356,590	6.9	\$1.186	\$0.795
New York	736,606	771,606	35,000	4.8	1.179	.786
West Virginia	10,005,966	13,078,011	3,072,045	30.7	1.180	.788
Ohio (Pennsylvania oil)	3,365,365	2,877,193	488,172	14.5	1.180	.788
Ohio (Lima oil)	20,575,139	18,682,677	1,892,462	9.2	.739	.520
Indiana	4,646,952	4,110,356	536,596	11.5	.680	.456
Kentucky	1,680	322	1,358	80.8	.550	.500
Tennessee	4,325	4	52	1.2		
Missouri	43	19	24	55.8	4.30	9.16
Colorado	361,450	477,499	116,049	32.1	.883	.810
California	1,252,777	1,903,411	650,634	51.9	.900	.900
Kansas	113,571	81,068	32,473	28.6	.450	.400
Wyoming	2,878	3,650	772	30.3	8.00	8.00
Illinois	250	500	250	100	5.00	4.00
Texas	1,450	65,975	64,525		.720	.570
Indian Territory	170	625	455		4.000	3.30
Total	60,864,401	60,496,499	367,902	0.6	.900	.676

Total value of production, 1896 \$58,518,709

Total value of production, 1897 40,829,611

Decrease 17,689,098

1. *Pennsylvania oil.*—Mr. Boyle and Mr. Archbold submitted the following table showing the average daily production of Pennsylvania crude oil from 1870 to 1898, the average price of crude oil per barrel of 42 gallons and of refined per gallon, and the variations in stocks on hand. (435, 547.) It should be noted that the price of refined oil includes the value of the barrel, worth about 2½ cents per gallon. (But see, as to value of barrels, Mr. WESTGATE, p. 1332.)

Production and prices of Pennsylvania oil.

Year.	Average daily production.	Average price per barrel.	Refined, per gallon.	Stocks increased.	Stocks decreased.	Total stocks.
	<i>Barrels.</i>			<i>Barrels.</i>	<i>Barrels.</i>	<i>Barrels.</i>
1870	15,350	\$3.90	\$0.20½	208,872		544,626
1871	15,800	4.40	.24½		12,626	532,000
1872	17,925	3.75	.22½	552,223		1,084,428
1873	27,106	1.80	.18½	541,134		1,625,157
1874	29,937	1.15	.13	2,080,462		3,705,689
1875	24,075	1.24½	.13		155,439	3,550,250
1876	24,505	2.57½	.19½		725,461	2,824,789
1877	35,998	2.89½	.15½	308,068		3,127,857
1878	41,544	1.17½	.10½	1,487,493		4,615,306
1879	54,206	.85½	.08½	3,936,956		8,552,256
1880	71,114	.94½	.09½	8,502,848		17,145,104

Production and prices of Pennsylvania oil—Continued.

Year.	Average daily production.	Average price per barrel.	Refined, per gallon.	Stocks increased.	Stocks decreased.	Total stocks.
	<i>Barrels.</i>			<i>Barrels.</i>	<i>Barrels.</i>	<i>Barrels.</i>
1881	75,004	\$0.85½	\$0.08	8,615,947		25,761,061
1882	82,338	.78½	.07½	8,574,083		24,335,144
1883	63,365	1.05½	.08½	1,380,421		25,715,565
1884	65,129	.89½	.08½	1,157,327		26,872,822
1885	55,321	.88½	.08½		3,333,854	33,539,092
1886	70,679	.71½	.07½		171,140	33,337,898
1887	58,848	.66½	.06½		5,011,786	23,337,112
1888	45,058	.87	.07½		9,752,638	18,604,474
1889	58,889	.94½	.07½		7,699,681	10,904,793
1890	82,376	.86½	.07½		1,600,279	9,235,514
1891	98,191	.66½	.06½	6,047,719		15,343,238
1892	91,328	.55½	.0607	2,052,155		17,395,389
1893	85,236	.64	.0524		5,284,206	12,111,183
1894	84,334	.83½	.0519		5,774,403	4,336,777
1895	84,320	1.35½	.0736		1,174,872	5,161,905
1896	82,815	1.19	.0698	4,488,678		9,650,583
1897	96,357	.78½	.0691	1,239,069		10,789,052
1898	85,206	.91½	.0681	752,101		11,541,753

Since 1870 the daily production has increased 450 per cent; the price of crude oil has declined 75 per cent, and the price of refined about 75½ per cent.

Mr. LEE gives figures showing the highest and lowest prices of crude oil for each year since 1869 to 1897, and explains some of the chief fluctuations. The South Improvement Company was formed in 1872 and largely controlled transportation, by this means depressing prices of crude oil. New discoveries of oil in Butler County further decreased prices, but in 1876 and 1877 the working out of this field and increased speculation again raised prices largely. The rise in 1883 was due to the practical giving out of the Cherry Grove field, opened in the previous year, and to the decline in the Bradford field. The increase from 1888 to 1890 was due to restriction of production by agreement. The heavy production of the McDonald field then greatly reduced prices, while the increase in 1895 and 1896 was made arbitrarily by the Standard Oil Company. (279, 283).

2. *Ohio oil.*—As to the quality of Lima oil, see p. 185.

Mr. DAVIS states that the Macksburg oil field, about 25 miles from Marietta, produces a high quality of oil, containing much paraffine, and known as "white-sand oil." More recently the Corning field has been discovered 40 miles northwest from Marietta. The oil is in many ways as valuable as the white-sand oil, but the price is fixed by the Standard Oil Company, through its pipe lines, at 17 cents per barrel less. The production of oil in these two fields is about 10,000 barrels per day, while in the Lima field it is about 60,000 barrels per day. (352, 353.)

3. *Canadian oil.*—The production of crude petroleum in Canada is confined almost altogether to western Ontario. The total production is about 750,000 or 800,000 barrels per year. Practically all of this is refined and used in Canada, and in addition about 38 per cent of the entire amount of refined products used is imported from the United States. Most of the crude production is in the hands of small owners, but the Standard Oil Company controls about 25 per cent. (GALL, 672, 673.)

Mr. Gall testifies that Canadian oil is much inferior to Pennsylvania oil, and even to Ohio oil. The difference in price made by his company between Pennsylvania and Ohio oil is usually about 1½ cents. The witness believes that the Standard Oil Company has been selling Ohio oil in Canada under the name of Pennsylvania oil. (681.)

4. *Russian oil* is not as productive of illuminants as American oil, and the refined oil is inferior in quality, containing some sulphur. The basis of American oil is paraffine, and from 75 to 78 per cent of illuminating oil can be obtained from Pennsylvania crude. The basis of Russian oil is asphalt, and it gives only about 25 per cent of refined oil. California oil also has an asphalt base. (EMERY, 626.)

As to amount of production and strength, of competition of Russian oil, see above pp. 183, 184.

C. *Method of leasing lands.*—In many instances oil producers buy lands, but the more common custom is to lease them for oil purposes, giving the owner one-eighth. The lease usually runs for 20 years. (DAVIS, 864.)

Mr. MONNETT mentions one-sixth as the average amount that goes to the landowner in Ohio. (311.)

The proportion of the value of oil going to the landowners as royalty has varied from one-half to one-eighth, the latter proportion now prevailing in most parts of the oil fields. (ARCHBOLD, 539, 540.)

D. Cost of drilling wells—wages.—Mr. EMERY, who has drilled several thousand oil wells, testifies that in the lower oil regions, where wells are sometimes as deep as 2,000 feet, the cost is often \$3,000 or \$10,000. In the upper region the cost was formerly about \$2,500, the average, perhaps, for both regions being about \$4,000. But it would be impossible to drill wells at these figures to-day, since the price of iron, which is largely used in casing, has doubled. (661.)

Mr. DAVIS states that the cost of producing oil had decreased materially until 1899, when the increase in the price of iron for casing, tubing, and machinery increased the cost of sinking wells. The cost of production varies greatly in different fields according to the depth, the kind of casing which must be used, and the amount of production. The cost of drilling may be \$5,000 or \$6,000. Expert drillers are paid \$4 or \$5 per day. (363, 364.)

Most labor in the drilling of oil wells is done by contract, so that it is difficult to estimate the average rate of wages or the average length of time the men are employed. The wages differ considerably according to the skill of the worker; a first-class man is likely to earn as much as \$1,000 in a year. The labor, both in drilling and in refining oil, is well cared for, and is loyal to the producers and to the Standard Oil Company. (BOYLE, 483, 484; see also p. 145.)

E. Proportion of crude production controlled by Standard.—Mr. LOCKWOOD testifies that the Standard Oil Company owns a large percentage of the Ohio fields, and has been acquiring much production in the Pennsylvania and Virginia fields. Its policy has been to depress the price of crude oil, so that lands could be purchased at low figures. Thus the price of Lima oil was kept down to between 10 and 20 cents, after the Standard Oil Company had introduced its pipe lines and had influenced the railways to fix high rates for transportation, so that it practically fixed the price of oil. The purchases in the Pennsylvania and Virginia fields also were made just before the great rise of prices in 1896 and 1897. By increasing prices after these purchases of land the public is made to pay for the investment. Moreover, stocks had been reduced to between 4,000,000 and 5,000,000 barrels, and the law of supply and demand, as well as the desire of the Standard Oil Company to make profits, forced an increase of price. (402, 403.)

Mr. PHILLIPS confirms the general features of this testimony. (592.)

Mr. LEE states that the Standard Oil Company controls from 23 to 25 per cent of the production of crude oil. More than half of the entire production is owned by men who produce less than 10 barrels a day each. The owners of from 40 to 50 per cent hold stock in the independent pipe-line and marketing companies. The effect of the production of crude by the Standard Oil Company has been to reduce prices. It is able, by its large capital, to drill deep wells and secure high production. It has also leased large blocks of oil lands in West Virginia and has held them for future development. (281, 282, 285.)

Regarding the Ohio field, Mr. DAVIS testifies that when territory is found to produce oil in profitable quantities, various companies, such as the South Pennsylvania Oil Company, the Ohio Oil Company, the Carter Oil Company, etc., which are believed to be creatures of the Standard Oil Company, buy up the ground largely. They have plenty of capital and pay fair, even exorbitant prices, overbidding their competitors. (354.)

In reply to the charges of Mr. Lockwood that the Standard Oil Company had used its control of prices of crude oil to depress the value of oil lands and secure practically the entire control of crude production in Ohio, Mr. ARCHBOLD submitted the following statement, showing the amount and proportion of the total crude output, both in Pennsylvania and in Ohio, produced by the Standard Oil Company. It is to be noticed that while the proportion of Pennsylvania oil produced by that company has rapidly increased, the proportion of Lima oil controlled by it for some time decreased rapidly and later increased only slowly. (While Mr. Lockwood's statement referred to ownership of land and Mr. Archbold's to production of oil, some degree of correspondence between land ownership and oil production would naturally be expected.) (561.)

Production of Pennsylvania and Lima crude oil by Standard Oil Company and others, years 1890 to 1898, inclusive.

[Expressed in barrels of 42 gallons.]

Year.	Pennsylvania oil.			Lima oil.			Grand total.		
	Total production.	Standard Oil Co. production.	Standard Oil, per cent of total.	Total production.	Standard Oil Co. production.	Standard Oil, per cent of total.	Pennsylvania and Lima production.	Standard Oil Co. production.	Standard Oil, per cent of total.
1890	30,065,807	2,618,637	8.71	15,014,882	8,400,508	55.95	45,080,749	11,019,205	24.44
1891	35,742,127	4,913,775	13.74	17,381,923	9,319,150	53.61	53,124,050	14,232,031	26.79
1892	33,322,309	4,338,822	13.02	16,085,193	7,843,324	47.01	50,017,499	12,182,146	24.36
1893	31,256,283	6,705,276	21.45	17,823,255	7,280,860	40.74	49,079,538	13,006,175	26.48
1894	30,626,716	7,210,345	23.49	18,575,605	6,690,951	36.02	49,272,319	13,901,296	28.21
1895	30,891,868	9,119,620	29.52	21,719,250	6,808,876	31.35	52,611,118	15,028,790	28.58
1896	33,908,041	9,380,654	27.66	25,222,001	8,031,703	31.84	59,130,132	17,412,447	29.45
1897	35,170,367	9,797,353	27.83	22,795,033	7,497,349	32.89	57,965,400	17,284,702	29.82
1898	31,045,151	11,248,443	36.55	20,206,328	7,220,606	35.63	51,911,479	18,469,049	35.58
Total	292,708,726	65,323,225	22.32	175,481,558	69,073,522	39.36	468,190,284	134,390,747	28.70

F. Effect of Standard Oil combination on prices.—1. *Opponents of combination.*—Several witnesses testify that the practical monopoly of the Standard Oil Company in the purchase of crude oil has been employed by it to depress prices, greatly to the injury of producers (e. g., RICE, 689). The Standard Oil Company has control of far the greater proportion of the pipe lines in the oil regions, and producers have no choice but to sell to these pipe lines at the prices fixed by them. The evidence to the effect that this power of depressing prices has been used in order to buy up oil lands at low figures has been already referred to (p. 139). It is especially claimed by witnesses that the practice of the Standard Oil Company since 1895 of disregarding the prices of oil made on the exchanges has given it still greater control over the market.

Mr. LEE's testimony is especially full on this point. He states that there has been a great fall in the price of crude oil since 1870, when it was \$4.90 per barrel, the price in 1897 ranging from 65 to 96 cents. This decrease, while partly due to new discoveries of oil, cheaper drilling of wells, and improved methods, is largely owing to the combination of refiners. For 10 years previous to 1895 the average price of crude oil was kept below 80 cents, which is to most producers unprofitable. This low price was not mainly due to overproduction. Thus, when the Bradford oil field was opened in 1881 production increased greatly, so that 39,000,000 barrels were in stock in 1884, yet the price was reduced only to \$1.12 or \$1.15, as compared with \$1.24 in 1880. In 1887 the stock had fallen to 31,000,000 barrels, and the production was about the same as in 1884, but the price had fallen to 66 cents. The arbitrary limitation of production from 1887 to 1889 increased prices somewhat, but less than was anticipated. Since January, 1895, the Standard Oil Company has ceased paying the market prices for oil, as fixed on the exchange, and has simply announced the prices it would pay daily. The range of prices, however, has been higher since 1895, averaging \$1.05. This has not been chiefly due to increased competition of independent pipe lines, although they pay often from 1 to 9 cents per barrel more than the Standard Oil Company, and undoubtedly tend to keep up prices. (Compare p. 112.) The sudden increase in price to \$2.60 in 1895 was entirely arbitrary, apparently intended to injure independent refineries.

Crude-oil producers as a body have been losing steadily, but they continue to drill and to pump oil, largely because of the speculative possibility of striking large wells and the hope of better conditions in the future. The witness believes that the cost of producing a barrel of crude oil now averages from \$1 to \$1.20. Mr. Lee declares that he believes, in fact, that the oil-producing counties would have been better off if they had never produced a barrel of oil. The price of local pipage has not been reduced by the Standard Oil Company since 1870.

The producer who happens to strike a well with a large flow could of course sell much below the producer whose well yields a small quantity, since the cost of drilling in each case is about the same. But the greater part of the production is from small wells and the price must be sufficient to enable them to be drilled, aside from the matter of the speculative drilling of wells in hope of large production. The result is that the owner of a large well secures a very high profit from a normal price. (279-283, 293, 294.)

Mr. MONNETT states that the laws of various States and other obstacles make it almost impossible for independent pipe lines to be laid. The Cudahys of Chicago have been trying for years to secure pipe-line privileges in Indiana and Ohio. The companies belonging to the Standard charge prices so high as to prevent independent refiners or producers from shipping. Producers in Ohio are practically compelled to sell to the pipe-line companies at the price they may fix, having no other means of outlet. The pipage rate in Ohio everywhere is 20 cents per barrel. The Buckeye Pipe Line Company has had a gross income in three years of \$19,495,495 from Ohio business, while the landowners have received for the leases of their land only \$9,747,000. (310, 311.)

In the Ohio field, to judge from Mr. Monnett's testimony, the Standard Oil Company itself produces much of the oil by lease from the owners of the land, paying them 60 cents per barrel for one-sixth of the oil. In any case it practically fixes the price of crude oil by its control of the pipe lines. The witness gives a rough estimate that the Standard makes gross sales of about \$120,000,000 and a profit of about \$50,000,000 annually from Ohio oil. The witness does not know precisely what proportion of the crude product is controlled by the Standard Oil Company, but thinks it is much more than one-half. By its control of transportation the Standard causes the producer to accept less than the true value of his oil. (311, 315, 318, 319.)

2. *Reply of Standard Oil Company.*—As evidence that producers have received fair prices and profits, Mr. BOYLE submitted a table of figures showing the annual production of crude oil by barrels since 1860, the average price, and the total value. Combining these figures for 10-year periods, we find that from 1860 to 1869 the 27,944,500 barrels produced were valued at \$111,142,603; from 1870 to 1879, 108,535,306 barrels were valued at \$207,892,617; from 1880 to 1889, 241,544,250 barrels were valued at \$206,623,341, while from 1890 to 1899, 293,220,986 barrels were valued at \$253,113,285. Mr. Boyle also submitted the following table showing the number of wells drilled and the estimated cost of drilling for decade periods as compared with the value of crude oil produced:

Years.	Wells drilled.	Cost per well.	Total cost.	Value of crude oil.
1860-1870	5,000	\$4,000.00	\$20,000,000.00	\$111,142,603.00
1870-1880	20,259	3,000.00	60,777,000.00	207,892,617.47
1880-1890	32,132	2,000.00	64,264,000.00	206,623,341.56
1890-1899	43,490	2,000.00	86,980,000.00	253,113,285.00
Total	100,881	.....	232,121,000.00	778,771,847.03

If we suppose that one-fourth of the value of crude oil produced has gone to the owners of the lands, the balance remaining to the producers, after deducting the cost of wells and the amount paid to land owners, for the entire period of 39 years, would be \$351,957,885. The average cost of lifting oil may be estimated at 25 cents per barrel, which would amount to \$87,989,471, leaving for the profits of the producing business \$263,968,413, or an average per year of \$6,768,420.

In the figures for the cost of wells are included 15,000 dry wells, the statistics for producing and dry wells being carefully compiled by newspapers in the oil district since 1875. The witness does not consider that the amount of bonus or rental paid by producers to owners of oil lands before opening production should be considered as an element in the cost of production. It is essentially a speculative venture, in which the producer takes his chances of great profit or of loss. (438-435.)

Mr. ARCHBOLD replies, especially to the statements of Mr. Lee as to the unprofitableness of crude-oil production, that the population of tens and even hundreds of thousands which now occupies the oil regions, once a comparative wilderness, and the cities, towns, and railroads, are sufficient evidence that the industry has been beneficial. He also submitted a table, nearly identical with the one submitted by Mr. Boyle, showing the yearly production and total valuation of crude oil since 1859. Deducting from this total valuation one-eighth to represent the royalty going to owners of the land (this royalty being at the rate of one-eighth now prevailing, although as much as half of the oil has sometimes gone to land owners), Mr. Archbold arrives at the conclusion that the producers themselves have received a total of \$673,704,847 during the past 40 years.

In further evidence on this point Mr. Archbold submitted a list of about 800 prominent oil producers who are, he declares, prosperous and well to do. (538-540, 553.)

On this point Mr. PHILLIPS testifies that a great many of the oil producers are quite well to do, although very few are considered millionaires; but the majority are comparatively poor. They would have been much better off but for the depression of prices by the Standard. (599.)

Mr. ARCHBOLD declares that the estimates made by Mr. Monnett as to the amount of gross receipts and profits of the Standard Oil Company from Ohio oil are altogether unintelligible and ridiculous. He does not consider it worth while to go into a detailed reply. He seems, however, to understand that Mr. Monnett's estimate referred to sales of refined-oil products in Ohio. It did refer, in fact, to the total sales of products made from Ohio crude. (544.)

3. *Overproduction and prices.*—So far as there has been a depression of prices below remunerative rates, it is explained by Mr. BOYLE as due to overproduction. He points out that there has been a constant tendency toward such overproduction of crude oil. Thus for nearly 10 years, during the eighties, stocks of approximately 40,000,000 barrels of oil were being carried by the producers in tanks owned by the National Transit Company. This large surplus on hand greatly depressed prices. Attempts to restrict production have usually failed, especially because of new producers coming into the field. (See below, p. 143.)

The witness is inclined to believe that depression in prices of crude oil to some extent injures refiners as well as producers. A medium price is more advantageous for refiners than either a high or a low one. Nevertheless the witness does not think that the Standard Oil Company has made less profits during times of low prices for the crude product. The value of the Standard's stock has not fallen. The maintenance of its profits has been due in part, apparently, to the reduction in the cost of refining oil during the period of low prices for crude oil. Notwithstanding the excessive production, especially during the eighties, Mr. Boyle believes that the producers of crude oil as a class have made enormous profits. The cost of production has greatly decreased in many cases.

To the suggestion that producers might gain by refining their own oil and saving the profits that come to separate refiners, Mr. Boyle replied that such attempts had frequently been made, but had always failed. The producers are likely to lack the experience and skill in manufacturing and in disposing of goods which are necessary. Mr. Boyle also admits that during the earlier periods of the oil business such smaller refineries controlled by producers were handicapped by railroad discriminations in favor of large refiners. (452-456.)

6. *Method of fixing prices.*—The Seep Purchasing Agency of Oil City, on behalf of the Standard Oil Company, posted on January 23, 1895, a notice, quoted by Mr. BOYLE, that thereafter the prices paid by it to oil producers would be "as high as the markets of the world will justify, but will not necessarily be the price bid on the exchange for certificate oil"—that is to say, the Standard Oil Company thereafter fixed prices itself in view of the condition of production and demand throughout the world.

This change was rendered necessary, as stated in the notice and as believed by Mr. Boyle, by the fact that very little oil was actually being sold on the exchanges, so that it was unfair for the prices fixed by such sales to apply to the great quantity of oil handled by the Standard Oil Company. Moreover, speculators on the exchanges had been able to manipulate prices in ways not justified by market conditions. Producers themselves sometimes sold oil to themselves at higher prices in order to fix the price for the Standard Oil Company.

Speculators also resorted, especially during the early eighties, to the practice of circulating false rumors concerning the production and discovery of wells for the purpose of illegitimately influencing prices. Out of this evil grew up the practice among the larger speculators of employing "scouts" to watch the developments in different fields and give information as to the production. The large stocks which were on hand during this period enabled bear speculators to sell short in large quantities without ever covering their sales, and the effect was to depress prices to producers.

Mr. Boyle admits, practically, that the producer has little part in making the price of oil under the new system, although he has the option to refuse the price offered. The claim of the Standard Oil Company is that the markets of the world determine the price.

The effect of the practice of fixing prices in this way has been to make fluctuations less marked and to keep the margin between the crude and refined oil more uniform. Mr. Boyle supposes that as soon as crude oil advances refined oil is also advanced in about the same proportion, in most cases. The witness submitted detailed tables showing the average price of crude and refined oil by months for the 4 years preceding the adoption of this new policy and corresponding prices for numerous dates during the 4 years after the policy was introduced, the latter figures showing apparently all the changes that have been made in the price

of crude oil by the purchasing agency. He calls attention to the fact that the price of refined oil includes the value of the barrel, which amounts to about 24 cents per gallon, while the value of crude oil is in bulk.

The amount of oil bought by the Seep Purchasing Agency, which is believed to be a representative of the Standard Oil Company, is probably about 80 per cent of the crude oil produced, both in Pennsylvania and Ohio. Mr. Boyle believes that this method of fixing prices by the Standard Oil Company is beneficial to the producers and the consumers also. The amount of speculation in oil has been very greatly decreased, and speculation tended to depress the price to producers, especially when it took the form of gambling on margins. The real effect of the present system is that the consumer makes prices.

On being questioned further concerning the methods of fixing the prices of crude oil, Mr. Boyle stated that he believed that the price of crude followed closely the price of refined, and that the price of the latter was fixed by the demand for oil in Europe. There is undoubtedly some person connected with the Standard Oil Company whose business it is to watch foreign markets and to decide whether the company shall sell oil at the figures offered by consumers abroad. The various local markets throughout the country have little influence in determining the price of crude. The changes in the price of crude are usually a full cent at a time, occasionally 2 cents, or even more. (BOYLE, 436-439, 446-451, 479.)

Mr. ARCHBOLD testifies that the Standard Oil Company purchases about 80 per cent of Pennsylvania crude oil through its general purchasing agent, Mr. Joseph Seep, of Oil City, and his 40 or 50 subagents. The attempt is to fix prices in accordance with the world's markets.

"We have before us daily the best information obtainable from all the world's markets as to what the offerings are and as to what it is possible to sell for, and we make from that the very best possible consensus of prices, and that is our basis for arriving at the current price."

Q. "Generally speaking, are the relative prices of the crude oil and the refined oil kept substantially uniform?"—A. "Oh, substantially so. Of course it is not always the same. Of course it seems possible sometimes to get a higher price, and we are glad to avail ourselves of the opportunity, and sometimes we have to take a closer margin and still buy the crude, and there, of course, we suffer a loss." (571.)

Mr. DAVIS testifies that when a producer has oil to sell he goes to the agent of the pipe-line company, who ascertains by telegraph the amount of oil to the credit of the producer and the price offered. The price is fixed altogether by the Standard Oil Company, though occasionally brokers make bids at higher rates for a few days. A producer can sell his oil to any agent wherever he may happen to be. (362.)

H. Restrictions of production.—Somewhat in confirmation of Mr. Boyle's statement concerning the effect of overproduction in depressing the prices of crude oil is the fact that various attempts have been made by the producers to restrict the output of oil with the avowed purpose of thereby raising prices. The most effective of these restrictions was that of 1887.

1. *Early restrictions.*—Mr. BOYLE describes in detail the earlier movements for restricting production. The Petroleum Producers' Association of Pennsylvania was organized in 1869. A circular issued in 1870 by this association states that its object is primarily to gather correct information concerning the production of oil, stocks on hand, and prospects, in order to protect producers against misrepresentation and depression of prices by purchasers. About this time it became evident that stocks were continually increasing, and a movement was inaugurated under the name of the Petroleum Producers' Agency to store all oil above a certain amount and keep it from the market. A circular of this agency was submitted by the witness in which its purpose was stated to be to prevent unwise competition between producers and sellers, and to secure a fair price for whatever amount of oil the world requires, unaffected by the fact that there is more produced than consumption demands. Calculations were made to show that an increase of daily production depressed prices in much more than equal proportion. The agency proposed to buy oil at \$5 per barrel so long as the general market would warrant it and to take all remaining oil for storage at the expense of the producers.

This plan failed to go into operation because of the enormous production in Butler County.

The first effective shut-down in production and drilling for crude oil was brought about in 1873. For 80 days there was an almost entire cessation of output in all the fields. The increased prices thus secured tended to encourage drilling immediately after the restriction was dropped, but the chief cause of the rapid decline in prices during 1873 and 1874 was the discovery of new wells and the deepening of

the old wells to the "fourth sand." In 1874 there was a local shut-in movement in Clarion County. In 1876 the plan was again started of pooling the surplus oil as a means for advancing the market, but other conditions soon raised prices so that it was unnecessary. Large new production during 1878 led to the formation of the Producers' Protective Union, which lasted for 2 years. This organization soon became aggressive and brought suits against pipe-line companies and the Standard Oil Company. It had, however, little beneficial effect, production being practically not limited at all and prices steadily falling. (426-428, 453-459.)

2. *Restriction of 1887.*—Mr. BOYLE further testifies that in 1884 there was again an attempt to establish a general combination of producers to restrict drilling. Through the refusal of the operators who were securing large wells in the new Thorn Creek district, the movement was only partially successful, but it led to the organization of the Producers' Associated Oil Company, with a capital stock enabling it, when necessary, to purchase oil property in order to curtail production.

This new organization made an agreement with the Standard Oil Company in 1887 for reducing production. The conditions at that time were worse than ever before. Great stocks of oil had been accumulated through the heavy production of the Bradford field. The stock in 1887 was 31,000,000 barrels. Prices were below a remunerative point, while the Standard Oil Company was losing by the deterioration of the oil in store. This movement to restrict production was the most thoroughly organized which had ever been attempted, and its success was rendered certain by the fact that all the different branches of the oil industry were alike interested and were cooperating. Although there were 14,000 producers of crude oil, fully 85 per cent of them were brought into the agreement. The movement developed gradually from June to October, 1887, being furthered by various secret and public meetings of the Producers' Protective Association. Conferences were held with the Standard Oil Company and an agreement was finally made between the association of producers and that company by which production was to be restricted for one year by one-third, beginning November 1, 1887. This contract was carried out with fair success.

In consideration of the advantage to itself, the Standard Oil Company turned over to the producers 6,000,000 barrels of oil at the market price at the time of the contract, 62 cents per barrel, the producers thus securing the profit from the anticipated rise in prices. Mr. Boyle states that when the oil was actually turned over the price already stood at 71 cents.

In 1888 further agreements were entered into among themselves by the producers in the association, especially with a view to equalizing the amount of oil which could be produced by each individual. These agreements were called respectively the boundary-line drilling contract and the interior drilling contract. The most important provisions follow:

"Hereafter the number and location of wells for the production of petroleum along or adjacent to the exterior boundary line of any producer on either side of said line shall be determined by the agreement of the producers interested in the production along said boundary line, or, in case of their failure to agree, by three arbitrators, one to be chosen by the producer or producers on one side of the said boundary line, one to be chosen by the producer or producers on the other side of the said boundary line, and the third arbitrator to be chosen by the two so chosen by the producers aforesaid.

"But no decision of such arbitrators shall be permitted to deny altogether the right of a producer to drill when he can not drill at all without drilling within 800 feet of the boundary.

"No well shall be drilled on or within 800 feet of any boundary line until its location shall have been fixed by agreement of adjoining producers or by award of arbitrators, as hereinbefore provided. * * *

"We, the undersigned, producers of petroleum, do hereby agree to and with each other that we will not drill any wells for the production of petroleum on any farm or tract of land owned by us, except along or adjacent to exterior boundary lines of our respective properties, to a greater extent, exclusive of boundary-line wells, than one producing well for each 20 acres and each fractional part of 20 acres; provided that additional wells may be drilled with the consent of the local assembly of the Producers' Protective Association for the district in which the particular property may be situated and of the general executive board of said producers' association, or, in case such consent can not be obtained, upon the allowance of the arbitrators, or a majority of them, one to be chosen by the person or persons desiring to drill, one to be chosen by the local assembly of the Producers' Protective Association for the district in which such property is situated, and the third by the two so chosen."

It was not found possible to bring all the producers into the contract. The owners of large wells in the new Washington fields made a great profit by keep-

ing up production at the higher prices. Nevertheless the effect of the movement was admitted by Mr. Boyle to have been a "hypnotizing" of competition. The price of crude oil was advanced about 20 cents per barrel by the restriction, so that the producers benefited materially.

The price of refined oil to consumers was advanced about three-fourths of a cent per gallon, a difference somewhat less than the advance in crude oil. The loss thus occasioned was partly borne by the Standard Oil Company as the chief refiner of oil, but the company gained by the added prosperity of the producers and the added harmony between them and itself. (Boyle, 428-432, 459-462.)

Mr. LEE testifies, in less detail, confirming a number of the essential facts stated by Mr. Boyle concerning the restriction of 1887. He adds that as a result of this restriction the production was decreased by 17,500 barrels per day, and by 1889 the stock on hand was reduced to 9,000,000 barrels. The price was raised somewhat by this movement, but not to the extent anticipated, and the arrangement was thereafter abandoned. (284, 288.)

Mr. ARCHBOLD testifies that the shut-down movement of 1887 was entered into by the Standard Oil Company only at the urgent request of the producers, and was not in any sense initiated by the company. This statement was supported by Mr. Phillips. (540.)

3. *Effect on labor.*—According to Mr. BOYLE, the effect of the agreement of 1887 to practically cease the drilling of new wells was naturally to injure the laborers in that occupation. For their relief 1,000,000 barrels of oil were set aside from the 6,000,000 purchased by the producers from the Standard Oil Company, while the Standard added another 1,000,000 barrels for the same purpose, the profits from the rise in price of this oil being paid to the drillers. Meantime the drillers had formed a strong organization and adopted a scale of prices.

The purpose of thus setting aside 2,000,000 barrels of oil for the drillers was rather a business than a philanthropic one. The object was to prevent the oil-well workers from engaging in other fields or working for producers outside of the shut-in agreement. It had been the custom during previous shut-downs also to take care of labor. The drillers did not suffer especially during the shut-down, since drilling for gas was active, and the restriction did not refer to Ohio and Indiana oil. (431, 432, 482, 483.)

VIII. EFFECT OF COMBINATION ON LABOR.

Mr. ARCHBOLD testifies that the Standard Oil Company has never had any serious difficulty with its employees in any department; that the entire 35,000 are well paid, contented, and zealous for the company. Mr. Archbold believes in combination of labor just as in combination of capital. Labor and capital are moving on irresistibly toward more thorough organization in themselves and closer and more harmonious relations between one another. (542, 543, 565.)

Mr. LEE, an opponent of the combination, admits that the Standard Oil Company has paid and still pays good wages, although not better than those paid by the independent refiners. The employees are mostly competent and of high class. Nevertheless the tendency, by closing down part of the refineries, is toward displacement of labor, and the centralization of industry in one organization gives it a greater control over labor than competing concerns could have. The Standard Oil Company pays very high salaries to its superintendents and department heads, so there may be no net saving in wage payments by the combination. (286, 288-290; see also p. 139.)

Mr. CLARK does not consider that the wages paid by the Standard Oil Company to its employees at distributing stations are higher than those of independent dealers or than wages generally. He worked for the company for 6 years, beginning as a boy of 19, and his pay was raised only from \$15 per month to \$2.50 a day, the latter sum being received when he was manager of the station at Newark, Ohio. He hired men or boys to drive hoops, fill barrels, care for drays, etc., at from 60 to 75 cents per day. They could have earned more elsewhere, but hoped to work up. Hours of labor average fully 12 per day. Mr. MATHEWS says that this statement as to hours of labor is misleading and untrue. (848, 849, 494.)

IX. RAILWAY DISCRIMINATIONS BEFORE INTERSTATE COMMERCE ACT.

A. *Discriminations admitted before interstate-commerce act.*—Much testimony was presented concerning the granting of special rates to the Standard Oil combination, and other forms of discriminations or advantages obtained by it from the railways. A large part of the testimony brought forward by opponents of the

combination, especially so far as regards actual rebates or differences in rates, related entirely to the period previous to the adoption of the interstate-commerce act in 1887. While the witnesses defending the combination presented some evidence in rebuttal as to these early discriminations, they admitted frankly that the practice of securing rebates and special rates had existed prior to the adoption of that act, while denying absolutely any violation of law since that time.

Thus Mr. ARCHBOLD testifies that previous to 1887 practically all shipments of oil, or of freight of any kind in large quantities, were made under special contracts between large shippers and the railways. The tariffs issued gave no clew to the actual rates charged. This practice was injurious, on the whole, to the shippers, and was particularly contrary to the interests of the Standard Oil Company. The various shippers, owing to the fear that some competitor might receive lower freight charges, cut prices to consumers in order to retain trade, thus often giving consumers more than the reduction from the published schedules actually secured. Since the practice has ceased the condition of business has been much more settled, and the witness attributes the increased profits of the Standard Oil Company since the passage of the interstate-commerce act in part to this change. These special contracts were usually made at the instance of the railway companies, soliciting traffic of large shippers, rather than at the instance of the shippers themselves. (526, 527, 580.)

Mr. PAGE also admits that the Standard received rebates from published rates, but declares that all other oil shippers did the same, and that in certain instances others received greater rebates than the Standard. He cites as instances shipments by Scofield, Shurmer & Teagle, and also shipments from Nashville by independent dealers.

Mr. Page states further that, so far as his own experience goes, the Standard Oil Company in securing such rebates made no arrangement with the railways as to what they should charge to other shippers. (789, 790.)

Mr. ROCKEFELLER also admits the former universality of the practice of rebates from tariff rates. He adds as follows:

"Each shipper made the best bargain he could, but whether he was doing better than his competitor was only a matter of conjecture. Much depended upon whether the shipper had the advantage of competition of carriers. The Standard Oil Company of Ohio, being situated at Cleveland, had the advantage of different carrying lines, as well as of water transportation in the summer, and taking advantage of those facilities made the best bargains possible for its freights. All other companies did the same, their success depending largely upon whether they had the choice of more than one route. The Standard sought also to offer advantages to the railways for the purpose of lessening rates of freight. It offered freights in large quantity, carloads and train loads. It furnished loading facilities and discharging facilities. It exempted railways from liability for fire. For these services it obtained contracts for special allowances on freights. These never exceeded, to the best of my present recollections, 10 per cent. But in almost every instance it was discovered subsequently that our competitors had been obtaining as good, and, in some instances, better rates of freight than ourselves." (795.)

Witnesses opposing the combination, however, consider that these early discriminations inured almost wholly to the benefit of the Standard Oil Company. Thus, Mr. EMERY, Mr. LOCKWOOD, and Mr. RICE, in particular, declare that the growth of the Standard Oil monopoly between 1870 and 1890 was almost entirely due to railway discriminations, and other witnesses less specifically state the same thing. They claim that the Standard received large rebates from railways on shipments made by its competitors. The gross profits of the combination from discriminations are alleged to have been enormous, ranging into millions of dollars yearly.

Mr. RICE declares with great emphasis that railway discrimination was the "father and breeder of trusts." Were it not for discriminations neither the Standard Oil Company nor any other of the great combinations would have been possible. The Standard Oil Company was the first and may be considered the parent of all trusts. It had a direct influence in the organization of many later combinations. (688.)

As to the question whether the Standard Oil Company in its earlier days received payment from the railways on oil shipped by its competitors, Mr. ROCKEFELLER, in an affidavit submitted to the commission, stated that he knew of no such instance. The only case where such an arrangement was temporarily entered into was that of George Rice, hereafter referred to, which was made by an agent and which was repudiated by the company, the money received being refunded. (795.)

Mr. PAGE also testifies that, so far as his own experience goes, no such rebates on shipments by competitors have been received. (790.)

Mr. ROCKEFELLER also denies that the Standard Oil Company increased its profits by the advantages it received from railways. "Whatever advantage it received in its constant efforts to reduce rates of freight was deducted from the price of oil. The advantages to the Standard from low freight rates consisted solely in the increased volume of its business arising from the the low price of its products." (795.)

B. South Improvement Company.—The first conspicuous case of discriminations between shippers in the oil business was in connection with the South Improvement Company, as to which much testimony was presented.

1. *Organization and relation to Standard Oil Company.*—Opponents of the Standard combination maintain that the South Improvement Company was organized by the same men who formed the Standard combination, and that the methods of the company were continued by the Standard. Mr. Lockwood declares that 10 out of 18 incorporators of the South Improvement Company were later connected with the Standard combination. "Mr. Emery and Mr. Rice, on the basis of the testimony of William G. Warden before a committee of Congress on March 30, 1872, quote the list of stockholders of the South Improvement Company as follows: William Frew, 10 shares; W. P. Logan, 10 shares; John P. Logan, 10 shares; Charles Lockhart, 10 shares; Richard S. Waring, 10 shares; W. G. Warden, 475 shares; O. F. Waring, 475 shares; P. H. Watson, 100 shares; H. M. Flagler, 180 shares; O. H. Payne, 180 shares; J. A. Bostwick, 180 shares; William Rockefeller, 180 shares, and John D. Rockefeller, 180 shares. Of these men Messrs. Flagler, Payne, William Rockefeller, J. D. Rockefeller, and Bostwick were members of the Standard Oil Company." (Lockwood, 384, 385; EMERY, 610-619; RICE, 690.)

Mr. BOYLE, editor of the Oil City Derrick, believes that the South Improvement Company had its origin among the railways rather than among refiners, and states that the conviction was general in the oil region that the Pennsylvania Railroad and others were really behind the organization. The change in the locality of the production of oil toward the south tended to reduce the business of the Erie and New York Central railroads in handling oil, and they sought this agreement with a view to keeping up their proportion of the traffic. The agreement was made with certain Philadelphia, Pittsburg, and Cleveland refiners. The South Improvement Company purchased one of the numerous special charters which had been granted by the legislature prior to the new constitution of 1873. This charter had been intended chiefly for other purposes, but was very broad in its scope. (431-433.)

Mr. EMERY submitted the full text of the charter of the South Improvement Company. From this it appears that by act of the Pennsylvania legislature of May 1, 1871, the South Improvement Company was created and vested with all the powers conferred by the act of April 7, 1870, on the Pennsylvania Company. The powers of this company, as shown by its act of incorporation, were extremely broad, including the authority "to construct and operate any work or works, public or private, designed to include, increase, facilitate, or develop trade, travel, or the transportation or conveyance of freight, live stock, passengers, or any other traffic, by land or water, from or to any part of the United States." The company was also empowered to exercise the right of eminent domain, for the purpose of erecting any work in connection with the exercise of its powers, and to hold the securities of other companies, or in any other way to combine with them. (607, 608.)

2. *Contract with railroads.*—Mr. LEE (p. 283), Mr. LOCKWOOD (pp. 385, 400), and Mr. RICE (pp. 689-695) refer in greater or less detail to the contract made between the South Improvement Company and the trunk railroads reaching the oil regions, securing discriminating rates in favor of that company. The testimony of Mr. EMERY on this point, however, is much more detailed and is followed in the summary given below.

Mr. EMERY submitted a copy of the contract made between the South Improvement Company and the Pennsylvania Railroad, dated June 18, 1872. By this contract the South Improvement Company agrees to ship 45 per cent of all the oil transported by it over the Pennsylvania Railroad, and to divide the remainder equally between the Erie Railway and the New York Central. The South

* It appears from the testimony of Mr. EMERY that the Committee of Congress referred to did not publish any report, and possibly did not even keep a record of the testimony taken. The chairman of the committee was Mr. Giffill. Mr. Emery was in Washington at the time and has a complete copy of the testimony, taken either from newspapers or directly from stenographers. Mr. Boyle confirms the fact that there was such an investigation. (667, 668.)

Improvement Company also agrees to furnish suitable tankage facilities for shipping petroleum and receiving it at its destination, and to keep records of the amount of petroleum and its products shipped over the railroads concerned, both by itself and other parties.

The railways agree to allow the South Improvement Company rebates on all petroleum and its products carried by them, and to charge all other parties not less than the full rates specified in the contract. These gross rates, according to several witnesses, were very much higher than those previously existing (e. g., Lockwood, 884, 885). The railroads also agree to furnish to the South Improvement Company manifests and way-bills of all petroleum or its products transported over their lines by all parties whatever.

It was, however, provided that similar rebates and advantages should be paid to any other party who should furnish an amount of transportation equal to that furnished by the South Improvement Company, and equal facilities for promoting the petroleum trade. This is the provision under which it is claimed that all parties had equal opportunities and advantages from the railways. Mr. Emery, however, insists vigorously that it would have been absolutely impossible for anyone else to secure the amount of business necessary to meet this requirement of the railways. The very contract itself prevented any competitor from obtaining such equality in business.

A further clause of the contract provides that the railway "shall at all times cooperate, as far as it legally may, with the party hereto of the first part, to maintain the business of the party hereto of the first part against loss or injury by competition * * * and to that end shall lower or raise the gross rates of transportation over its railroads and connections, as far as it legally may, for such times and to such extent as may be necessary to overcome such competition."

The following are some of the gross rates and rebates provided for in the contract:

Rates and rebates according to contract.

ON CRUDE PETROLEUM.

	Gross rate. ^a	Rebate. ^a
From any common point to—		
Cleveland	\$0.80	\$0.40
Pittsburg .....	.80	.40
New York	2.56	1.06
Philadelphia	2.41	1.06
Baltimore	2.41	1.06
Boston	2.71	1.06

ON REFINED OIL, ETC.

From Pittsburg to—		
New York	\$2.00	\$0.50
Philadelphia	1.85	.50
Baltimore	1.85	.50
From Cleveland to—		
Boston	2.15	.50
New York	2.00	.50
Philadelphia	1.85	.50
Baltimore	1.85	.50

^a For each barrel of 45 gallons.

Mr. EMERY insists that this contract between the South Improvement Company and the Pennsylvania Railroad was actually signed and went into effect, notwithstanding statements to the contrary. He quotes from the testimony of P. H. Watson, president of the South Improvement Company, before a committee of Congress on April 5, 1872, in which Mr. Watson stated that the contract was approved by the board of directors of the South Improvement Company at a meeting at which he (Mr. Watson) was not present. The original contract has been submitted in evidence in previous investigations and is signed by P. H. Watson and by J. Edgar Thompson, president of the Pennsylvania Railroad. (610-619.)

Mr. RICE declares that the arrangement by which the South Improvement Company was to receive rebates on all oil shipped by its competitors meant that practically the rebates paid to the Standard on each barrel of oil shipped by itself were 19 times greater than the nominal amount of rebate provided in the contract, since the shipments of independent refiners were 19 times greater than those of the Standard Oil Company. On this basis he calculates the amount of rebates received by the South Improvement Company as arranged from \$7.60 to \$25 per barrel. (689-695.)

Mr. ARCHBOLD testifies that the contract entered into by the South Improvement Company and the railways was abolished before it became operative. He has no knowledge that a similar contract was shortly afterwards made with the Standard Oil Company, and denies that the Standard in any sense continued the policy of the South Improvement Company. He has always disapproved of that company. (540, 560.)

3. *Abandonment of discriminating contract.*—So great was the indignation among oil producers and refiners over this contract of the South Improvement Company that it was canceled almost before it went into force, and the charter of the company was subsequently repealed. (LOCKWOOD, 399, 400; BOYLE, 423.)

Mr. EMERY submitted a copy of the report of the executive committee of the Petroleum Producers' Union describing the growth of knowledge and of public opinion concerning the contract of the South Improvement Company, and showing how the indignation meetings which were held led finally to the abandonment of that contract and to the repeal of the South Improvement Company's charter. On March 25, 1872, the railways which had been concerned in the arrangement with the South Improvement Company signed a contract with the representatives of the oil producers and refiners, agreeing that the former rates on crude and refined oil should remain unchanged and that there should be no rebates or drawbacks allowed, or any discriminations made in any way whatever. This contract contained a list of rates which should prevail—in most cases about 40 per cent less than the gross rates provided for in the contract with the South Improvement Company. (630.)

C. *Later discriminations during the seventies.*—1. *General history.*—It was the general opinion of witnesses opposed to the Standard combination that this contract made with the railway companies was not lived up to for any length of time, but that discriminations in favor of the Standard Oil Company, fully as great and as unjust as those provided for in the contract with the South Improvement Company, continued to be made throughout the seventies. Practically all of the statements made are based on previous testimony in suits and official investigations.

Thus, Mr. EMERY declares that heavy rebates continued to be paid to parties connected with the South Improvement Company and the Standard Oil Trust from 1872 up to 1880, and that it was on this account that the great majority of the refineries of the independents were driven out of business. In evidence of this he submitted extracts from the testimony of Frank Rockefeller, an independent refiner, who had been driven out of business in Cleveland, before a committee of Congress in 1876. Mr. Rockefeller testified that the members of the Standard Oil Company had not hesitated to tell competing refiners in Cleveland that unless they sold their property to the Standard Oil Company it would become valueless, because that company was receiving advantages from the railways. He heard J. D. Rockefeller and H. M. Flagler make this statement. About 20 refineries in Cleveland sold out under the influence of this threat. Mr. Rockefeller was of the opinion that heavy rebates were being paid to the Standard Oil Company, and were being divided by that company with certain individual officials of the railways. He believed further that there was a pool or arrangement for dividing the amount of oil shipped among the various railways. (639-645; compare confirming testimony of RICE, 694.)

Mr. EMERY also cites the testimony of George H. Blanchard, then general freight agent of the Erie Railroad, before the Hepburn investigating committee in New York, that he had become convinced that the Empire Line had received a large drawback from the Pennsylvania Railroad within 2 weeks after the railroads agreed not to discriminate. Mr. Emery also submitted a letter from the general freight agent of the New York Central, dated September 9, 1874, increasing the open rates on refined and crude oil materially and allowing a rebate on refined oil equal to the amount paid for the transportation of crude oil by rail from the mouth of the pipe lines to the respective refineries upon the basis of 14 barrels of crude oil to every 10 barrels of refined shipped. It was further agreed that a rebate of 22 cents per barrel should be paid on all oil coming from pipe lines maintaining the agreed rate of pipage.

Mr. RICE declares also, on the basis of existing testimony, that at one time during the seventies the freight rate from Cleveland to New York for the Standard Oil Company was nominally 60 cents per barrel, from which was deducted the amount of transportation charges on crude oil from the oil wells to Cleveland, amounting to 35 cents per barrel on crude oil, on the basis of 14 barrels of crude to 10 of refined, so that the actual rate paid by the Standard Oil Company on refined oil was only about 11 cents per barrel. The freight rate to the competitors of the Standard at the same time was \$1.90 per barrel. (696.)

Mr. RICE, referring to the above-mentioned circular issued by the New York Central Railroad, in 1874, agreeing to refund 23 cents per barrel from the freight charges on oil coming from such pipe lines as maintain agreed rates of pipage, declares that this rebate practically destroyed the value of all independent pipe lines immediately. The pipe lines in the combination which maintained the agreed rates could bid 22 cents per barrel more for crude oil than their competitors and the latter could secure no business whatever. In support of this position Mr. Rice quotes the evidence of E. G. Patterson and the argument of Simon Sterne before the Hepburn committee in 1879. (695, 696; compare Lockwood, 385.)

Mr. RICE quotes from the testimony of Messrs. Lombard, Bush, and Gregory, independent oil refiners at the seaboard, as to conversations with Mr. Scott and Mr. Cassatt, of the Pennsylvania Railroad, apparently during the later seventies. Each of these gentlemen declared that he had asked these officers whether equal freight rates would be given to them if they shipped as much oil as the Standard Oil Company. The reply was that equal rates would not be given, and that the higher the freight rates were made the greater would be the discrimination against the independent shipper. These officers stated that the Standard Oil Company was the only power that could keep peace between the trunk lines. (698, 699.)

Mr. EMERY testifies that the result of the suit of the Commonwealth of Pennsylvania *v. The Pennsylvania Railroad* was the discovery of evidence which led to the finding of an indictment against John D. Rockefeller and others in 1879. The case, however, was never tried. The defendants attempted to secure a change of venue, and afterwards applied to the supreme court of Pennsylvania for relief, which they secured through some process of law not understood by the witness. Finally, on account of lack of funds and the fear of further delay, Mr. Campbell, president of the Producers' Protective Association, settled the case on receipt of \$40,000, which was used in defraying expenses. A contract was also made by which the railroad agreed to grant no more rebates. (662, 663.)

Mr. LOCKWOOD testifies that in the case of *Pennsylvania v. The Pennsylvania Railroad Company* it was testified by Mr. Cassatt that the open rate on oil at one time was \$1.90 per barrel, while the Standard Oil Company received a rebate of \$1.10 on oil shipped by itself and its competitors. The Standard also received allowances for terminal charges, the terminal facilities having been placed in its hands by the railways, which reduced the actual freight charges to 35 cents. A letter written in 1878 by Mr. Daniel O'Day to Mr. Cassatt stated that the New York Central and Erie roads were paying rebates of not less than 30 cents per barrel on all oil carried, and demanded from the Pennsylvania road a rebate of that amount, dating back several months. This rebate was granted, Mr. Cassatt having evidence that the roads above named were paying rebates, as stated, of from 20 to 35 cents. In another suit it was shown that the profits of the Standard Oil Company during 4 years at this period were more than \$2 per barrel of oil. (385-387; confirmed in certain details by Lee, 264.)

Mr. ROCKEFELLER, in an affidavit replying to interrogatories, states that to the best of his recollection the greatest rebates were paid by the railways from 1877 to 1879. The Standard then had an agreement for the special 10 per cent commission, and in addition rebates amounting, as the witness believes, to 64 cents on refined oil were paid by the railways to equalize with shipments made by the Erie Canal. These rebates, however, were open to all persons who shipped by rail. The impression of Mr. Rockefeller is that the Erie Railway, at least, did not collect the higher rate from the shippers and later make rebates from it, but actually lowered the rate to all shippers. (795.)

2. *Empire Transportation Company.*—Mr. LEE and Mr. RICE refer to the discriminations made by the railways against the Empire Transportation Company by which it was driven out of business. In 1877 and 1878 freight rates were cut to 8 cents per barrel during this fight. (Lee, 263; Rice, 696.)

Mr. ARCHBOLD explains the transaction by which the Standard Oil Company absorbed the Empire Transportation Company, referred to by Mr. Lee. The Empire Line and the Green Line were corporations whose stocks were owned by the officers and managers of the Pennsylvania road. Through these companies the railway became interested in pipe lines and in oil refining. The Standard

claimed that the road discriminated in favor of its own refineries. In view of this fact the Standard Oil Company refused to ship over the road, and thereby finally forced the sale of the pipe lines and refineries to the Standard Oil Company. (518, 514.)

3. *Gross amount of rebates. 1877-1879.*—Several witnesses referred to the testimony of Mr. Cassatt, in the case of *Commonwealth v. Pennsylvania Railroad*, in 1879, as to the high rebates paid from 1877 to 1879; and also to the estimate made by Mr. Emery before the House Committee on Manufactures in 1888 that the gross amount of rebates received by the Standard from October 17, 1877, to March 31, 1879, was no less than \$10,155,218. (LEE, 264, 287; LOCKWOOD, 386, 387; BOYLE, 458; RICE, 696, 697.)

Mr. ARCHBOLD explains the methods employed by Mr. Emery in making the estimates referred to by Mr. Lee as to the amount of rebates received by the Standard Oil Company from 1877 to 1879. Mr. Emery calculated that the Standard Oil Company received a rebate of 64½ cents per barrel on refined oil, and various rebates, ranging from 29 cents to 22½ cents, on crude oil. He took the average of all these figures, claiming 55 cents as the average rebate thus received by the Standard Oil Company. He then calculated this rate of rebate upon the entire consumption of oil in this country, from October 17, 1877, to March 31, 1879, reaching the total of \$10,155,218. This involved the entirely false assumptions that all oil consumed was shipped eastward, and all shipped by the Standard Oil Company; that all trunk lines paid the same rebate as the Pennsylvania Railroad; that the shipments of oil on which 64½ cents rebate was paid equaled the shipments of oil at the lower rebates. The evidence of Mr. Cassatt refers only to one trunk line, the Pennsylvania Railroad, and shows the following facts:

"I. That the Standard Oil Company shipped no oil over the Pennsylvania Railroad until July, 1875. That the Pennsylvania Railroad was then interested in refining in competition with the Standard, and not only allowed the Standard no preferences, but discriminated against it to such an extent that the Standard stopped shipping over the road in March, 1877.

"II. That in October, 1877, the Pennsylvania Railroad and the Standard entered into an agreement by which the Standard Oil Company was to have a commission of 10 per cent on all freight furnished by it in consideration of the Standard agreeing to equalize oil freights on the 4 trunk lines.

"III. That this agreement did not effect a discrimination even to that extent as against other shippers over the Pennsylvania Railroad prior to May 1, 1878, because said shippers had contracts extending to that date, which were excepted in the contract with the Standard.

"IV. That the Pennsylvania Railroad was willing and offered to carry oil for all shippers on the same terms with the Standard, excepting only 10 per cent commission, for which it demanded like considerations.

"V. That it did continue to carry for all shippers who did all their business over its line as low as for the Standard, commission included.

"VI. That shippers not using the Pennsylvania Railroad were able, after May 1, 1878, to get oil east by the Erie Canal lower than by rail, and shipped their oil by that route, in consequence of which the Pennsylvania Railroad shippers were paying greater freight rates than other shippers.

"VII. In consequence the Pennsylvania rate was reduced to those who continued to ship by that line 44½ cents on refined, making the net rate \$1, said 44½ cents being paid as rebate.

"VIII. For the same reason, namely, to meet canal rates, in July, 1878, the rate to those who shipped by rail was further reduced 30 cents, the 20 cents being paid as a rebate, and refunded back to May 1, 1878.

"IX. That these rebates were paid to all shippers who shipped entirely by rail, and were for the express purpose of putting them on an equality with those who shipped by canal.

"X. The same is true of the rebate allowed on crude oil during the same period, except 10 per cent paid to Standard and 22½ cents paid to the American Transfer Company, the latter being the pipe line's share of a through rate.

"XI. That the rebates which were paid from May 1, 1878, to equalize rail and canal shipments, were discontinued December 8 of the same year, when the canal was closed.

"XII. All payments of rebates entirely ceased March 31, 1879." (ARCHBOLD, 514, 515; compare BOYLE, 458.)

Mr. EMERY defended the estimate made by him, reaffirming his testimony on this subject presented before the House Committee on Manufactures in 1888 (pp. 242-247). The three separate figures for rebates, which were taken to secure the

average of 55 cents, on which Mr. Emery based his estimate, were respectively 64½ cents, 51½ cents, and 49 cents. The calculation of these rebates on the entire amount of oil shipped in every direction and by all the railroads is, in Mr. Emery's opinion, justifiable, since rebates are known to have been paid by all roads on practically all oil shipped. It appears that Mr. Cassatt also admitted in the case above referred to that the Pennsylvania Railroad alone had paid fully \$4,000,000 in rebates during this period, which is about the proportion calculated by Mr. Emery as paid by that road. Mr. Emery submitted in evidence the book of testimony in the case above named. (660, 661.)

4. *Tidewater Pipe Line, 1879.*—Mr. RICE states that in 1879 the Tidewater Pipe Company laid a 6-inch pipe to Williamsport, Pa., and secured special rates from the Reading and Central New Jersey railroads to the seaboard. In order to compel this company to sell out to the Standard Oil Company competing railways cut rates on freight to 15 cents per barrel from the oil regions to the coast, this amount barely paying for the fuel used in the engine. In support of this statement Mr. Rice quotes from the annual report of Mr. Gowen, president of the Philadelphia and Reading Railroad. (696, 697.)

D. *Arrangements between pipe lines and railways.*—1. *Contract of National Transit Company and Pennsylvania Railroad, 1881.*—Mr. RICE quotes from a letter of Mr. Newlin, attorney for the plaintiffs in the case of Fennalle & Despeaux v. The Pennsylvania Railroad Company, in the circuit court of the United States for the eastern district of Pennsylvania. This letter states that it was proved in that suit that a contract was made on May 6, 1881, between the National Transit Company and the Pennsylvania Railroad Company, by which the transit company guaranteed to the railroad one-third of the transportation of oil to the seaboard. The rates on oil thus carried, so far as furnished by the National Transit Company, were to be much lower than the open rates to the public. Thus, by way of Foxburg to Communipaw, the through rate, including the charge of the local pipe line to Foxburg, 20 cents, was 68 cents. On oil furnished by the pipe-line company to the railroad at Foxburg the pipe-line company was to receive as its share one-fourth of this open rate, namely, 17 cents, and one-half of the difference between this one-fourth and the public rate, i. e., 68 cents, was to be paid to the railway—that is, 25½ cents was to go to the railway. The difference between the share of the open rate coming to the railroad, 48 cents, and its share of this secret rate was 22½ cents, being practically a rebate of that amount to the Standard Oil Company, although the word rebate nowhere occurs in the contract.

This same letter refers to the contract made in 1884, more fully described below. (700-708.)

Mr. PAGE states that Mr. Newlin's deduction concerning the rebates to the National Transit Company under this contract of 1881 were erroneous. The court before which the suit referred to was brought granted a motion for nonsuit on the ground that the entire case rested on a misunderstanding of the terms of this contract. Mr. Page submitted a letter from Mr. Dodd, solicitor of the Standard Oil Company, together with a letter from George T. Bispham, of Philadelphia. The latter explains in detail the method by which Mr. Newlin made the calculation as to the amount of rebate above referred to. Mr. Dodd's letter quotes the two sections of the contract upon which Mr. Newlin's charge is based as follows:

"The through rates from the discharging point of the gathering pipes in the region to the destination of the oil, whether the same shall be shipped entirely by rail or by trunk pipe and rail, shall be fixed by the trunk-line railroad companies, provided they can agree upon the same, and the transit company agrees to accept thereof as the share due to its through pipes the proportions herein-after fixed."

"Whenever the through rate from the exit point of gathering pipe shall be less than forty (40) cents per barrel, the local or gathering pipe shall be considered as entitled to a rate equivalent to only one-fourth (¼) of the rate which shall be formed by the addition of the said through rate to the public rate which the local pipe charges, and one-half (½) of the difference between this one-fourth and the said public rate shall be considered as due and to be paid to the railroad company, but this difference shall never be such as to make the local pipe receive less than ten (10) cents per barrel."

Mr. Dodd's letter states that Mr. Newlin's error consists in confounding the "through rate from exit point of gathering pipe" with the "public rate which the local pipe line charges." Mr. Newlin takes one-half of the difference between 17 cents and 68 cents, the latter being the railway rate, as the sum paid over to the pipe-line company by the railways. As a matter of fact, he should have taken one-half of the difference between 17 cents and 20 cents, "the public rate which the local pipe line charges," there being no other reference to public rate in the

section. This half amounts to $1\frac{1}{2}$ cents instead of $25\frac{1}{2}$ cents. Moreover, the entire arrangement applies only where the through rate is less than 40 cents per barrel, and Mr. Newlin's inference to the contrary is baseless.

The fact is, as stated by Mr. Page and Mr. Dodd, that the Standard Oil Company paid exactly the same rate as other shippers over the Pennsylvania Railroad from and to the various points named, but that, on such oil as was carried partly by pipe line and partly by rail, a through rate was made, of which the pipe line naturally received a share. At this time the seaboard pipe line of the Standard did not reach beyond Hamilton, Pa. In order that the railway might be compensated in part in case it made an exceedingly low rate of freight, below 40 cents per barrel for the through rate, the pipe-line company agreed to take a part of the charge of its local pipes, which are to be clearly distinguished from its seaboard line, and pay it to the railway. So far from any rebate being made in favor of the Standard, this might be considered a rebate in favor of the railway. (Page, 759-763.)

2. *Contract of National Transit Company and Tidewater Pipe Company, 1883.*—Mr. RICE testifies that on October 9, 1883, an agreement was made between the National Transit Company and the Tidewater Pipe Company, which had previously been competing, for a division of traffic, the Tidewater Pipe Company being allowed $11\frac{1}{2}$ per cent of the total pipe-line transportation. Within 8 months after this contract was made the railways advanced the tariff rate on refined oils by $87\frac{1}{2}$ cents per barrel, thus giving a great advantage to the Standard Oil Company, which could pipe its oil to the seaboard at a cost estimated by Mr. Rice as amounting to 7 cents per barrel, and could then refine it there. Mr. Rice declares that the contract made with the Pennsylvania Railroad Company in 1884, more fully described by Mr. Emery, was intended to influence the railroad to maintain high rates to the seaboard, thereby giving the Standard a great advantage through its ownership of the seaboard pipe lines. Although this contract of 1884 may not now be actually enforced, the railways and the pipe lines still charge precisely the same rates to the seaboard, and these rates are very much higher than those which were charged by the railways prior to the agreement with the pipe lines. This statement is upheld by a quotation from Mr. Franklin B. Gowen, formerly president of the Reading Railroad. (738, 739.)

3. *Contract of 1884 between National Transit Company and Pennsylvania Railroad.*—Mr. EMERY refers to the contract made in 1884 between the National Transit Company and the Pennsylvania Railroad, a copy of which was submitted. This contract contains the following clauses:

"The transit company agrees that all petroleum brought to the Atlantic seaboard by all existing carriers, whether rail or pipe, now engaged in transporting such property, or which may hereafter engage in such transportation in conjunction with the transit company's pipe lines, shall be ascertained monthly, and so much of it as shall have been shipped in the refined state shall be reduced to its equivalent in crude oil by considering that one and three-tenths ($1\frac{3}{10}$) gallons of crude are required to make one (1) gallon of refined oil. It further undertakes and agrees that if of the total so transported the railroad company shall not have moved in its cars twenty-six (26) per centum thereof the transit company shall cause to be delivered to cars furnished by the railroad company at Milton, Pennsylvania, such quantity of crude petroleum as shall, when added to the amount which has been actually transported by the railroad company to the seaboard in said month, make the total transported by the railroad company in said month equal to said twenty-six (26) per centum."

"The railroad company shall be entitled to one-half of the current through rates thereon."

It was further agreed that all joint rates for the transportation of oil from any delivery point of the local pipe lines to any refining or terminal point should be fixed by the railroad company in concurrence with the transit company. It was also provided that the rates on refined oil and other products should be fixed upon the following basis: From railroad stations in the oil regions to any eastern point the rates should equal 1.3 times the current rate on crude oil to the same point; from Pittsburgh the rate to the east should be equal to 1.3 times the current charge on crude oil to such eastern point from rail points south of Oil City, deducting 1.3 times the charges for moving a barrel of crude oil from the local pipe to Pittsburgh.

By another contract made on the same day it was provided that, instead of the railway company being compelled to furnish cars and transport the additional oil which might be delivered to it by the National Transit Company to make up the 26 per cent agreed upon, the National Transit Company itself should transport through its pipe such extra quantity. The transit company should then pay

to the railway on the oil thus carried by itself the amount of freight payable to the railway at the rates provided for in the other contract, deducting a sum ranging from 6 to 10 cents per barrel as its compensation for transporting this oil.

Mr. Emery declares that the purpose of this contract was to keep up railway rates in order that independent shippers might not have equal facilities for shipping their oil to the seaboard. The railway accepted the percentage of traffic assigned to it as a compensation for thus keeping up rates. According to Mr. Emery the actual cost of transporting oil in a pipe line from the oil regions to the seaboard is not more than 5 cents per barrel. The railways have transported oil products for as little as 8 cents per barrel. Were it not for this contract they would have sought oil freight by cutting rates very materially. As it is, the rate fixed at the time of this agreement, by the consent of the National Transit Company, as provided, was 45 cents per barrel. It has since been raised and is at present 52.1 cents per barrel in bulk.

Mr. Emery declares further that about 26 per cent of petroleum products would necessarily be transported by rail in any case. Lubricating oil, tar, gasoline, etc., can not be shipped through pipe lines.

The witness believes that this contract, or one essentially the same, is still in force. He bases this statement upon the fact that a representative of the Buffalo, Rochester and Pittsburgh Railroad at one time proposed to Mr. Emery to arrange for shipping oil over that road to the Erie Canal, saying, "They do not see fit to recognize us as an oil road and I am going to do some of this business." As soon as these negotiations became known, however, the Buffalo and Rochester received its proportion of the business and discontinued the arrangements with Mr. Emery. (Emery, 663-667.)

Mr. RICE submitted a letter from Mr. Newlin showing that it had been proved in the case of *Ladenburg, Thalmann & Co. v. The Pennsylvania Railroad Company*, that under this contract of 1884 there had regularly been a deficiency in the share of the oil transported by the railway company, which was made up by a payment on the part of the National Transit Company. The following statement of the settlement for the month of September, 1884, furnished by the comptroller of the National Transit Company, shows the working of this system (702):

Total number of barrels so transported.....	1,574,961
Railroad company's share.....	409,490
Amount carried by railroad.....	325,596
Deficiency.....	83,894

On this deficiency the railroad company was allowed on New York oil, at one-half of the current through rate, 45 cents, equals 22½ cents per barrel, on 43,685 barrels.....	\$9,824.63
Less compensation allowed transit company for pumping the same, at 9 cents.....	3,929.85

Total.....5,894.78

The railroad company was allowed on Philadelphia oil for 40,229 barrels, at one-half current through rate, 40 cents, equals 20 cents per barrel.....	8,045.30
Less allowed National Transit Company for pumping same, at 8 cents.....	3,216.32

Total.....4,827.48

Total payment by the National Transit Company to the Pennsylvania Railroad Company for deficiencies for the month ending September 30, 1884.....10,722.26

Mr. Dodd, solicitor of the Standard Oil Company, in a letter submitted by Mr. PAGE, explains the reason for the arrangement provided for in the contract above referred to. The pipe line of the combination had just been completed to the seaboard. It could not have reached that point without the consent of the railway company, as no free-pipe-line law then existed in New Jersey. It was still necessary to have a traffic contract with the railroads and to deliver oil to the railroad at different points for shipment to Philadelphia. Accordingly, in addition to agreeing to divide the rates on oil carried partly by pipe lines and partly by rail, in the same way as was provided by the contract of 1881, it was further agreed that if the railway company did not move 26 per cent of the oil the transit company should pay it the deficiency. (761.)

4. *Pipe lines in Ohio.*—Mr. RICE states that it was testified by Mr. O'Day, general manager of the pipe-line system of the Standard Oil Company, in 1888, that the Chicago and Atlantic Railroad allowed the combination to lay its pipe lines on the railway's right of way from the Lima oil fields to Chicago without charge, in view of the profit to be received from the transportation of the material for constructing the line. After the pipe line was completed the railway rates on oil were raised from 30 to 87 per cent above those formerly existing, to the injury of independent shippers of oil. The present freight rate from Lima to Chicago is 49 cents per barrel, which is eight times as much as it costs the Standard to pipe its crude oil to its great refinery at Whiting. (739.)

Mr. RICE testifies that the receiver of the Cleveland and Marietta Railroad allowed the Standard Oil Combination to lay its pipe lines on the railroad's right of way from the Macksburg field to Parkersburg, W. Va., but refused to allow the pipe line of the witness even to cross the tracks of the railroad. (749.)

E. Refusal to furnish cars.—Mr. EMERY, when he was producing oil in the Bradford field and operating a refinery at Philadelphia, was unable to secure tank cars for transporting his crude oil to the refinery. The Pennsylvania Railroad owned 1,126 cars; but, as the witness believes, by order of the Standard Oil Company, all but 248 of these cars were sent out of the State, and he was unable to secure more than one in a week or longer for carrying on his business. An officer of the Rochester and Pittsburg Railroad told him that that road was threatened with a loss of its coal traffic if it hauled Mr. Emery's oil. (648, 649.)

Mr. LOCKWOOD also stated that one of the chief ways in which the railways discriminated against the independent refiners was by refusing to furnish cars to men who had oil to ship, or by furnishing only a few, or by delaying them unduly. (899.)

F. Discriminations against Mr. George Rice.—1. *Relations between Mr. Rice and the Standard.*—Mr. RICE, who has owned a refinery competing with the Standard Oil Company, at Marietta, Ohio, since 1876, makes numerous charges of discriminations against himself by the railway companies, especially on shipments toward the South. Most of these charges relate to the period previous to the passage of the interstate-commerce act.

Mr. Lockwood also refers to the discriminations against Mr. Rice, but his statements are less detailed than those of Mr. Rice himself, and need not be summarized. (890, 400, 401.)

Mr. ARCHBOLD testifies that Mr. Rice has not for many years been directly occupied in refining, but has made a business of attacking the Standard Oil Company—in which Mr. Archbold believes he has been financially aided by other opponents of the company—and of attempting to compel it to buy out his refinery at an exorbitant price. As far back as 1886 he demanded \$500,000 for the refinery, which was worth possibly \$25,000 or \$30,000. He based his demand on the statement that he had already inaugurated a number of suits before the Interstate Commerce Commission, and would push them unless it were granted. He also threatened to injure the Standard Oil Company by making what are known as "cut quotations" in the markets for refined oil. In support of these statements concerning Mr. Rice, Mr. Archbold submitted extracts from testimony of Mr. Rice on cross-examination in the suit of the State of Ohio v. The Buckeye Pipe Line Company, taken February 20, 1899. Mr. Rice then stated that he had at one time offered his plant to the Standard Oil Company for \$50,000, and still earlier for \$20,000; that later on he demanded \$500,000; and in June, 1890, sent one Mr. Orvis to the Standard Oil Company with a proposition to sell at the same amount, the understanding being that Mr. Rice was to do nothing further in the way of litigation or anything of that kind.

Mr. Rice's testimony in this suit also showed that he had personally employed two attorneys as counsel to assist the attorney-general of Ohio in a suit for contempt instituted against the Standard Oil Company. (559, 561, 562.)

Replying to these statements of Mr. Archbold, Mr. RICE testifies that no one ever furnished him a dollar to aid him in any fight he has made against the Standard Oil Trust or the railroads.

Mr. Rice also declares that the charge that he attempted to blackmail the Standard Oil Company in order to compel it to pay a large price for his refinery is entirely untrue. This has been the stock in trade of the Standard Oil Company in opposing him for 18 years. Mr. Rice quotes from his previous testimony in suits against the Standard Oil Company. In this Mr. Rice stated that in 1882 Mr. F. B. Squire, the present secretary of the Standard Oil Company of Ohio, came to him at Asbury Park and offered him \$250,000 for his oil properties, including his crude-oil-producing properties as well as the refining plant. In 1886 Mr. Rice offered his properties to the Standard Oil Company for \$250,000 and \$50,000 per year for 5 years. A letter from Mr. Archbold, dated December 13, 1886, submitted in evidence, shows that the Standard Oil Company was then willing to discuss the deal further with Mr. Rice. In 1887 the witness offered his "plant" (apparently only his refinery) at \$125,000, and \$25,000 annually for 5 years. It is not true, as charged by the Standard Oil Company, that Mr. Rice then said to Mr. Archbold that it would be better for the Standard Oil Company to make a deal with him, and that by so doing parties would be deterred from encouraging a line of action against the Standard Oil Company. The Standard has produced evidence in the form of letters from one Edgar P. Hill, addressed to the Standard Oil

Company, stating that he was in a position to negotiate with Mr. Rice, and advising the company to come to some arrangement with him, owing to the effect which he might have upon public opinion, and in bringing legal proceedings against the company. Mr. Rice denies having had any arrangement or conference with Mr. Hill on this subject, and states that these letters were thrown out as being incompetent evidence in a case before the courts in 1887, although they were afterwards submitted as evidence before the House Committee on Manufactures in 1888.

Mr. Rice declares that his property was actually worth the \$500,000 which he demanded from the Standard Oil Company. It is absurd to point out that he had offered to sell during the seventies at a lower price, since he had increased his plant to five times its previous capacity, and had included in the offer his producing properties, which consisted of about 200 acres of oil land, with from 150 to 200 barrels per day production. Mr. Rice calls attention to the fact that his testimony in the Ohio investigation has been misprinted, making it appear that negotiations for the sale of his property were conducted in 1897, instead of 1887, and making it appear that he testified that the capacity of his refinery was 10,000 barrels per annum instead of 100,000.

Mr. Rice also exhibited a pamphlet prepared by himself in 1881, entitled "Black Death," together with another pamphlet of the same title, with red printing on the margin, defending the Standard Oil Company and attacking Mr. Rice in strong language. (149-154.)

In rebuttal of the above evidence Mr. PAGE submitted an affidavit from Mr. F. B. Squire, dated December 1, 1899, stating that in 1876 Mrs. George Rice informed him that Mr. Rice wished to sell his entire oil property, including crude production, for \$24,000. The affidavit continues:

"I met Mr. Rice several times after this and he kept urging the matter. In the summer of 1881 or 1882 he invited me to meet him and his wife at Asbury Park. I did so. They there made me an offer to sell the property, stop all prosecutions, and be friendly with the Standard Oil Company for \$250,000—\$50,000 to go to me for my good office if I could bring it about. I reported the result to Mr. Archbold, including the offer to me, and it was immediately declined. I advised Mr. Rice, who called at my office the next day, and he stated that the company would regret this act. Immediately after this Mr. Rice published the pamphlet called 'Black Death.'

"F. B. SQUIRE."

Mr. RICE submitted a supplemental affidavit denying the statements made by Mr. Squire and further explaining his negotiations with the Standard Oil Company. The affidavit states:

"The real truth of the matter is that in the year 1876 Mrs. Rice and myself were boarding in New York at the same place with said Squire, and Mrs. Rice was acquainted with a Mrs. Waring, who was also an acquaintance of said Squire. That in some conversation with Mrs. Waring the matter of the oil business came up between them, and subsequently the said Squire spoke to deponent about his oil interests and said he possibly could sell some of it to the Standard Oil Company if he was so disposed to part with it. That the result of several conversations was that deponent informed Squire that if he or the Standard Oil Company desired to purchase my refining plant (which was only a small part of my entire oil properties and interests in the oil or petroleum business) he or it could have the same for \$30,000, as my wife was very desirous that I should get out of the refining business, and it was finally offered to Squire for that sum, which was not accepted.

"In the summer of 1882 I was stopping with my wife at Asbury Park, where Squire, on his own solicitation, came to see me, and he then and there offered me \$250,000 for my entire oil properties, including production, pipe lines, storage tanks, and refinery plant. I never offered the said Squire the sum of \$50,000 commission or any other sum to make said sale; nor did he suggest it or demand it, or any other sum whatever, nor did I say to him that the company would regret their act if they did not purchase from me, nor was I ever aware that said Squire had an office, except by hearsay, at Cleveland, Ohio. As this latter alleged interview occurred in the summer of 1882, as I testified before your commission, and as my pamphlet, 'Black Death,' was published on December 15, 1881, it is superfluous to swear to it, that, because said proposition was not accepted by said Standard Oil Company, I immediately published said pamphlet as retaliatory against said company."

Mr. Rice further testified that in 1889 he gave evidence, in the presence of Mr. Archbold, at a special term of the supreme court of New York City, concerning this offer of Mr. Squire to him, and that Mr. Archbold did not deny it. Further, in 1889, Mr. Archbold stated that in the negotiations between Mr. Rice and him

self in 1886, Mr. Rice's producing property was not referred to, and that he (Mr. Archbold) now heard concerning the producing property for the first time. This, Mr. Rice declares, substantiates his statement that the early offers made by him at a low price refer only to his refinery. (793, 794.)

2. *Louisville and Nashville Railroad.*—Mr. RICE submitted a letter from Chess, Carley & Co., a representative of the Standard Oil Company, to Mr. Culp, general freight agent of the Louisville and Nashville Railroad:

CHESS, CARLEY & CO., LOUISVILLE.

J. M. CULP, Esq., G. F. A.

DEAR SIR: Wilkinson & Co., Nashville, received car of oil Monday, 18th, 70 bbl., which we suspect slipped thro' on the usual 5th-class rate—in fact, we might say, "we know it did"—paying only \$41.50 freight from here. Charges \$57.40. Please turn another screw.

Yours, truly,

CHESS, CARLEY & CO.

JUNE 16, '81.

Wilkinson & Co. were Mr. Rice's agents at Nashville. Mr. Rice declares that within five days the rates to Nashville were raised 50 per cent. He does not know whether the Standard Oil Company paid this full rate or not, but thinks it fair to presume from general experience that it did not. He admits that it is an extremely difficult thing to prove that rebates have been received. (704, 705.)

Mr. PAGE refers to the alleged discriminations against Mr. Rice in connection with the above letter. He states that Chess, Carley & Co. were not then directly controlled by the Standard Oil Trust, although the Standard Oil Company of Ohio had an interest in the business. Mr. Carley was manager, with complete control. The letter quoted was written by Mr. Hathaway without the knowledge of Mr. Carley. Mr. Hathaway had formerly been in the employ of the Louisville and Nashville Railroad, and it was a common expression in the office of the railroad at that time that the machinery was loose and that it should be tightened by turning a screw. The expression, therefore, naturally crept into the letter. The shipment of oil by Mr. Rice to Nashville had been billed at less than the regular tariff rate which other shippers were paying, less than Mr. Carley himself was paying, and Mr. Hathaway calls attention to it as being an error to be corrected.

Mr. Page further testifies that he believes from information that Mr. Rice received the letter above referred to with a number of statements and letters which the railway company sent to Mr. Rice in connection with a later claim made by him concerning an alleged over charge. If the railroad had construed the letter as demanding a discrimination against Mr. Rice, it would not have allowed it to go into his hands in this way. Mr. Culp testified before the House Committee on Manufactures in 1888 that he had never seen this letter, but that he would have put the interpretation upon it which has just been mentioned. (763, 764, 785.)

Mr. RICE declares further regarding the above letter that he considers the explanations given of it by Mr. Culp and Mr. Carley before the House Committee on Manufactures in 1888 to be exceedingly lame and untrustworthy. He is willing to pit his own statements against those of these witnesses. It is certain that the railway rates were raised 50 per cent to Mr. Rice within 5 days. (747, 748.)

3. *Rates higher than from Standard's shipping points.*—Mr. RICE also testifies that in 1885 the railway rates from Marietta to Memphis and New Orleans were suddenly doubled without previous warning. The officers of the local railway at Marietta declared that this was done solely at the instance of the connecting roads, but Mr. Rice believed otherwise. The rate was restored after some correspondence, but in the following year the rates were again raised from 48 to 162 per cent. The witness declares that rates from Parkersburg, 12 miles from Marietta, where the Standard Oil Company has a large refinery, were not raised at all. He brought suit to forfeit the charter of the Cincinnati, Baltimore and Washington Railroad and the Queen and Crescent Railroad. He proved, as he states, that the former road had discriminated in favor of the Standard Oil combination from 48 to 162 per cent, and the latter from 29 to 212 per cent. He also proved other large discriminations. The court simply contented itself with deciding that the roads must not charge less per 100 pounds on tank-car shipments than on barrel shipments. This decision, Mr. Rice declares, was not obeyed. As the result of these unfair rates, Mr. Rice was driven out of 19 of his 24 agencies, losing his business in 39 out of 78 towns, all within 5 months. (710-714.)

4. *Rebates on crude-oil shipments.*—Mr. RICE submitted a letter from Mr. Pease, former receiver of the Cleveland and Marietta Railroad Company, to Mr. Rapello,

its solicitor, together with Mr. Rapello's reply, these letters having passed in February and March, 1885. Mr. Pease writes that Mr. O'Day, representative of the Standard Oil Company, had compelled Mr. Terry, of the railroad, to make a 35-cent rate on all oil shipped from the Macksburg field to Marietta by other shippers than the Standard, and to pay to the combination a rebate of 25 cents per barrel on all oil thus shipped, making \$25 per day, approximately, of clear money on Mr. Rice's oil alone. The Standard Oil Company itself was to pay only 10 cents per barrel. The receiver queries as to whether he might not be prosecuted on the ground of unjust discrimination. Mr. Rapello replies that such a prosecution might be possible, but believes that the profits from the arrangement with the Standard Oil Company, whose shipments are very much greater than those of Mr. Rice, are sufficient to compensate for any losses or sums which would have to be refunded.

Mr. Rice declares that he very soon discovered the discrimination which was being made against him, the former rate of 17½ cents per barrel having been doubled in order to make the 35-cent rate. Suit was brought against the railway company in the United States circuit court, and Judge Baxter ordered the receiver to be removed. In his opinion, which is quoted by Mr. Rice, he recites as proven the facts above referred to concerning the discrimination, and declares that the desire of the receiver to increase his earnings does not justify such discrimination. "Railroads are constructed for the common and equal benefit of all persons wishing to avail themselves of the facilities which they afford. * * * This franchise carried with it other and correlative obligations. Among these is the obligation to carry for every person offering business, under like circumstances, at the same rate. Unjust discriminations are in violation of sound public policy and are forbidden by law."

A master was appointed to ascertain the amount of rebates paid on Mr. Rice's oil to the Standard Oil Company, and this amount was duly recovered by him.

Mr. Rice states that the decision of Judge Baxter was made before the passage of the interstate-commerce act, showing that, in the opinion of the courts, discriminations were illegal without any special statute. In fact, the addition of a penalty of fine and imprisonment by the interstate-commerce act is considered by Mr. Rice to have had practically no beneficial effect, since the law is continually violated.

Being questioned as to whether receivers are not forced to make discriminations in order to compete with other roads which make discriminations, Mr. Rice declares that receivers, being representatives of the courts, ought to be especially circumspect in conforming to the law, whatever might be the effect upon the earning power of the railway. (706-709, 749.)

Regarding this last-mentioned case, Mr. ARCHBOLD quotes all the most important parts of the testimony of Mr. D. O'Day before the Committee of the House of Representatives in 1888. Mr. O'Day then testified that an arrangement was made by him in 1882 or 1883 with the Cleveland and Marietta Railroad Company for a through freight rate from the Macksburg, Ohio, oil fields to Marietta by pipe line and railway. The joint rate was to be 35 cents per barrel, and it was Mr. O'Day's opinion that 20 cents was to go to the pipe line, which was a Standard organization, and 15 cents to the railway, although a letter was submitted as evidence to show that the railway received only 10 cents. Mr. O'Day further testified that this rate of 35 cents was to apply to all oil transported by the railway, whether passing through the pipe line or not. At first it was arranged that a rebate equal to the proportion of the joint rate going to the pipe line should likewise be paid to the Standard Oil Company on all oil. About \$300 or \$250 was thus paid by the railway on oil not passing through the pipe line, but this sum was returned to the railway by the advice of Mr. Dodd, solicitor of the Standard Oil Company. This refunding was made before suit was brought to dismiss the receiver of the railway, a proceeding with which the Standard Oil Company had nothing to do. (556-559.)

Other statements of Mr. Rice refer to the period since the interstate-commerce act. (See pp. 164, 167.)

X. RAILWAY DISCRIMINATIONS SINCE INTERSTATE-COMMERCE ACT.

A. General statements.—1. *Opponents of combination.*—Much evidence was submitted on both sides as to the question whether rebates and other forms of discriminations in favor of the Standard Oil combination are being granted at present. Little testimony was brought forward to prove that it still receives actually lower rates for shipments over the same tracks than its competitors. The chief instance which it was endeavored to prove had to do with the underbilling of the weight

of cars shipped by the Standard. This is taken up in detail later on. Much evidence was also submitted as to (1) advantages in tank-car shipments over barrels; (2) lower rates where the Standard's shipments are the largest than where the independent refiners chiefly ship; (3) indirect advantages of different sorts.

Witnesses testifying in opposition to the Standard Oil combination, however, are of the opinion that direct discriminations and rebates are still received by the Standard Oil combination. This opinion is expressed by Messrs. LEE (292), LOCKWOOD (396), EMERY (380-333), PHILLIPS (301), and DAVIS (352).

Mr. RICE testifies that the officials of the Standard Oil Company are either presidents or directors in companies controlling one-fifth of the total railway mileage of the United States, and attributes this fact to their having secured discriminations from railways in the oil business. At a comparatively early date various railway officials had taken stock in the Standard Oil Company and the relation between the combination and the railways is still exceedingly close. Mr. Rice believes that railway tariffs on oil were formerly and are still practically dictated by the Standard. (688, 708, 727; compare MONNETT, 318.)

Mr. PAGE denies the charge that railway tariffs are ever issued from the office of the Standard Oil Company in New York, although he admits that the company has of course consulted with railroads in regard to the tariffs, as all large shippers probably do.

Mr. Page further denies that any official of the Standard Oil Company who is connected with any railway has ever made a special rate or arrangement for the Standard Oil Company, or has ever asked for any undue share of the business of that company. The Standard's business itself would necessarily suffer if attention were thus paid to the individual interests of different stockholders. (768.)

Mr. ROCKEFELLER makes practically the same statement as Mr. Page. (796.)

Mr. RICE expresses the opinion that the railways evade the interstate-commerce act by paying commissions to nominal agents for securing freight, although he doubts whether the Standard Oil Company finds it necessary to employ agents in order to secure such commissions. (727.)

Mr. PAGE denies absolutely that the Standard has ever received, either directly or indirectly, any commissions from railways since the interstate-commerce act. (769.)

Mr. EMERY submitted as evidence of the existence of discriminations generally the letter of the receivers of the Baltimore and Ohio Railroad to the Interstate Commerce Commission, dated December 22, 1898. This letter states:

"Within the territory north of the Ohio River and east of the Mississippi the railroad carriers are transporting the larger part of the interstate traffic at rates less than those shown in the published tariff filed with your commission, which are by statute the only lawful rates.

"While this condition continues there will exist the unjust discriminations and the unjust preferences and advantages between persons, localities, and particular descriptions of traffic, the prevention of which is the main object of the act of Congress establishing your commission. Only by securing the uniform charging of the published rates can the just equality of service and of charge required by law be secured either between persons or between localities."

The letter goes on to say that such discriminations and secret rates have been to some extent checked by joint associations of railways. Since under the decision of the Supreme Court of the United States joint associations and agreements are held illegal, the railway company applies to the Interstate Commerce Commission to vigorously enforce the law, and agrees to cooperate with the commission in so doing, both by itself maintaining published rates and by giving information concerning violations of the law by other common carriers. (637, 638.)

Referring to the above letter of Receivers Cowen and Murray, Mr. PAGE denies that the Standard Oil Company has ever received any rebates or advantages from the Baltimore and Ohio Railroad since the interstate-commerce act. (770.)

2. *General denial.*—Mr. ARCHBOLD, vice-president of the Standard Oil Company, replying to Mr. Lee's testimony, denies that the Standard Oil Company has received rebates of any sort from railway companies since the passage of the interstate-commerce act in 1887. The only case specifically referred to by Mr. Lee goes back to 1889 and was not strictly a case showing discriminations in favor of the Standard Oil Company, but rather discriminations, so called, in favor of tank shippers as compared with barrel shippers of oil. (Compare p. .)

The Standard Oil Company has sought to uphold the interstate-commerce act in every way, and is decidedly in favor of that act. It is possible that railways have since the law was passed offered rebates to the Standard Oil Company, but if so it has always refused and will continue to refuse to accept them. The witness submitted letters from officers of the leading railways of various sections of the country in reply to a circular inquiry sent out by the Standard Oil Company,

asking whether the respective roads had granted any advantages to that company, "either by direct tariff, rebate, underbilling, or in any other way." These letters each specifically deny that any such preferences have been given to the Standard Oil Company, and many of them further state that the Standard Oil Company has used its influence with the railways to maintain agreed tariff rates and to support the interstate-commerce act. The letters referred to are from the following railways: Atchison, Topeka and Santa Fe; Baltimore and Ohio; Boston and Maine; Chicago and Alton; Chicago, Milwaukee and St. Paul; Chicago, Burlington and Quincy; Cleveland, Cincinnati, Chicago and St. Louis; Delaware, Lackawanna and Western; Erie Railroad; Great Northern; Lake Shore and Michigan Southern; Louisville and Nashville; New York Central and Hudson River; Northern Pacific; Pennsylvania Railroad; St. Louis and San Francisco; Southern Pacific; Southern Railway; Union Pacific; Wabash Railroad; Western New York and Pennsylvania. (515-528, 580.)

Mr. ARCHBOLD further states that it is suspected that the competitors of the Standard receive some advantages and special rates. He refers also to the low rates received by the United States Pipe Line on rail shipments in New Jersey.

Mr. PHILLIPS denies that the independent refineries receive any advantages or discriminations from the railways. The low rates received on oil from the terminus of its pipe line in New Jersey to New York are open rates, and in proportion to the rates from Oil City and other more distant shipping points. (601.)

On this subject see above, p. 104.

Mr. PAGE repeatedly makes the same assertion as Mr. Archbold, that the Standard has received absolutely no advantages from the railways since the passage of the interstate-commerce act, and asserts that in his position as an officer of the Union Tank Line Company he would be certain to know of any such discriminations. He asserts that it is impossible to doubt the truth of the statements made by the presidents and officers of the various railways whose letters on this subject are quoted by Mr. Archbold. He adds that the reasons why the Standard has not received and asked for rebates, in spite of the well-known fact that some large shippers have received such advantages since the passage of the interstate-commerce act, are, first, because to do so would be against the law, and secondly, because the company knows from past experience that if it receives cut rates on oil shipments, other oil shippers will do the same. (778, 786, 787.)

Mr. Page likewise comments upon the fact that the opponents of the combination, notwithstanding their active efforts to prove violations of law, have during more than 12 years been able to bring forward only one case, which is explained as being a clerical error (see pp. 165-167). It would have been impossible, in view of the immense number of railway employees, to keep rebates and discriminations secret. (778.)

In further refutation of the general evidence as to the importance of discriminations in favor of the Standard Oil Company, Mr. Page submitted evidence to show that the total tonnage of oil moved by the railroads of the United States is less than one-half of 1 per cent of the entire annual tonnage. (786.)

Mr. ROCKEFELLER, in an affidavit submitted to the commission, made the following statement on this subject:

"7. Q. Has the Standard Oil Company received any financial favors from any railroad since 1887?—A. To my knowledge, none whatever.

"8. Q. Has the ownership of stock in railroad companies by officers of the Standard Oil Company given the Standard advantages with those railroads over its competitors? If so, give particulars.—A. It has not. Stockholders and officers of the Standard have invested in stock of railway companies. But in no instance have they done so for the purpose of influencing the policy of the railway companies, nor to the best of my knowledge and belief has any attempt ever been made through such ownership to influence any railway in favor of the Standard." (795, 796.)

3. *Rejoinder*.—In view of the statements of numerous railway officers that no discriminations have been granted to the Standard by their roads, Mr. EMERY declares that these higher officers may perhaps be ignorant of the existence of discriminations which are actually made. He would desire to have the auditors and bookkeepers compelled to testify and the books of the companies brought into court. In the case below referred to against the Pennsylvania Railroad (p. 161) information of rebates was secured in this way, when the president and general freight agent of the road had sworn that none had been paid. The witness believes that that company would have paid almost any sum to prevent its books from being examined by the courts.

Mr. Emery believes that railway discriminations are responsible for the oppressive monopolies which exist in almost every line of business; that but for them

there would have been no trusts. He refers to the excessive prices of coal in the northwest as showing a combination in that business. (648.)

Referring to the above series of letters from railway managers, Mr. RICE declares his belief that the Southern Railway Company, at any rate, actually does indulge in freight discriminations, such as are charged by Receivers Cowen and Murray of the Baltimore and Ohio Railroad. (747.)

B. Logan, Emery & Weaver Case.—Mr. EMERY states that the case of Logan, Emery & Weaver v. The Pennsylvania Railroad Company was brought in 1887, but was continued until 1890, largely through the delays of the railway. The president of the Pennsylvania Railroad, and its general freight agent, testified in 1890 that positively no rebates had been paid, at least since 1887. But the auditor and assistant auditor of the road, as well as a bookkeeper who had been employed in keeping the accounts of one department for 26 years, testified that rebates of from 8 to 28 cents per barrel had been granted since 1887. Mr. Emery also quotes the testimony of B. B. Campbell in this suit, showing that the Bear Creek Oil Refining Company, with which Mr. Campbell was connected, had received rebates on shipments from Coleman Station to Philadelphia, Communipaw, and Bolivar, from October 1, 1884, to July 1, 1888, a year and a half of this time being after the passage of the interstate-commerce act. The total amount of rebates received was \$48,101. After long delay and difficulty the court issued an order requiring the Pennsylvania Railroad to produce its books, and these were actually brought to the place of trial. They were, however, never examined. The witness believes that they would have incriminated the officers of the company, and that it would have been willing to pay a very large sum to escape showing them. The attorney of the railroad accordingly approached the plaintiffs and offered to settle the case. Mr. Emery's partners were very much discouraged and disgusted, and were too poor to carry the suit further. They feared that the railway company would succeed in continuing its dilatory methods and piling up the expenses of the case. Accordingly the proposed settlement was finally accepted, the railway paying \$35,000 and the expenses of the suit. It does not appear that the Standard Oil Company was concerned in this case. (633-635-669.)

The above evidence was confirmed in its general outlines by Mr. LEE, who was attorney in the suit. (287.)

C. Favorable rates from Standard shipping points.—1. *General statements.*—Considerable evidence was also presented to show that the Standard receives peculiar advantages in the way of lower freight rates from its large shipping points than prevail from points where its competitors make most of their shipments. The representatives of the Standard Oil Company state that the only advantage enjoyed by the combination results from the location of its refineries at places nearer to the point of consumption. The large number of refineries owned by the Standard in different places makes the average distance which it must ship less than that of the independent refiners having a single establishment. So far as rates per mile are sometimes less from one point than from another, this is a common practice among railways, depending upon the amount of shipments.

Thus Mr. PAGE testifies as follows:

"Commissioner Prouty's arguments seem to be to the effect that the Standard Oil Company had advantages by reason of having its refineries and distributing plants at Chicago and the Atlantic seaboard, as well as at Lima, Buffalo, and other middle-State points, as compared with a refiner who had his works only at Cleveland or in the Pennsylvania oil regions. We admit that by having refineries and distributing plants at Chicago for the West, at Buffalo, Lima, and Parkersburg for the Middle States and the South, and at the Atlantic seaboard for the East and New England, we have decided advantages over a refiner who has his works only at one point, and who tries to compete with us in selling oil throughout the country. We claim, however, that such an advantage is a fair one, and can not be overcome by any fair or reasonable adjustment of freight rates. We further claim that by having our refineries and distributing plants located at various points throughout the country we can and do distribute more cheaply and sell the oil at a less cost to the consumer, and it is more to the interests of the country at large for the consumer of oil to get it at a low cost than it is to try to fix freight rates on any basis that will permit one manufacturer at one point to distribute his products throughout the United States."

Mr. Page adds that the rates on oil from different points in the Pennsylvania field are made on a uniform basis, and similarly from the Ohio field, so that there is no difference in favor of the Standard as regards places really similarly situated. (770, 778, 788.)

Mr. LEE and Mr. MONNETT testify that independent shippers are especially benefited where water transportation can be secured in competition with rail-

transportation. The latter witness points out, for example, that the rates to New Orleans from Northern shipping points are lower than to places 150 miles north of there. Compare on this subject the evidence as to differences in rates for short and long hauls. (Lee, 269; Monnett, 316.)

2. *Whiting rates.*—Mr. MONNETT testifies that the Standard Oil Company gets an advantage over its competitors by securing lower rates from points where it has refineries than are made from points where competing refineries exist. Thus it has transferred most of the business of its Cleveland branch to Whiting, Ind. The freight rate to New Orleans from there is 23 cents per barrel, as against 33 cents from Cleveland, and this injures severely the competing company of Scofield, Shurmer & Teagle. (309.)

Mr. WESTGATE states that formerly the rate on oil from Titusville to the Pacific coast was 78½ cents per 100 pounds, but since the Standard Oil Company established its new refinery at Whiting, an added rate of 17½ cents to Chicago has been made, the rate from Chicago remaining 78½ cents. (376.)

As regards this difference in rates to the South alleged to exist between shipments from Cleveland and those from Whiting, Mr. PAGE states that Whiting is considerably nearer to New Orleans than Cleveland. On its being pointed out that there is a greater difference between the respective rates in the case of petroleum products than in the case of linseed oil, Mr. Page states that railways adjust their rates from different points according to the amount of traffic and to other conditions. Chicago is naturally a large shipping point for linseed oil, and the traffic can bear a higher relative rate from there than it can from Cleveland. The Standard Oil Company has located its refinery at Whiting because it is nearer the great West, which is a large consumer of oil. The company thus has an advantage over those shipping to the West from more eastern points. (777, 778. It should be borne in mind that the Standard transports crude oil from Ohio fields to Whiting by means of pipe lines.)

3. *New York and New England.*—Mr. WESTGATE states that he formerly shipped oil to various points in eastern New York and New England at the regular carload rate for Boston and so-called Boston points, but recently the through rates to numerous places have been withdrawn from this adjustment and local and arbitrary rates on oil, different from those on other commodities, added to the through rate. The Red Line rate to Boston from Buffalo is 23½ cents per hundred on oil, but to various other places in Massachusetts the rate has been made 33 cents. The witness is practically excluded from such cities as New Haven and Providence, and from Vermont points. A recent circular of the Red Line states that oils on the Central Vermont Railroad and the New York, New Haven and Hartford Railroad can not be taken at the rates named in the regular tariff, but are subject to arbitrary rates. The rate on oil to Burlington, Vt., in 1895, as quoted by the Lake Shore Railroad, was 44½ cents; to St. Johnsbury, Vt., 36½ cents; to Newport, Vt., 38½ cents per 100 pounds. The two last-named stations are entered in the Red Line traffic book as taking Boston rates, which are 23½ cents.

On April 12, 1899, the general agent of the Green Line system wrote to the witness that the Delaware and Hudson had ordered that on shipments from Whitehall, N. Y., to various points in New England and New York, named in the list, additions of from 5 cents to 14 cents per barrel must be made to the Boston rate of 23½ cents from Titusville. The agent called the attention of the railroad to the fact that these rates amounted to about 2½ cents per ton per mile, but no change was made save to add certain other stations (between Saratoga and Northcreek), which should bear rates of from 6 to 18 cents in addition to the Boston rate.

The witness, in fact, has found that the railways do not appear to wish to handle independent oil. Very few agents solicit oil trade as they do other kinds of freight business. The commercial agent of the New York, Chicago, and St. Louis Railroad writes under date of April 12, 1898, that the road can not name satisfactory rates on oil from Titusville to Vermont. The manager of the New York Central Fast Freight Line (Red Line, White Line, Blue Line, etc.) writes, December 5, 1898, that oil is not a commodity which they are allowed to handle on fast freight lines. The witness considers oil somewhat more dangerous to handle than other freight, but very little. (373, 378.)

The difficulty as to railway rates on oil, in Mr. Westgate's opinion, appears to be largely that arbitrary rates are fixed to different places at the will of the railways, apparently with a view to favoring shipments by the Standard Oil Company. Rates are higher from places where the independent refiners do their manufacturing and shipping than from those where the Standard Oil Company is located. The witness believes that oil should be classified as sixth-class freight or, at any rate, as fifth class, and should bear the regular tariff rates prescribed for other goods of the same class. (379.)

Mr. ARCHBOLD disclaims all knowledge of recent changes in freight rates in New York State or elsewhere, such as are referred to by Mr. Westgate. He doubts exceedingly whether any have occurred recently, nor does he know of any rates which work peculiar disadvantage to the competitors of the Standard Oil Company. (573.)

Regarding the statements of Mr. Westgate, Mr. PAGE testifies that the Standard makes East Boston a main distributing point for a large section of New England, shipping oil from there as far as to Portland on the north and Newport on the south. This station is supplied partly by rail and partly by steamer shipments from the company's refineries at the seaboard near New York and Philadelphia. The Standard Oil Company also ships to some extent from the Pennsylvania oil region to New England, and in so doing pays precisely the same rate as others. It is not denied that by having refineries located on the seaboard the Standard has an advantage in supplying oil to New England over competitors having refineries in Cleveland or in the oil region, but under no fair adjustment of rates could these more distant refineries be placed on an equality.

As to the reason of the railways for refusing to make a through rate on oil from the West to New England points, so that the rates to Newport and other places are much higher than to Boston, Mr. Page testifies that the railways have their own methods of fixing through rates. In some cases they make through rates, while in others they charge local rates to different points in addition to the through rates to the central points. These adjustments depend upon the amount of freight shipped and on other causes. The witness particularly denies that Mr. William Rockefeller has ever influenced the rates on the New York and New Haven Railroad. (770, 776.)

4. *Advantage of Standard in shipments in and to Canada.*—Mr. GALL, a wholesale dealer in petroleum products at Montreal, testifies that shortly after the Standard Oil Company in 1898 purchased all of the existing refineries in Canada, the through freight rates on oil over the Canadian Pacific and the Grand Trunk from American points to Montreal were nearly doubled, the purpose being, as he believes, to favor the Standard Oil Company in its business, since that company was refining oil in Canada and did not have to pay these high rates. The rate in April, 1898, from Warren, Pa., to Montreal was 23½ cents. At present it is 48½ cents, and this change has been due entirely to the increase in rates on the Canadian roads, the rate from Warren to Buffalo being still 8½ cents. The rate from Toledo was formerly 29½ cents but has been raised to 46½ cents per barrel. Owing to these increases in the freight it is impossible in Canada to sell at a profit even Ohio oil, which costs at Toledo only from 3 to 5 cents per gallon, at 17 cents per gallon, which is the price now fixed by the Standard Oil Company for Canadian oil, the latter being scarcely equal in quality to Ohio oil.

The company with which Mr. Gall is connected, together with the Sun Oil Refining Company of Hamilton, made complaint before the railroad committee of the privy council of Canada in June, 1899, concerning these excessive charges, and also concerning the discrimination which then existed on local shipments between Canadian oil and American oil.

At that time the railways were in the habit of demanding from shippers a statement whether oil was American or Canadian. In shipping from Montreal to St. Johns the witness has paid \$1.08 per barrel on American oil and 54 cents on Canadian oil. The original bills of lading were submitted in evidence. This discrimination has been acknowledged by the railways and has been stopped.

The rates referred to from Buffalo to Montreal, 35 cents per 100 pounds, are much higher than those from Sarnia to Montreal, on the same class of goods, although the distance from Sarnia is 77 miles greater. The Standard Oil Company has large refining works at Sarnia. The rate from Buffalo and Suspension Bridge to Montreal is 35 cents, that from Sarnia to Montreal 25 cents per 100 pounds.

The witness also believes that secret rates are made to the Standard Oil Company on its shipments of American oil, much lower than the open rates. He has made this charge before the railway committee, but is unable to submit definite evidence in support of it as yet.

The witness believes that the increase of rates referred to was made at the instigation of the Standard Oil Company. For some time before the increase it was impossible for the independent shippers to ascertain what the proposed rates would be. The Standard Oil Company made very large shipments to Canada immediately before the higher rates went into effect. The witness believes that it had knowledge of the change that was to be made.

The Michigan Central Railway, as the witness has been informed by one of its officers, refused to increase freight rates when other roads did so, and the result is that the Standard Oil Company has taken away all its freight from the Michigan Central.

The Standard Oil Company is also shipping oil to Canada by vessel from New York, as well as transporting oil from Sarnia to Montreal by water.

The witness does not believe that this action of the railways is in any sense due to political influence, or to a desire to discriminate against the United States generally, although it has been the case in the past that Canada-owned railways, partly with the sanction of the government, have discriminated in various ways against the American shipper. (675-678, 682-685.)

Mr. WESTGATE, an independent refiner at Titusville, testifies that when the rate on oil from Buffalo to Montreal was advanced from 23 cents to 35 cents per 100 pounds he sought to obtain a rate on the New York Central to Adirondack Junction, 9 miles from Montreal, with a view to having his oil switched the remaining distance. But the New York Central made its rate to that point 35 cents also. This would amount to 1.65 cents per ton per mile, while the average rate per ton per mile on oil is about 73 cents. The witness is thus practically shut out from the Montreal market. (375, 378.)

As to freight rates to Canada, Mr. ARCHBOLD does not believe that there are any discriminations in favor of the Standard Oil Company. The advance in rates recently made on American oil from Buffalo to Detroit over the Canadian roads was in the interest of those roads and injurious to the Standard itself, since that company pays these rates in full and ships over 75 per cent of the American oil consumed in Canada. He knows of no rates that are not open to all comers. (572, 575; compare Rogers, 582.)

Mr. PAGE confirms this statement, but adds that he does not know the proportion of the shipments by the Standard from this country as compared with the oil it manufactures in Canada, but does know that its shipments from the United States were greater last year after the advance in rates than before. (788.)

D. Short and long haul.—Mr. RICE submitted statements concerning a large number of discriminations existing at the present time between rates to terminal points and to intermediate points, especially on the shipment of oil. These rates are taken from the public tariffs of the respective railways. All of them refer to shipments over Western and Southern railways. Among other discriminations mentioned are the following: Over the Union Pacific from Chicago to San Francisco the rate on oil is 78½ cents per 100 pounds, while the highest intermediate rate, to Humboldt, Nev., is \$1.75, or a charge 122 per cent higher for a haul 325 miles less. This difference applies to oil only, whereas on other commodities of the fifth class, in which oil belongs, the greatest difference between the charge for the full distance and the intermediate distance is only 12 per cent. From St. Louis to Galveston, Tex., over the St. Louis, Iron Mountain and Southern Railway, the tariff rate on oil is 33½ cents, while the rate to Aldine, Tex., is 55 cents, or 64 per cent more for a haul 63 miles less. The greatest discrimination shown is over the Louisville and Nashville Railroad. From Louisville to Mobile the tariff rate is 18 cents per 100, while to Flomaton, an intermediate point, it is 56 cents, making 211 per cent higher charge for 61 miles less haul. Mr. Rice declares that on the Southern roads there is no difference in the charge in favor of terminal as against intermediate points on other classes of commodities, but only on oil. (736-738.)

Mr. Rice testifies further that he proved in his suits that the Southwestern railways have allowed the Standard Oil combination stop-over privileges for its cars, billed to the terminal points, by which means part of the oil in a tank can be unloaded at the high-rate intermediate points. According to a letter from the Interstate Commerce Commission, dated July 12, 1897, this stop-over privilege was still allowed at that time. (718.)

E. Railway rates and pipe lines.—Several witnesses declared that the Standard Oil combination still has a great advantage from the fact that it transports crude oil from the producing regions to its refineries on the seaboard and at Whiting, Ind., by means of pipe lines. The cost of transportation is believed by these witnesses not to exceed from 5 to 8 cents per barrel (p. 106,) while the public charge of the pipe lines for transportation is several times that amount, being about the same as the railway rates, which are believed to be fixed largely by agreements with the pipe line companies. For evidence as to the earlier arrangements with the railways, which the witnesses believe to exist still, see above. (Pp. 149, 150; also MONNETT, 322, 323, as to present advantages.)

Mr. DAVIS states that he has sought to transport oil from wells controlled by him in the Corning field to Marietta, where he was interested in a refinery. The charge made by the pipe-line company was 35 cents per barrel, and after long delay in securing a reply to his telegram the Toledo and Ohio Central Railroad made a rate of 35 or 36 cents per barrel, which was practically prohibitive. (358.)

F. Underbilling of cars.—1. *Generally.*—It is charged by opponents of the Standard combination that it is favored in certain cases by having the weight of the contents of its tank cars underbilled. This charge is denied specifically with regard

to interstate shipments by representatives of the Standard Oil Company, and the instances where such underbilling has occurred are explained as occasional errors. The evidence is not so clear as to underbilling of tank cars in shipments within the State.

Mr. RICE expresses the belief that there is a certain amount of underbilling of weight in the case of all tank-car shipments, owing to the fact that the weight per gallon is estimated at 6.4 pounds. The standard weight of illuminating oil is not less than 6.7 pounds, so that the underbilling is 4.08 per cent. Lubricating oils are billed at 6½ pounds per gallon, but this is sometimes as much as 15 per cent less than the actual weight. (732.)

Mr. PAGE explains the reason for the adoption of the standard of 6.4 pounds per gallon. It applies to all petroleum products, including the lightest, such as gasoline. The different products range from 5½ to 7½ pounds per gallon, but 6.4 pounds has been found by careful investigation to represent the actual average on the basis of the amounts shipped. This method of calculating an average weight for the contents of tank cars saves an immense amount of difficulty to shippers and railways. To actually weigh cars in each case, or to test the exact weight of the contents per gallon, would involve great effort. (766.)

2. *New York case.*—Mr. WESTGATE testifies that he has seen within the past 3 or 4 years freight receipts for oil billed from Olean, N. Y., at the rate of 24,000 pounds for cars containing 7,000 to 7,200 gallons. The weight of oil is 6.4 pounds per gallon, which would make the real weight of these cars 44,800 or 46,080 pounds. The Standard Oil Company prepays the freight, apparently with a view to concealing these underweights. The witness is of the opinion that every car shipped from the refineries is billed on this basis. In another instance he heard of a person who bought crude oil from the Standard, and received freight bills at the rate of 24,000 pounds for cars containing 6,000 to 6,600 gallons, but who afterwards received a corrected bill at the actual weight. This underbilling was not an ordinary error. The witness himself is compelled to pay on the full weight, which makes his charges 50 to 100 per cent more. (373.)

Mr. ARCHBOLD absolutely denies that the Standard Oil Company has any arrangement with railways with reference to underbilling of tank cars, as charged by Mr. Westgate. He submitted to the Commission a book known as the "Tank Gauge Handbook," giving the number and the full capacity of every car used. This book is in the hands of all railways, and is the basis for billing oil. The witness also submitted letters from the general freight agents of the Western New York and Pennsylvania Railway and the Erie Railroad, the only roads reaching Olean, N. Y., each denying positively that any arrangement for underbilling cars exists, and stating that on the contrary freight has been charged and collected on the basis of the maximum number of barrels each tank could contain at an estimated weight, formerly 6.3 pounds per gallon, but later 6.4. (550, 551.)

Mr. PAGE likewise testifies as to the impossibility of underbilling tank cars. The railways charge freight on the capacity of the tank car, no matter whether it is loaded to full capacity or not. The weight is estimated on the basis of 6.4 pounds per gallon, whatever be the actual weight per gallon of the contents. (766-770.)

3. *New York, New Haven and Hartford case.*—Mr. RICE refers to the evidence in a suit before the Interstate Commerce Commission in 1897 to show that in that year two cars of naphtha, containing 100,986 pounds actual weight, shipped from East Boston to Newport, R. I., were charged at a weight of 48,000 pounds by the New York, New Haven and Hartford Railroad, in which Mr. William Rockefeller is a director. He states that Mr. Page explained that this was due to a clerical error and paid the balance due, but Mr. Rice believes that a similar discrimination has existed in regard to all shipments, this single case only having accidentally come to light. (731, 732.)

Mr. PAGE takes up this case in detail. He submitted a letter from Mr. Hall, the vice-president of the New York, New Haven and Hartford Railroad, to the Interstate Commerce Commission, stating all shipments made over that road from East Boston to Newport from April 6, 1896, to December 6, 1897. On three separate occasions two or three cars were received by that company from the Boston and Albany Railway billed at a weight of 24,000 pounds each. The weight thus given was accepted through the error of the agent of the New Haven road, and without any misrepresentation on the part of the shipper. The errors were subsequently discovered and the difference in freight collected.

Mr. Page explains the reason for the billing of the oil at 24,000 pounds by the Boston and Albany as follows: "Our works are located at East Boston on the Boston and Albany road. The Boston and Albany road have to switch any car from Boston to East Boston, where the cars are delivered to the New Haven

road. That switching charge, as I recall it, is \$6 per car; either \$4 or \$6 per car. The Boston and Albany road, like many other roads, wishes to show its tonnage, whether the rates are per car or per 100 pounds; and where the rate is per car, as in this instance, it probably uses 24,000 pounds, which is the usual carload weight; it is the minimum carload weight. They simply put in 24,000 pounds. The testimony shows, and I swear now, that we did not give the Boston and Albany road 24,000 pounds as the weight of those cars, nor did we give them any weight. We did notify, not only directly, but through this book, the actual weight of all those cars, and it was simply an error of the New Haven road, as shown in the testimony, and as offered by Vice-President Hall, that the New Haven road took in error the constructive weight of the Boston and Albany in their bill, instead of taking the actual weight, which they had in their power to get, and should have got."

As to whether it was the general custom of the Boston and Albany to bill cars at this minimum rate of 24,000 pounds to other stations, Mr. Page declares that he does not know. If this be the case, the Standard nevertheless pays the same rate as all other shippers.

Mr. Page also submitted extracts from the testimony before the Interstate Commerce Commission in its investigation of these cases, and further extracts are quoted in a footnote. Mr. Kidder, agent of the Boston and Albany Railroad at East Boston, stated that the receipts furnished by the Standard Oil Company regularly contained no statement as to weights, and that it was the ordinary custom to ship tank cars of naphtha at the minimum weight of 24,000 pounds to all local points. The witness had never before seen a copy of the "Tank Gauge Handbook," containing the capacity of tank cars.

Mr. Keyes and Mr. Davis, employees in the freight department of the New York, New Haven and Hartford road at Boston, testified that they had no copy of the "Tank Gauge Handbook" in their office. It was the custom to bill tank cars at the weight named in the waybill of the Boston and Albany unless instructions to the contrary were received. Such instructions were, however, sent by letter from the Standard Oil Company in almost every case, stating the weight of the oil.

Mr. Winlock, assistant general freight agent of the New Haven road, testified before the Interstate Commerce Commission confirming the statements of Mr. Keyes and Mr. Davis. He submitted a letter from the Standard Oil Company, dated February 9, 1897, stating the actual weight of two cars, which had been billed by the railroad at 24,000 pounds, this letter having been overlooked by the clerks in the office. Mr. Winlock further stated that the agents of the road billed tank cars at their actual weight in the case of interstate shipments, but was not prepared to answer the question as to whether a different rule was followed for shipments within the State. It is not clear whether the inability to answer is due to ignorance or to unwillingness. Mr. Winlock specifically denied, however, that there was any understanding with the Standard Oil Company by which cars were billed within the State at less than actual weight. Extracts from this testimony before the Interstate Commerce Commission follow:

"Q. You are the man who would know about that rule, if there was any?—A. I have already said that I think it is the same. I am not absolutely positive of the different rates which apply on interstate business.

"Q. I am not talking about rates; I am talking about a rule as to the billing of these cars, and my question is this: When you bill a tank car to an interstate point—a point without the State of Massachusetts—do you bill it at its actual weight; and when you bill a car to a point in the State of Massachusetts do you bill it at a weight of 24,000 pounds?—A. That is a question that I could not answer.

"Q. Do you mean to say that you have no knowledge about it?—A. No, sir.

"Q. You mean you don't want to answer that question?—A. I mean I don't want to answer that question.

"Q. (By Mr. PAGE.) You have no understanding with the Standard Oil Company, or any instructions from your superiors, by which you are to bill cars within the State at less than the actual rate?—A. None whatever.

"The COMMISSIONER. Not the actual rate?

"Q. At less than the actual weight. You have no understanding with us by which you should bill cars at 24,000 pounds within the State because of our interstate shipments, have you, or for any reason?—A. We have no instructions from you—

"Q. Or understanding with us?—A. We have no understanding with you at all, Mr. Page, of any kind.

"Q. In other words, Mr. Winlock, the rates that you may name us within the State have no connection or no bearing in regard to interstate business?—A. None whatever." (Pages 770-775.)

G. Tank and barrel shipments.—Much testimony was presented to show that great advantages had been formerly given to shippers of oil in tank cars as compared with those using barrels, and that some differences in this regard still exist. (See, e. g., Lockwood, 888.) It is admitted by some that all tank-car shippers enjoy equal advantages, but it is urged that the Standard Oil Company controls most of the tank cars.

1. Early difference in rates per hundredweight.—Prior to 1888 it was customary, if not universal, that lower rates per 100 pounds should be charged for freight on oil in tanks than in barrels.

Mr. RICE believes that the higher rates on oil in barrels which formerly existed were made at the instance of the Standard Oil Company, and not because of any preference of the railroads for tank-car shipments. Up to 1888, he states, the Pennsylvania Railroad carried oil in barrels, including the package, for the same rate per gallon as in tank cars, but afterwards changed so as to require the shipper to pay for the weight of the package. (716.)

Mr. Rice declares further that he has proved gross discriminations, exclusively in favor of the Standard Oil Trust, by the Southwestern railroads since the adoption of the interstate-commerce act. Although he does not make this point clear, many of these discriminations were apparently between tank-car shipments and barrel shipments, and no specific evidence is submitted to show that the tank-car rates made to the Standard Oil Company were not open to the general public. Mr. Rice submitted tables showing the difference in mills per gallon charged to the Standard Oil Trust and to himself for shipments over the Louisville and Nashville Railroad from Louisville and Cincinnati to various southern points. The percentage of difference between these rates ranges from 66½ to 883 per cent. Similar tables as to the rates over the Cincinnati, New Orleans, and Texas Pacific, Newport News and Mississippi Valley, and St. Louis and Iron Mountain roads show differences ranging from 40 to 267 per cent. These differences were proved to exist up to April 1, 1888, and despite an order of the Interstate Commerce Commission, the Missouri Pacific Railroad was still carrying tank cars by lump sum on May 28, 1888.

Mr. Rice states that he proved that in November, 1887, 7 or 8 months after the interstate-commerce act took effect, he was paying on barrel shipments of oil from Cincinnati to Birmingham, Ala., four times as much freight as the Standard Oil Company was paying on tank-car shipments. He was paying 59 cents per 100 pounds on 400 pounds to the barrel, amounting to \$2.36; while the Standard only paid 16.8 cents per 100 on 315 pounds, amounting to 52.9 cents per barrel. The discrimination was 346 per cent. (711, 714, 715, 749.)

Mr. PAGE admits the difference which existed, after the passage of the interstate-commerce act, between the rates on oil in tank cars and in barrels. This was not a discrimination between individuals, since rates in each case were published and open to all. The Interstate Commerce Commission, in 1888, ordered that the rates per 100 pounds on oil in tank cars and in barrels should be the same, the weight of the barrels being included in the weight charged upon. The railroads accordingly adjusted their tariffs in this way, and they still remain on that basis. The Standard Oil Company was at that time, as the witness believes, shipping more oil in barrels than in tank cars, so that it was injured as much as its competitors. (765.)

This decision of the Interstate Commerce Commission in 1888 is also referred to incidentally by other witnesses.

2. Charge for weight of barrel.—Two or three witnesses opposed to the Standard combination refer to the fact that discriminations in favor of the Standard have been proved, since 1888, before the Interstate Commerce Commission, which has ordered damages to be paid to the shippers injured. It appears from the evidence of these same witnesses, however, and still more clearly from the evidence of Mr. Archbold and Mr. Page, that the case referred to is one of difference in charges between tank shipments and barrel shipments.

The railways complied generally with the order of the Interstate Commerce Commission of 1888, above referred to. Later on, the independent refiners of Pennsylvania secured an order from the commission that the weight of barrels should be disregarded in charging for shipments of oil. The railways have not complied with this order or paid the damages assessed on account of the charge made for the weight of barrels. (LEE, 287; WESTGATE, 379; ARCHBOLD, 614; EMERY, 686.)

Mr. PAGE explains precisely the status of the suits before the Interstate Commerce Commission as to barrel shipments. Several years ago the commission made an additional decision that the weight of the barrels must not be included, but should be carried by the railroad free. This order the railroads refused to obey, and they also refused to pay the damages which were assessed by the commission later on account of the charge made for the weight of the barrels. The case is now pending before the United States court in Pittsburgh.

Mr. Page adds that a large proportion of the oil shipped by the Standard Oil Company is transferred from tank cars to barrels at distributing stations and shipped in that way to local points, so that the Standard is subject to these charges upon the weight of the barrels the same as other shippers.

Mr. PAGE and Mr. ARCHBOLD further testified that the Standard Oil Company itself will have a large claim for repayment by the railways of the freight paid upon barrels, if the above decision is sustained by the courts. Mr. Archbold, however, declares that he considers the requirement that barrels be carried free to be unjust. (Archbold, 516; Page, 788, 789.)

Mr. RICE brought in 1889 complaints before the Interstate Commerce Commission concerning the Southwestern railroads, raising questions as to the like classification of barrel and tank oils, the charge for the weight of the package, the return of tank cars free, and the existence of lower rates on cotton-seed oil in tank cars than on petroleum, the latter, which were proved to exist, constituting an advantage to the owners of tank cars. These cases were never decided, being "held open for additional evidence." (715.)

3. *Relative advantages of tank cars and barrels.*—There was disagreement among the witnesses as to the question whether a relatively lower charge for oil in tank cars than for oil in barrels is justifiable. The relative advantages to the railways of the different methods of shipment were discussed.

Mr. PAGE declares, in the first place, that it is entirely fair at least to charge for the weight of the barrel, because it is itself a merchantable article and its value is added to the price of the oil sold, while the same is not true of the tank car.

It was pointed out by the opponents of the combination that tank cars are returned free of charge, while barrels are not. Tank cars must be returned empty, while the box cars used for barrels can contain a return cargo. To this Mr. Page replies that box cars used for oil can seldom be employed for other purposes, so that these also are usually returned empty, and free of charge.

Mr. Page testifies further that tank-car shipments are more economical generally to the railways. The average capacity of the tank car is 140 barrels, whereas it is seldom possible to carry more than 60 barrels in a box car. The tank car is universally loaded by the shipper and unloaded by the consignee, while the box car is very often unloaded by the railroad in its own depot. (767.)

Mr. RICE denies that it is an advantage to the railways to handle oil in tank cars. He quotes the evidence of John S. Wilson, general freight agent of the Pennsylvania Railroad, before the Interstate Commerce Commission in 1888. Mr. Wilson stated that oil in tank cars was exceedingly dangerous; that in case of collision or other accident the oil would catch fire and flow to great distances, while, on the other hand, the separate barrels can often be saved; and that the necessity of returning tank cars empty made them less economical than box cars for barrel shipments. Mr. Rice admits, however, that a tank car carries more oil than a box car, and saves the weight of barrels; but he believes that there is no advantage to the railways in the loading and unloading of tank cars, since barrels also are loaded and unloaded by the owners of the oil, not by the railways. (716, 717.)

On this point Mr. WESTGATE testifies that Mr. Motheral, a confidential officer of the Green Line in Oil City, stated in 1888, before the Interstate Commerce Commission, that for 5 years the loss on oil shipped in barrels had been twenty-seven thousandths of 1 per cent, while the loss in tanks was forty-three thousandths of 1 per cent. The risk on oil is somewhat greater than on ordinary freight, but the witness believes that it should be classified as sixth-class or at least fifth-class freight. (378, 379.)

4. *Mileage on tank cars.*—Mr. RICE declares that the 8,000 tank cars owned by the Standard Oil combination are paid for every 3 years by the mileage of three-fourths of a cent per mile each way, which is paid by the railways for the use of these cars. He admits that the same mileage is paid to other owners of tank cars, but states that the Standard has most of these cars. Box cars can be used to bring back other freight, but the railway pays for hauling the empty tank cars. (782.)

Mr. PAGE denies that the payment of three-fourths of a cent per mile by the railways to the Union Tank Line Company for the use of its tank cars is excessive, and also that the Tank Line Company is making extraordinary profits. The company receives no other payment whatever for the use of its cars than this mileage rate. It receives no commission from the Standard Oil Company and has no other sources of profit. Owing to the fact that the consumption of petroleum in the summer is small, a large part of the equipment of the company is earning nothing whatever during a considerable portion of the year. Moreover, the rate paid to this company by the railways is the same as is paid to the owners of other tank cars, of whom there are 170 or 180, holding an aggregate of 7,420 cars, as compared with the 5,851 owned by the Union Tank Line Company. As a matter of fact, since its formation, in 1891, the Union Tank Line Company has never paid a dividend, and the actual earnings have been only 4.5 per cent per annum on the investment. The company does not pay excessive salaries; hence this is not an explanation of its low profits. The business is continued because it is a necessary arm of the petroleum industry. The present owners of the Union Tank Line Company and of the Standard Oil Company are the same, and the Standard continues the business because it is the most economical way to handle oil. Probably the reason why the two corporations are kept separate is that the Union Tank Line Company is in a better position to run cars than the Standard Oil Company would be, since the latter is also doing a manufacturing and marketing business. (778-784.)

5. *Indirect advantages to tank shippers.*—In addition to lower rates, it is claimed that the Standard combination receives minor indirect privileges and advantages on its tank-car shipments.

Thus Mr. MONNETT states that the Union Tank Line Company receives an allowance from the railways for loading and unloading its own shipments, while the rates for shipment are very much lower in tanks or carload lots than in part carloads. This latter difference the railways justify on the ground that shipment of oil and gasoline contaminates other goods in the cars. (299.)

Mr. RICE also complains of the injustice of the difference between the charge for oil in tank cars and that for oil in less than car lots. (719.)

Mr. ARCHBOLD denies absolutely Mr. Monnett's statement that discriminations are made in favor of the Union Tank Line Company or the Standard Oil Company. "The rates fixed by the railroads in connection with tank-car lots and single-barrel or part-car lots have been the same to all, and carried with them no discrimination whatever in favor of the Standard Oil Company." (543.)

Mr. RICE further declares that up to March 15, 1890, the railways allowed a deduction of 62 gallons from the actual contents of each tank car, amounting to 1½ per cent of the shipments. From March 15, 1890, to September 1, 1892, this deduction was 43 gallons. Mr. Rice considers that there was no justification for this deduction. (716.)

Mr. PAGE explains the practice of allowing "outage" on tank-car shipments. It was found by actual experience that there was an average loss of weight, through leakage and otherwise, of about that amount during the transportation of a tank car of oil. It was not just that the shippers should pay freight on oil which was not actually delivered. The outage is allowed to all shippers, and constitutes no discrimination. (766.)

Mr. RICE declares that the Southwestern railways do an injustice by the rule that tanks containing petroleum, which are intended to be used for permanent oil stations, shall be transported at actual weight at the oil rate. The railway becomes the judge as to whether the tank car is intended for this purpose. (718.)

Mr. PAGE replies that this practice seems to be perfectly just, and if the railroads wished to discriminate in favor of the Standard Oil Company they would carry the tank free, as they do the regular tank car. (769.)

Mr. RICE testifies that the Central Freight Association also provides that tank cars will be received only when consigned to points where proper unloading and storage facilities exist. The railway is the judge as to the character of such facilities.

A further advantage was given in 1891 by the Southern Pacific Company in favor of shipments in a peculiar box tank car combination, exclusively owned by the Standard Oil Company under patent. (716-718.)

Mr. PAGE declares that the first rule above mentioned means simply that the railways will not allow a tank car to be unloaded in their depots or yards by improper methods, which might result in leakage or accident. The box tank cars referred to contain a space between the tanks which can be used for other loads. The transcontinental railroads charge for returning ordinary tank cars, but not for these, because they can be so used. (769.)

6. *Furnishing of tank cars by railways.*—Mr. RICE testifies that it is practically impossible for independent shippers of petroleum to secure tank cars from railways. If they use such cars they have to furnish them themselves at very considerable expense. The Standard Oil Company at an early day bought up all the tank cars from the railways, as the witness believes, with the understanding that the railroads should not build other cars. The witness has himself supplied some tank cars, but refers especially to the attempt on his part to secure certain cars from the Milton Car Works in 1887 on the installment plan of payment. This method, he declares, is the customary manner of paying for cars, but credit in this case was refused on the ground that the financial supporters of the car company had been unwilling to advance the money for the construction of the cars on account of some supposed controversy which they claimed to exist between the Standard Oil Company and the railroads on the one hand and Mr. Rice on the other.

Mr. Rice believes that all railways should own tank cars and furnish them to the shippers in the same manner as other cars. (711, 712.)

Mr. PAGE expresses the opinion that it would be a burden upon the railroads to require them to furnish tank cars to the shippers. The tank car is a special car for a special purpose, similar to the special cars used for numerous other kinds of shipments. The ownership of the tank cars would not insure to the railroads the transportation of oil, and if every road had a sufficient number of tank cars to handle all the business which sometimes passes over its lines, it would have to own many more than would ordinarily be employed. (765.)

H. *Indirect advantages of Standard.*—1. *Changes in rates for advantage of Standard Oil Combination.*—Mr. RICE submitted an extract from the Paint, Oil, and Drug Trade Review of January 25, 1893, containing a large number of telegrams and letters, written in November and December, 1888, between officers of the Southern Pacific Railroad and of the Transcontinental Association, on the one hand, and officers of the Standard Oil Company at New York and San Francisco, on the other.

The transcontinental freight rate was then 82½ cents. The railways proposed an increase. The officers of the Standard Oil Company desired to secure the continuance of low rates for the time being, until that company should be able to stock up on the Pacific coast, and that the rate should then be raised to \$1.25, with the arrangement that it should be again reduced, and thereafter changed from time to time, without public notice in advance, at the dictation of the Standard Oil Company. There was a considerable correspondence as to the amount of this lower rate which was to be maintained temporarily for the advantage of the Standard Oil Company, but it was finally fixed at 90 cents. The following extracts from the correspondence show that the railway companies made the agreement to shift the rates at the instance of the Standard Oil Company:

* SAN FRANCISCO, November 14, 1888.

W. SPROULE, San Francisco:

Say to Tilford that association will probably consent to following agreement: Oil rate from Cleveland to be \$1; at this rate he can stock up; after doing so he to notify Chairman Leeds, who, after giving necessary notice, will advance rate to \$1.25, and continue that rate until such time as Tilford notifies him of reduced stock, when he will again reduce it to \$1 to enable him to stock up.

J. C. STUBBS.

Personal.]

STANDARD OIL COMPANY,
San Francisco, December 4, 1888.

W. H. TILFORD, Esq.,

Vice-President Standard Oil Company, 26 Broadway, New York.

DEAR SIR: I will telegraph you this afternoon as per translated copy of message herewith attached, which is self-explanatory.

I herewith hand you a copy of a letter I have just received from Mr. Sproule, assistant general freight agent of the Southern Pacific Company, this city. This letter I interpret to mean the 90-cent rate is for us to stock up from time to time, and that the \$1.25 per 100 rate will be in effect whenever we may desire. This \$1.25 rate is what Mr. Sproule refers to in the latter portion of his letter, as my offer of 90 cents to Mr. Stubbs was on condition that he has the rate of \$1.25 put in effect when we might ask him. This letter also reads as if the 90-cent rate and \$1 rate was to be put in effect January 1. No doubt Mr. Stubbs was unaware that we were stocked up at the present rate of 82½.

The Transcontinental Association adjourned at Chicago yesterday, and I understand that Mr. Stubbs is now on his way home. I will see him on his arrival here,

and if Chairman Leeds, of the Transcontinental Association, has been notified to put the 90-cent rate in effect January 1, I will have the same corrected by wire and the \$1.25 rate put in. As soon as Mr. Stubbs reaches home I will telegraph you whether it is intended that the 90-cent rate should be put in effect January 1 or the \$1.25.

Yours, truly,

E. A. TILFORD.

SAN FRANCISCO, December 6, 1888.

J. C. STUBBS, *Chicago*:

If it is not already agreed upon that the \$1.25 rate is to go into effect January 1, on petroleum and its products from Cleveland and Pittsburg to the Pacific coast, will you kindly telegraph Chairman Leeds to put this rate in effect on the day mentioned. Please answer.

E. A. TILFORD.

Personal.]

SOUTHERN PACIFIC COMPANY,
OFFICE OF GENERAL FREIGHT AGENT,
San Francisco, December 8, 1888.

Mr. E. A. TILFORD,
President Standard Oil Company, City.

DEAR SIR: I beg to inform you that I am in receipt of advice that on January 1 the rate on petroleum oil and its products will be to \$1.25 per 100 pounds on car-load shipments from agreed Eastern points.

Yours, truly,

WM. SPROULE.

Mr. Sproule was assistant general freight agent of the Southern Pacific Company, Mr. Stubbs was general traffic agent of that company, and Messrs. W. H. Tilford and E. A. Tilford were officers of the Standard Oil Company.

Another letter shows that the Standard Oil Company had already, before the increase to \$1.25, on January 1, took place, secured a stock sufficient to last for 4 months.

Mr. Rice explains that these telegrams and letters were secured through an employee, either of one of the railways or of the Standard Oil Company, who had been discharged. (719-727.)

Mr. PAGE, on behalf of the Standard Oil Company, testifies that he knows nothing about the above correspondence, but that at least since March 2, 1891, the rates on oil from Eastern points to California have been absolutely unchanged. (769.)

2. *Exclusive shipment of Standard's oil.*—Mr. EMERY declares that it is still the practice of the Standard Oil Company to seek arrangements with railway companies by which they shall handle oil exclusively for the Standard, threatening that otherwise it will be forced to cut prices to meet competition to such a degree as to be unable to pay reasonable railway rates. It also seeks to make arrangements between competing roads for a division of the traffic, and for the exclusion of independent shippers. On account of such discriminations, and of the special cuts made by the Standard Oil Company in the markets sought by its competitors, Mr. Emery has found it impossible to ship oil to any considerable number of places in the United States, 70 per cent of his product going to Europe. The witness asserts that he could compete fairly with the Standard Oil Company if he could secure equal railroad rates. (630-633.)

3. *Control of terminal facilities.*—Mr. RICE declares, on the basis of testimony of officials of the Standard Oil Company, and of the railways, that the combination owns all terminal facilities for handling oil on four of the trunk lines from the oil regions to the seaboard. (698.)

Mr. LOOKWOOD also states that the railways during the 70's turned over the terminal facilities at New York to the Standard Oil Company, so that the independent refiners could not use tanks, but were forced to ship in barrels. (388.)

4. *Purchase of oil by railways.*—Mr. LEE believes, without positive knowledge, that while the Standard receives no direct rebates from railways, it is paid double prices for lubricating oils used by the roads, this constituting a form of discrimination in its favor. None of the leading railways buy lubricating oil of the independents. (368, 392; cf. MONNETT, 323.)

Mr. RICE also declares his belief, based only on hearsay, however, that the Standard Oil Company receives excessive prices for its lubricating oils sold to the railways. He quotes from the advertisement of the Galena Oil Company, a branch of the Standard Company, in which it is stated that Galena oils are used on nineteen-twentieths of the total railway mileage of America. (699, 700.)

Mr. DAVIS states that the refinery in which he was interested formerly supplied some lubricating oil to the Baltimore and Ohio Southwestern Railroad. The directors of that road bought stock in the Argan Refining Company. The witness's refinery has since found it impossible to sell oil to the railroad, no matter how much the price might be cut, although he has no direct knowledge that it prefers the Argan refinery. The railroad has considerable influence on dealers along its line, who can often get oil from it in small quantities. (359.)

Mr. CLARK states that while he was agent of the Standard Oil Company at Newark, Ohio, he furnished from 80 to 150 barrels of refined oil per month to the Baltimore and Ohio Railroad. The bills for the quantity were made out and sent to Columbus to have the prices fixed. The witness was allowed to have no direct dealings with the railway companies as to freights, handling of cars, etc. He did not sell lubricating oil to railroads. (347.)

Mr. PAGE denies that the Standard Oil Company is favored by railways in the purchase of lubricating oil. The Galena Oil Company is specially engaged in the manufacture of lubricating oil for railway purposes, and owing to the superior and uniform quality of its oils they are used on a large proportion of the railways. The company guarantees to the railways that the cost of lubrication per train mile, for a certain period of time, shall not exceed the cost of oils previously used; usually, in fact, it guarantees a reduction. The actual prices per gallon are higher than those of some low grades of oils, but as measured by lubricating power they are lower. The price is made the same to all railways, regardless of quantity, although the form of guaranty varies. Oil is usually sold to the railways under contracts for 3 or 5 years, and these contracts are naturally made by some central officer and not by purchasing agents of local divisions.

The Galena Oil Company does not sell largely to manufacturers or others than railways. So far as it does so it makes them the same price, but its oils are less fitted for that purpose.

The Galena Oil Company has increased its business tenfold since the interstate commerce act went into effect, which indicates that it did not secure its control of the railway business in connection with any system of rebates existing prior to that time. Independent producers still furnish considerable oil to railways. (756-759.)

5. *Excessive rates on oil-well supplies.*—Mr. LOCKWOOD submitted a receipted freight bill showing the charges on a carload shipment of oil-well supplies for a distance of 49 miles in Pennsylvania to be 5.95 cents per ton per mile. He has paid on shipments of 1 and 2 tons 13.57 cents per ton per mile. Statistics show that the average cost of moving freight in this country is 0.85 cent per mile. He is not aware that these rates were higher than those paid by other shippers. (391, 396.)

XI. RELATION OF THE PRESS TO THE COMBINATION.

A. *Subsidizing of Ohio papers.*—According to Mr. MONNETT, the Standard Oil Company of Ohio has organized what is known as the Jennings Publishing Advertising Agency, which distributes advertising for the company in various newspapers and makes contracts with them by which certain material defending the Standard Oil Company is published as news and editorial matter, but duly paid for. The company also purchases large numbers of newspapers containing such notices, thereby practically buying the support of the press. The following is a copy of part of a contract submitted in evidence in the Ohio suits against the Standard: "The publisher agrees to reprint, on news or editorial pages of said newspaper, such notices set in the body type of said paper and bearing no marks to indicate advertising as are furnished from time to time by said Jennings Agency, at the rate of — per line, and to furnish such agency extra copies of paper containing such notices at 4 cents per copy." The witness also exhibits an extract from the Lima Times-Democrat, which was published under such a contract. (312, 321.)

B. *Pittsburg papers.*—Mr. BOYLE testifies that none of the newspapers of Pittsburg give the same courtesy to the Standard Oil Company as to other interests. The Standard has at various times been viciously attacked by persons associated with the Producers' Protective Association, and has had to pay the newspapers advertising rates to secure the insertion of replies to the most outrageous lies. In the Derrick, which Mr. Boyle manages, both parties have been treated alike. (487.)

C. *Oil City Derrick.*—Mr. LOCKWOOD maintains that the Standard Oil Company has bought the Oil City Derrick and has hired a man (Mr. Boyle) to run it, but his assertion appears to be based primarily on the nature of the material published in the paper, which is bitterly opposed to independent movements. The

paper has been sued by Senator Lee and Senator Emery for libel. The Titusville Herald and the Pittsburg papers seem also to be under the control of the Standard Company, and publish what is furnished by it. (398.)

Mr. BOYLE, proprietor and publisher of the Oil City Derrick, testifies that the Standard Oil Company is not now and has not been for many years interested in that paper. The witness owns all the stock except four shares held to qualify the other directors. The paper is not, as is often assumed, an organ of the Standard Oil Company, but of the oil producers generally. Within the last 10 years there has been no occasion for adverse criticism of the Standard Oil Company, but there would have been such criticism if it had been called for. The paper is not opposed to all independent movements, but only to those involving unnecessary outlay of money and consequent taxation of producers. The duplication of pipe lines is, in the opinion of the witness, such an unnecessary outlay, as is shown by the fact that pipe lines established within the last 10 years have never paid dividends. The witness insists that he does not appear before the commission at the solicitation of the Standard Oil Company. (404, 405.)

Mr. BOYLE testifies further that fully half a dozen libel suits have been brought against him as editor of the Derrick, all by officers and members of the Producers' Protective Association. In two cases conviction was obtained, in two there was confession of judgment, and in one a failure to convict. These suits were all taken into another county where the people and the courts were prejudiced in favor of the Producers' Association. Mr. Boyle protests bitterly against the unfairness of the various trials. (487, 488.)

AMERICAN TIN PLATE COMPANY.

	Page of digest.
I. Description of business	173
II. Organization—capitalization	174
III. Excessive competition as cause of combination	176
IV. Control of plants and output by combination	177
V. Effect of combination on prices and quality of goods	182
VI. Relative economy and advantage of manufacture by combination	184
VII. Effect of combination on labor	186
VIII. The tariff and the tin-plate industry	187

LIST OF WITNESSES.

	Page of testimony
Going, H. F., retired tin-can manufacturer	915-922
Graham, W. T., second vice-president of the American Tin Plate Company	849-863
Greer, George, district manager of the American Tin Plate Company for the New Castle district	922-930
Griffiths, William, independent tin-plate manufacturer, Washington, Pa.	887-915
Moore, William H., organizer of the American Tin Plate Company	959-967
Reid, Daniel G., president of the American Tin Plate Company	865-887
Taylor, Nathan A., independent tin-plate manufacturer	861-942
Wheeler, F. S., treasurer of the American Tin Plate Company	863-904

I. DESCRIPTION OF BUSINESS.

The manufacture of tin plate consists of the coating of a finely finished steel plate with tin or a mixture of tin and lead. The steel plate is known as a black plate, and the process of coating is known as tinning or dipping. The steel plates may be either of Bessemer steel or of open-hearth steel.

Many establishments manufacture black plates, but do no tinning while others, known as dipping establishments, manufacture no black plates but purchase them and coat them.

The most common grade or form of tin plate is that known as coke plate or canners' tin, which is used primarily for making tin cans. The basis of reckoning for prices and weights of such plates is a box containing 112 sheets, 14 by 20 inches. Such a box, if "full weight," contains 105½ pounds of steel and 2½ pounds of tin. The present basis of quotations in America is the 100-pound box, containing 97½ pounds of steel and 2½ pounds of tin.

There are also what are known as charcoal tin plates, of a higher quality, and often bearing a larger proportion of tin. Terne plates, which are chiefly used for roofing and are often referred to as roofing plates, are coated with a mixture of tin and lead. The prices of charcoal and of terne plate vary widely, according to the quality of the finish, and the weight of the coating. Regular market quotations refer to coke plate.

The word "mill," used in speaking of tin-plate manufacture, refers not to the entire plant but to a set of machinery used for rolling plates. A plant may contain as many as 30 mills, which is the number at the Shenango works. (GRAHAM, 849; REID, 867; GRIFFITHS, 890; GREER, 930.)

II. ORGANIZATION. CAPITALIZATION.

A. Organisation.—The American Tin Plate Company was incorporated under the laws of New Jersey on January 6, 1899. Its authorized capital is \$20,000,000 of 7 per cent cumulative preferred stock and \$30,000,000 of common stock. Of this \$18,000,000 of preferred and \$28,000,000 of common stock has been issued. (GRAHAM, 850; REID, 866.)

Mr. GRAHAM submitted a list of the companies entering the combination. The entire property of 29 of these was purchased by the American Tin Plate Company, while in the case of 9, which manufacture other goods besides tin plate, only that portion of the business concerned with tin plates was acquired by the combination. The capitalization of these separate plants can not be ascertained. (856, 857.)

Judge MOORE, who was the organizer of the American Tin Plate Company, describes fully the process by which it was promoted. The witness had previously organized other combinations, and was urged by a committee of tin-plate manufacturers to undertake a combination in that industry. There was a considerable delay before he took the matter up actively.

Mr. REID testifies that Judge Moore undertook the organization of the American Tin Plate Company at the instance of the various manufacturers, who indeed worked to that end for about a year. (866.)

Some manufacturers had in mind that Judge Moore should act simply as an intermediary in bringing them together, but, as has been his general experience in organizing combinations, he found it necessary to buy the plants outright. To do so, he obtained money from many different sources, borrowing large amounts personally, and securing subscriptions in advance to stocks from outside capitalists. Cash options were taken on the different plants. The owners were given the privilege, if they preferred, of taking stock, but if all of them had preferred cash it would have been forthcoming. When the manufacturers saw that the scheme was to be a success, they wanted stock largely.

An individual bargain was made with each owner, and the promoter sought to prevent any from knowing what the others received. This statement is confirmed by Mr. REID (884), Mr. GRAHAM (851), and Mr. GRIFFITHS (909). Judge Moore himself practically selected the first board of directors, choosing the best talent from among the manufacturers, in order thus to protect the investors and secure their subscriptions. (959-963.)

Mr. REID and Mr. GRAHAM also testify that Judge Moore bought the various plants which entered the combination outright, paying cash unless the owners preferred to take for every \$100 of cash \$100 of preferred stock and \$100 of common. Such owners as saw fit to do so invested in the shares of the company as they deemed best. The contract further required Judge Moore to furnish \$5,000,000 of working capital. (851, 883.)

B. Capitalization and value of plants.—Judge MOORE testifies that he found it necessary, in organizing the American Tin Plate Company, to issue a very large amount of stock in order to insure the success of the enterprise. It was necessary to pay commissions and bonuses in order to obtain many of the plants.

Each manufacturer was offered cash for his plant or the option of taking \$100 in preferred and \$100 in common stock for each \$100 in cash value. The cash value thus estimated included the good will of the individual plants; in fact it was the price which the owners were willing to take for the entire establishment. Mr. Moore, however, denies that the corporation is overcapitalized. "Everybody knows what they are getting when they get common; they know that they are not getting anything that represents assets." The preferred and common stock together have always sold for more than \$100 for a share of each. The extra \$10,000,000 of common stock above the amount of preferred stock may be considered the cost of promoting the organization. The promoter was required, however, to furnish \$4,500,000 or \$5,000,000 of cash working capital.

Mr. Moore does not remember the prices which were paid for the various plants, nor is he clear as to the total amount of stock or of cash which was used directly in securing the plants. He believes that the talent and good will engaged in each plant was, on the average, worth as much as the plants themselves. (960-963.)

Mr. REID and Mr. GRAHAM agree in the statement that the owners were either paid in cash or given for each \$100 of cash value \$100 in preferred stock and \$100 in common stock. Each plant was sold for all the owner could get. The cash value of the plants as thus fixed included good will, so that it is fair to calculate that the preferred stock offered to each owner was equal to the entire value of the plant, including good will. Mr. Reid admits that the total capitalization of the company is from three to five times greater than the cash value of the plants at the time of its formation. The cash prices paid were probably greater than would have been secured in a sale to a private buyer, since the owners knew or expected that a greater value would come to all plants from the combination itself.

Both these witnesses point out, however, that it would be impossible to rebuild the plants in the organization for the original cost of construction, or even for the amount of the preferred stock. The cost of materials for construction has greatly increased.

Mr. Reid and Mr. Graham are not clear as to the actual disposition of the \$18,000,000 of preferred stock and of the \$28,000,000 of common stock. They imply that a portion of the common stock, at any rate, went to the promoter as compensation for his work in bringing the plants together. (850, 851, 867, 883, 884.)

C. Profits of promotion.—Mr. MOORE states that his profits from the organization of the American Tin Plate Company did not come in the form of commissions, but that he himself during the process of organization practically bought all the plants, issuing as much stock as he found necessary and desirable in order to secure the plants and the necessary working capital, retaining for himself whatever balance of the stock remained. He made his profit in his own way. The organization of a company of this sort is an exceedingly difficult matter, involving very great risk. It is difficult to get capital from outside, and the manufacturers are hard to bring together. A strong and effective combination must be assured or stock can not be sold. Accordingly, bonuses of stock are necessary, and expenses generally are high, while on account of his efforts and risks and the benefits to manufacturers from successful organization the promoter is entitled to considerable compensation. (960-963.)

Mr. REID states that it was his general understanding that \$18,000,000 of preferred and \$18,000,000 of common stock were to be used for buying tin plate plants directly, and that the \$10,000,000 was to be placed in the hands of Judge Moore to be used at his discretion for the purposes of the organization. (866.)

Mr. GRIFFITHS states that it was a perfectly open arrangement that \$10,000,000 of common stock of the Tin Plate Company was to go to the promoter. He says that he read this arrangement in the written form of agreement which was submitted to each manufacturer. He does not know whether the expenses of the organization were to come out of this \$10,000,000. (911.)

D. Cost of plants.—Mr. REID testifies that, at the prices for materials which prevailed a year ago, a tin-plate plant of ten mills could be erected for about \$400,000. The cost would now be from 60 to 75 per cent greater. This excludes the cost of real estate. A twenty-mill plant would probably cost rather more than twice as much, on account of the heavier engines required. The cost thus estimated also excludes running capital. The witness believes that it would take \$25,000 per mill to supply proper running capital. (886.)

Mr. GRIFFITHS, who sold out a tin-plate plant to the combination, but who is now establishing an independent one, testifies that the price received by him for his plant was 25 or 30 per cent above its original cost. There was a general inclination on the part of the manufacturers not to communicate as to the price received by them, but it was generally known that there was a standard price for modern tin-plate plants on the basis of \$40,000 for each mill in the plant. The witness considers that the cost of plants of different sizes is fairly proportional to the number of mills contained. This \$40,000 includes the value of good will and everything. Two hundred and seventy-two mills were brought into the combination. The witness presumes that altogether these could have been built at that time for about \$12,000,000, "good will and all." The cost of materials for constructing plants has greatly increased during the past year, but it would not cost over \$25,000,000 to duplicate these plants. In fact Mr. Griffiths believes, from his present experience of building a tin-plate plant, that he can put one up at the rate of \$40,000 per mill to-day. (909-912.)

E. Dividends and value of stock.—The American Tin Plate Company declared its third regular dividend on the preferred stock in September, 1899. It had not up to that time made dividends on the common stock, but Mr. GRAHAM stated that it was his opinion that the company was making profits sufficient to justify such dividends in the future. (856.)

Mr. GRAHAM testified that at the time (October, 1899) the preferred stock of the American Tin Plate Company was selling at 85 and the common stock at 87. (860.)

F. Conformity to New Jersey incorporation laws.—Mr. REID, president of the American Tin Plate Company, stated that it had conformed to the requirements of the New Jersey laws, under which it is incorporated. The company has, as its agent in New Jersey, the New Jersey Registration and Trust Company of East Orange. Duplicate sets of the stock and transfer books have been kept in this office since the organization of the company, and the witness has been told that these are kept up in proper form. The company has also a transfer office in New Jersey and one in Chicago, and transfers are required to be registered at all of these different offices. There are no restrictions upon the rights of stockholders to examine the stock and transfer books. In evidence of the intention of the company to conform to the law, Mr. Reid submitted a copy of a resolution passed by the stockholders, appointing an agent of the company in New Jersey and providing for keeping the stock and transfer books open to the examination of the stockholders.

Mr. WHEELER, treasurer of the American Tin Plate Company, and Mr. GRAHAM, one of its vice-presidents, stated from belief and understanding that the books were properly kept in the New Jersey office, although neither of these officers is directly concerned with that phase of the business. (REID, 865; Graham, 857; Wheeler, 864.)

III. EXCESSIVE COMPETITION AS CAUSE OF COMBINATION.

Mr. REID and Mr. GRAHAM testified that previous to the formation of the American Tin Plate Company competition had become so strong that the business was fast drifting into a condition where there was no profit. The various manufacturers had held meetings to consider the conditions of their trade during the year preceding. There had been no failures of manufacturers, but few were making more than a very low profit, and Mr. Reid believes that had the combination not been formed fully 15 out of the 37 companies which entered it would by this time be closed down. Diminished profits rather than overproduction are to be considered the cause of combination. (855, 866.)

Mr. GRIFFITHS, an independent tin plate manufacturer, testified to his belief that the combination was not at all necessary on account of failure of separate manufacturers of tin plate to do a profitable business. The books of the Washington plant, with which he was connected, showed that a profit of 20 per cent on the investment was made (apparently 20 per cent per annum) during 4 months of the year preceding the formation of the combination, although the price of coke plates was then at its lowest figure, \$2.60. The manufacturers were simply discontented because they were no longer able to make a profit of 100 per cent, the rate which Mr. Griffiths claims he earned in his dipping plant for a few years after the establishment of the McKinley tariff, when he was able to sell plates at \$5.75 per box.

Mr. Griffiths admits, however, with regard to his own profits, that his mill was chiefly engaged in producing high-grade plates, which sold at high prices, and that these prices had not fallen materially during the time when the common grades had fallen greatly. The witness also admits that some mills, prior to the formation of the combination, may have been making no profits, by reason of improper management. To these it was a great relief to be able to enter the combination. But it would have been more advantageous to the country as a whole that such ill-managed establishments should fail rather than that a combination should be formed to prevent them from doing so, though it is indeed true that when a manufacturer is losing money he is more likely to cut prices and wages and generally to demoralize business than if he is making fair profits.

Mr. Griffiths further states that at the time the promoters of the American Tin Plate Company approached him and other manufacturers with a view to securing their entrance to the combination, the chief advantage held forth was the ability to control the market absolutely and to prevent competition, rather than to economize in the cost of production. The witness was assured that he could realize a larger salary than he had ever obtained before.

Mr. Griffiths admits that, had the combination in its present form not been established, the various manufacturers would soon have made some concerted arrangement for maintaining prices. They had been trying to arrange some method of doing so for two years before the American Tin Plate Company was organized. It is natural for those engaged in a business, especially where it has once made exceedingly high profits, to look longingly to maintaining profits at the highest possible rate. (896-902.)

Mr. GREER, district manager of the New Castle mills, replies to these statements of Mr. Griffiths. He declares that the Washington tin-plate mill was found, when the combination was formed, to be in the worst condition of any of the mills in the Pittsburgh district, so that a change in its management had to be made, which displaced Mr. Griffiths. Mr. Greer does not consider Mr. Griffiths to be thoroughly familiar with the tin-plate business. He denies the possibility of making a profit of 100 per cent with plates worth \$5.75 per box, or of 20 per cent with plates selling at \$2.60, but in this matter he mistakes Mr. Griffiths's statement. The latter refers to profits upon his investment, while Mr. Greer's comments proceed upon the assumption that the profit referred to is the percentage by which the selling price exceeds the cost of production of the box of plates. Mr. Greer believes that the formation of the combination was largely intended to prevent the cutthroat competition which had been prevailing. (923, 929.)

Mr. TAYLOR, an independent dipper of tin plate, testifies that when tin-plate mills were first established in this country many of the managers had had no experience, so that their production was not economical. The consequent losses or failure to make profits, together with the keen competition between the numerous plants, led to the formation of the present combination. Nevertheless, if the various mills had reduced their production during July and December of each year, they would have prevented the overproduction which depressed prices. In fact, the witness believes that most of the mills have made some money even during bad times. (941.)

IV. CONTROL OF PLANTS AND OUTPUT BY COMBINATION.

A. Proportion of mills in combination.—Mr. GRAHAM testifies that the tin-plate combination did not take in all the plants in the country, and certain others have been built since it was organized. There are about 39 plants in the combination and 6 outside. The most important competing plants are located in St. Louis, Harrisburg, Wheeling, Washington, Pennsylvania, Avonmore, and Cincinnati. (858, 861.)

Mr. REID adds that the capitalization of the outside tin-plate plants is probably about \$2,000,000 or \$2,500,000. The plants controlled by the American Tin Plate Company include some 300 mills, while there are 27 or 28 mills in the outside plants. The American Tin Plate Company thus controls somewhat more than 90 per cent of the producing capacity. (892, 893.)

Mr. GRIFFITHS testifies that, although he sold out his former tin-plate plant to the American Tin Plate Company, he does not think there is any moral obligation on his part to remain out of the business. He is accordingly erecting a steel plant to make his own billets, mills for manufacturing black plate, and a tinning house. It has been the purpose of the combination to prevent competition in every possible way. The witness believes, however, that the independent manufacturers can produce more cheaply than the combination. (887, 896, 899.)

B. Closing of plants and restriction of output.—1. *Dismantled plants.*—Mr. GRAHAM testifies that the American Tin Plate Company has dismantled one or two plants in Baltimore and one in Brooklyn, on account of their inefficiency and bad location. (858.)

Mr. REID stated that the combination had erected 20 to 25 new tin-plate mills, as compared with 10 or 12 mills which had been shut down. Aside from the two plants referred to by Mr. Graham as having been closed, Mr. Reid stated that a two-mill plant at Cleveland and a small plant called the Ohio River Plant had been dismantled. A plant at Johnstown was shut down as being unfavorably located, but was reopened by an arrangement made at the instance of the citizens of the town, by which the combination was able to get fuel at a lower freight rate. (876.)

2. *Temporary closing of mills and effect on labor.*—Mr. GRIFFITHS, while admitting that the American Tin Plate Company has advanced wages, as maintained by other witnesses, declares that it was practically forced to do so at the time, but that the workmen believe that it is the intention to reduce wages again, if possible, at the expiration of the present agreement in June, 1900. Mr. Griffiths.

believes that there is general apprehension and discontent among the employees. He judges this, for one thing, from the fact that 150 of the 816 rollers employed by the American Tin Plate Company have applied to him for work in his new plant. The witness submitted a letter to himself from a member of the Amalgamated Association of Iron and Steel Workers, dated November 14, 1899. This letter states that, while the American Tin Plate Company has recognized the unions and has made no radical changes, the workmen have much to complain of from the closing down of plants, and especially from apparent favoritism in operating certain plants at full capacity and closing others. It has been the custom in the past for mills to take orders in the fall for spring delivery, and thus to work fairly regularly, but the American Tin Plate Company, having complete control, does not intend to incur the cost of storage or to make concessions in prices to encourage future buying. The coming winter will accordingly see more tin-plate workers idle than ever before. Two large plants at Pittsburg were closed as early as October, throwing more than 1,000 workmen out of employment.

The letter further states that the agreement made between the American Tin Plate Company and the workmen in Chicago in July, 1899, permitted the company to disregard union wages in its plant at Monessen, but provided that, on the other hand, the amount of production which workmen should be allowed to put out should be limited, with a view to equalizing work between different mills. Nevertheless the writer declares that plants at New Castle are running at full capacity, while the Pittsburg and Cumberland mills are closed. The writer believes that at the New Castle mills a larger output per day is being made than was contracted for at Chicago. The managers may not compel their workmen to violate this rule, but they reward them for doing so by keeping up operation. The workmen see in all this a far-sighted policy to effect a reduction of wages. By shutting out a large number of workmen during the winter months, keeping at work regularly those whom they have always found pliant and subservient, and by doubling up in the mills that are in operation, promoting the younger workmen so as to insure a plentiful supply of skilled labor, the company expects to be in a position to enforce a reduction.

Mr. Griffiths further stated that at the time (November 15, 1899) 80 mills out of the 272 belonging to the American Tin Plate Company were closed. He admits that a strong organization and concerted action on the part of the workmen would prevent injustice in the closing of mills, but there are always some willing to make concessions.

Mr. Griffiths does not believe that the mills in the Pittsburg district have been closed on account of the difficulty of securing raw material. In fact, the reasons given by the combination for closing the plants are indefinite and unsatisfactory.

Moreover, the plant formerly owned by Mr. Griffiths at Washington, Pa., has run very irregularly, not over one-fourth of the time since June 1. Tin-plate machinery makers complain that there is less demand since the formation of the combination because of irregular operation. (899, 904-907, 914.)

Mr. GREER, manager of the New Castle and Shenango mills, in a sworn statement addressed to the Commission, explains the reason for closing down the mills. The former policy of manufacturing in the fall for delivery in the ensuing year prevented the manufacturers from securing a fair price for their product, either at the time of the contract in the fall or during the next year. Mr. Greer believes that losses from this source and other losses would have compelled more mills to close from bankruptcy than have been closed from shortage of orders by the American Tin Plate Company. Moreover the manufacturing capacity has been greatly increased by new mills brought into the combination during 1898 and the early part of 1899, so that it is in excess of the requirements of American consumers. Meanwhile, owing to the increase in the cost of materials in this country, a large part of the former export trade has been lost to our manufacturers. At the same time the present high prices prevent jobbers and consumers from buying tin plate in large quantities in anticipation of future wants. These facts account for the closing of the mills.

As to the discriminations in the selection of mills to be closed, Mr. Greer states that the New Castle mills have contracts for fuel extending into the year 1900; that the Monessen mills and others are advantageously located as to fuel supply. The Cumberland mill is not advantageously located, and it has no tinning department, while the sheet-iron trade is depressed so that there is a shortage of orders there. Other mills have had to be shut down in order to make extensive repairs and changes, since they have been in continuous operation for several years.

Mr. Greer especially denies that the workmen at New Castle are turning out a larger product than the agreement with the Amalgamated Association allows. There are in these plants six mills making larger plates, in which the limit of

output is somewhat different from that on the smaller plates. The closing of the Pittsburgh mills is due to shortage of orders. (925-927.)

3. *Failure to keep up with orders.*—Mr. GOING, who has been interested in the manufacture of tin cans at Baltimore, states that during the summer of 1899 there was a marked shortage of tin plate for the manufacture of cans. The various can manufacturers, being warned of the probable formation of the combination, had mostly made contracts for a sufficient supply of tin plate for the entire season. The American Tin Plate Company took over these contracts, but did not supply the materials promptly. A number of the mills of the Tin Plate Company were shut down for a time early in the year. Deliveries were sometimes 30 or 60 days late, and some of the can manufacturers were compelled to close for 2 weeks or longer. The deliveries finally caught up toward the close of the season, but there had been considerable loss on account of the delay. (917, 918.)

C. *Monopoly of rolling machinery.*—Mr. GRIFFITHS, who is engaged in building an independent tin-plate plant, testifies that the American Tin Plate Company has an arrangement with the makers of black-plate rolling machinery by which the independent mills can not secure equipment. The representative founders and machinists engaged in building machinery formed, at the instance of the American Tin Plate Company, a compact between themselves and with that company. There are 13 parties to this arrangement and only 2 outside, and 1 of these, the witness believes, is under the control of the American Tin Plate Company. Manufacturers of sheet iron can obtain machinery for rolling only on condition of signing an agreement not to make sheet iron for tin-plate purposes within 2 years. As the witness understands it, the title of the machinery remains with the seller, and the machinery reverts to him in case it is used contrary to the agreement. It is fairly possible to enforce such an arrangement, because sheet-iron plates intended for tinning are usually different in gauge and of somewhat higher and better finish than other plates.

The witness has no written evidence as to this arrangement, but has sought to secure machinery and has been told that he must comply with this condition. Very recently he has spoken with a man who stated that there was a disposition on the part of many concerned in the arrangement to break away from it, since they have not secured as many orders for machinery from the Tin Plate Company as formerly from separate manufacturers.

Mr. Griffiths formerly had an arrangement with the Avonmore Foundry and Machine Company for furnishing him with materials for his plant for 5 years. About a month before giving his testimony an order for two additional mills was practically refused, and a director of the American Tin Plate Company has since stated that he had put a large amount of capital into the Avonmore Company and thought it improper for that company to furnish machinery to a competitor. There is thus only one machine foundry left outside which will furnish rolling machinery to independent tin-plate manufacturers. (888-890.)

Mr. REID and Mr. GRAHAM admit that contracts have been made with manufacturers of rolling machinery by which the American Tin Plate Company is to have their entire production of tin-plate machinery, none being furnished to outside manufacturers. The company has such an arrangement with 6 or 8 manufacturers of machinery, but there are also 5 or 6 other manufacturers who are free to sell to all parties. The machinery is not covered by patents for the most part, although there may be patents on some minor details. The American Tin Plate Company gets the benefit of the skill of the engineers of the machinery makers under contract, and is entitled to the use of any improvements that are made. (852, 875.)

Mr. TAYLOR, an independent tin-plate dipper, testifies that he anticipates no difficulty in case he should attempt to buy rolling machinery, nor does he know of any monopoly of tinning machinery. (933, 935, 939.)

D. *Relations of combination with tin-plate dippers.*—Mr. GRIFFITHS testifies that the American Tin Plate Company is seeking to drive out of business the various concerns which have been engaged in "dipping," or coating with tin black plates obtained from other manufacturers. As soon as the contracts of various dippers with manufacturers who entered the combination had terminated, the American Tin Plate Company refused to furnish them with any more black plates. It would not sell them plates at all until they turned over their dipping machinery at a certain price to the combination. This condition exists generally. The witness knows personally of two or three firms which have thus been closed up, and believes that a majority of the twenty or more which existed have been closed. Many of these dippers have turned into jobbers, dealing in the product of the American Tin Plate Company. It is difficult to secure evidence from these, because the combination would injure their business if they testified against it.

Other dippers are making it a practice to buy plates already dipped and redip them, coating them more heavily, which increases their value. The American Tin Plate Company likewise refuses to furnish plates directly for this purpose, and dippers are buying them from large jobbers.

Mr. Griffiths adds further that independent tin-plate dippers can practically obtain black plates from no one else than the American Tin Plate Company, which absolutely controls conditions in the production of plates. Nor does he believe that the failure to supply black plates to dippers has been due to the inability of the American Tin Plate Company to keep up with its orders, especially in view of the fact that 80 of its 272 mills are now closed. He believes the action of the combination is a violation of law. (894-896, 899.)

Both Mr. REID and Mr. GRAHAM specifically denied that the American Tin Plate Company had refused to furnish black plates to responsible dippers for their business. There are practically as many dipping works in the country now as ever before, although perhaps one or two less. Mr. Graham mentioned the names of half a dozen such outside dipping plants, and stated that perhaps 20 per cent of the black plates manufactured by the American Tin Plate Company were sold to such outsiders for tinning purposes. (852, 860, 874.)

Mr. GREER, in a sworn communication addressed to the Industrial Commission, states that the large plants of the tin-plate combination at New Castle, Pa., are shipping large amounts of black plate to dippers in Chicago, Pittsburg, Philadelphia, Baltimore, and New York, and have entered new orders recently. From the various plants in the New Castle district the combination has shipped 81,000 tons of black plate to dippers during the year 1899, being equivalent to 620,000 boxes. The witness does not know that the American Tin Plate Company has ever refused to sell black plate to any responsible buyer or dipper who is prepared to pay for it and to comply with the terms of the sales department.

Mr. Greer states further, however, that during 1898 the price of tin plates was so low that manufacturers of black plates who were also equipped for tinning them could sell tin plates at a price at which the dippers could not afford to sell. A number of dipping plants accordingly turned into jobbers, purchasing roofing plates, which had been their chief product, directly from the mills.

The witness further points out that the tin-plate trade has long been handicapped by irresponsible dippers, who have put out inferior goods under numerous names, and who have often been unable to pay for the black plates. "As good business policy, the American Tin Plate Company, as dippers of tin plates, have tried to discourage the irresponsible brands that have been put out, with a view to having kept before the buyers only the American Company's own guaranteed brands or those made by responsible and well-established jobbers and dippers." The witness believes that the general quality of plates now turned out is much higher than before the combination. (924, 928.)

Mr. TAYLOR, of the N. & G. Taylor Company, of Philadelphia, testifies that that firm has been engaged in handling tin plate and articles made therefrom for 85 years. It has chiefly made special brands of tin plate of high quality, and was the first to introduce the device of stamping the plates with these brands to protect them. Before it was possible to manufacture plates in this country they were made for the firm, frequently under its own formula, in Wales and England. After the tariff of 1890 the firm established a large tinning plant, securing its black plates chiefly from American mills. Its reason for not establishing a rolling plant was that it desired to make its tinning works exceedingly comprehensive and of large capacity, and that it anticipated great improvements in methods of making black plate by American inventions, the advantage of which might possibly be gained by waiting.

The black-plate mills from which the N. & G. Taylor Company has secured its supply sold out to the American Tin Plate Company, but supplies for the season of 1899 had previously been contracted for, and the combination has promptly filled the contracts. The witness anticipates no difficulty in securing a supply of black plate in the future, although mills outside of the American Tin Plate Company can scarcely supply the demands of the N. & G. Taylor Company. The business of that company is prosperous, and although the present prices are practically fixed by the American Tin Plate Company, they are reasonable, in view of the increased cost of materials and labor. If it should prove necessary for economy for the N. & G. Taylor Company to manufacture its own black plates, it would establish a plant, and anticipates no difficulty in securing machinery.

Mr. Taylor adds, however, that his company does not compete, to any considerable extent, with the American Tin Plate Company. A large proportion of the consumption of tin plates is east of the Alleghanies, and the mills of the American Tin Plate Company, broadly speaking, are more in the western territory.

Moreover, the plates made by the N. & G. Taylor Company are of very high grades, while the combination naturally makes the plates which entail the least trouble—the more common grades. (981, 983, 989.)

E. Relation of combination with jobbers.—Mr. GRIFFITHS testifies that the American Tin Plate Company is refusing to manufacture plates for jobbers under private brands unless the jobbers will agree to buy exclusively from the combination. The mills themselves formerly owned very few brands of plates, but made plates under various names and brands which were owned by individual jobbers. The first memorandum issued by the American Tin Plate Company on this subject was to the effect that each jobber must assign these brands to the combination, which was to manufacture goods under them exclusively for the use of the jobber, with the arrangement that if the jobber bought tin plate of any grade, under any name, from independent manufacturers, the ownership of the brands would be absolutely forfeited to the combination. This first arrangement has been modified somewhat. The witness submitted the full text of the form of two contracts. The first provides that the jobber shall assign and transfer to the American Tin Plate Company the exclusive right to use, place, and stamp upon tin plates andterne plates the brands and trade-marks designated. The other provides that the American Tin Plate Company shall sell to the jobber at current market prices such quantities of plates as the jobber may require, branded as desired with the trade-marks assigned. The American Tin Plate Company is not entitled to use these brands on goods manufactured for any other person, and it agrees not to increase the price of any plates above current prices for goods of a similar grade, on account of the use of the trade-mark or for any other reason. In case, however, the jobber shall at any time order or receive any plates marked with any of the assigned brands, or with any other private brand, except from the American Tin Plate Company, the trade-marks and brands so assigned shall become the absolute property of that company. If, however, the American Tin Plate Company is unable to furnish sufficient plates to supply the jobber, he is entitled to purchase the excess from other parties.

Mr. Griffiths declares that the arrangement provided in the above contract is being carried out at the present time. He knows positively that the combination has refused to manufacture tin plates under jobbers' brands, because the jobbers would not assign the brands. The witness submitted a letter addressed to a jobber, dated October 1, 1899, which contains the sentence: "As you have not agreed to our conditions governing private brands, we assume that you wish to have these stamped under the mill brand, and have instructed the mill accordingly." Mr. Griffiths adds that, as a matter of fact, no other manufacturer of tin plate outside of the combination is able fully to supply the wants of jobbers, so that they are practically forced to make this agreement in order to secure plates. (891-893.)

Mr. REID and Mr. GRAHAM deny distinctly that the American Tin Plate Company has ever refused to sell black plates to any jobbers or has made any discrimination in prices or otherwise against them. They admit, however, that contracts exist between the American Tin Plate Company and some of the jobbers for the manufacture of special brands of tin andterne plate. These jobbers have been in the habit of handling those brands in the past, and the boxes are branded for them by the American Tin Plate Company at a slight extra charge. There was some talk of an arrangement by which jobbers thus buying special brands should be restricted in their purchase of tin andterne plates entirely to the American Tin Plate Company, but the arrangement was never closed and does not now prevail. The witnesses state that these special brands are not, of course, furnished to other jobbers. Mr. Graham adds that some of these special brands have been acquired by the American Tin Plate Company, although the goods are still made exclusively for the use of the former owners. He believes that there is a clause in the contract which guarantees to the jobbers that the prices for the goods of the particular brand shall not exceed that for plates of the same quality under the name of the American Tin Plate Company. He also believes that the contract contains no restrictive provisions as regards the purchases of the jobbers. (851, 852, 874, 875.)

F. Supply of steel.—Mr. REID and Mr. GRAHAM testify that the American Tin Plate Company has no special arrangements with steel companies to obtain control of their output to the exclusion of other tin-plate makers. Nevertheless there is something of a business connection between the National Steel Company and the American Tin Plate Company. Part of the directors of the steel company are also directors of the tin-plate company. Mr. Reid states that perhaps half of the steel used by the American Tin Plate Company is bought from

the National Steel Company, although the combination buys wherever it can get steel the cheapest. There are no conditions, according to Mr. Graham, by which the National Steel Company is excluded from selling to anyone else. He has seen at least some of the contracts with that company himself, and knows that there is no such provision. Mr. Reid states, however, that the connection between these two companies is the means of keeping the American Tin Plate Company well posted as to the conditions in the iron and steel industry, and that it tends to insure to the tin-plate company a supply of steel at all times. Several mills of the American Tin Plate Company had to be closed for a few days early in 1899 because of the inability of the Carnegie Steel Company to fill its orders promptly. Mr. Graham does not know that the American Tin Plate Company took the initiative in organizing the National Steel Company, although perhaps some of its officers were interested in having that company formed. (858, 863, 875; see also on this point under "National Steel Company," p. 192; also p. 194.)

Mr. GRIFFITHS, on the other hand, states that the American Tin Plate Company to a very considerable extent controls the supply of steel as raw material for the making of tin plates. The Carnegie Company is tied up for the entire year 1899 by an obligation to furnish a large quantity of steel to the combination. The witness does not know specifically that there is any contract by which this company is excluded from supplying steel to independent tin-plate manufacturers, but he has tried within 7 or 8 months past to purchase steel from the Carnegie Company, and could not obtain any. (894.)

V. EFFECT OF COMBINATION ON PRICES AND QUALITY OF GOODS.

A. Prices.—1. *General statistics.*—Tables of prices of tin plate, block tin, and steel, by months, since 1889, are printed in connection with the testimony of Mr. Reid (pp. 868, 869). In the Introduction a diagram is given showing the changes in cost of the quantities of steel and tin required to make a box of tin plates, together with the fluctuations in the prices of plates. Chief interest, of course, attaches to the period immediately before and after the formation of the American Tin Plate Company, which was organized January 6, 1899. Witnesses commenting on the tin-plate duty, however, point out that the decline of the price after the McKinley tariff of 1890, when the industry began to be established in the United States, shows the beneficial effects of that measure. (See below, p. 188.)

Witnesses defending the tin-plate combination maintain that the increase in the price of plates during the year 1899 was no more than commensurate with the greatly enhanced costs, especially the marked increase in the cost of raw materials—steel and tin.

2. *Opponents of combination.*—Mr. GRIFFITHS, an independent manufacturer of tin plate, denies that the cost of materials has justified the entire increase in the price of tin plate since the formation of the combination. Although the price of steel for tin-plate purposes has increased fully 100 per cent. and of block tin about as much, and although wages have increased from 10 to 15 per cent, this does not increase the cost of making tin plate sufficiently to account for the entire rise of 82 per cent in the price, from \$2.60 to \$4.65, which has taken place since December, 1898. The witness declares that when coke plates were selling at \$2.60 per box it cost him only \$2.40 per box to make them. At that time steel bars cost \$17.50 per ton. He does not believe that he could now buy steel at less than \$40 per ton, but thinks that the American Tin Plate Company obtains a lower price, perhaps as low as \$30. Even with the higher prices of block tin and other materials Mr. Griffiths declares that tin plate should not cost more than \$3.54 per box when the price of steel is \$30 per ton, and not more than \$3.84 when the price is \$36 per ton, whereas the selling price of plates is \$4.65 per box at present.

The witness also declares that he was making a profit of 20 per cent on the investment in his plant at the time when tin plates were selling at \$2.60 per box. He admits, however, that his concern was largely engaged in manufacturing specially high grades of plate, the price of which had fallen little, if any. The margin was small on the ordinary grades, but the company more than covered itself in the high prices for the special grades. (902, 903; see also above, p. 178.)

Mr. Griffiths admits that there has been an advance of 72 per cent in the price of Welsh tin plate during the past four months, as against the increase of 81 per cent or 82 per cent in the domestic product. He does not think that prices would probably fall very much below their present figure, even aside from the existence of the combination, if present conditions of trade continued. (915.)

3. *Reply. Increase justified by higher costs.*—Mr. GREER, replying to these statements of Mr. Griffiths as to the cost of production and prices, states that

there are various different qualities of plates having very different prices and cost of production, and that Mr. Griffiths's figures are scarcely clear. Most of Mr. Greer's reply, however, has to do with the cost of tinning plates, as distinguished from making the black plates, and refers to a period considerably prior to the formation of the American Tin Plate Company. (See above, p. 177.) Mr. Greer adds, however, that the increase in the price of tin plate has not been so marked as that in the price of many other materials having steel as the basis. Thus the price of wire nails has increased 200 per cent during 1899, and many other similar products in almost equal proportion. The advance in the price of steel bars for making tin plates has been fully 120 per cent, in block tin 150 per cent, and in labor from 15 to 25 per cent. Mr. Greer states further that in calculating the costs of production in the plants of the American Tin Plate Company the interest on capital invested is not included. Detailed account is kept of the cost of fuel, steel, repairs, and supplies of all sorts. All betterments and additions to the plants are charged to the construction account. The account of the tinning department is kept separate from that of the black-plate department.

There is considerable loss from inferior plates, known as seconds, which usually sell at about 25 cents per box less than firsts. There are from 8 to 12 boxes of seconds in coke plates out of every 100. In the case of charcoal plates there must be a higher allowance. (923, 928, 930.)

Mr. GRAHAM and Mr. REID, officers of the American Tin Plate Company, both maintain that the increase of prices of tin plate during the year 1899 has not been greater than, if indeed it has been equal to, the increase in the cost of the steel, tin, and other materials entering into its manufacture. Mr. Graham believes that on the whole the profits of the company have decreased since the rapid increase in the price of materials, while Mr. Reid states that the advance in prices has not been so great proportionately as the advance in costs of all kinds. The demand for tin plate has been heavy, so that, in fact, the consumption has been greater than the mills could supply.

Both of these witnesses state that the prices currently quoted in the *Iron Age* and other standard trade journals for steel and tin plates can be considered trustworthy, although they do not always indicate the actual prices obtained on the entire product of the mills at the time. The prices given in tables are usually those at New York, which would be 11 cents higher than the prices at the Pennsylvania mills. Mr. Graham points out especially that when the American Tin Plate Company was organized it had to take over large contracts which had been made by the constituent companies, some of them requiring 6 months or even 12 months to fill. These were at much lower prices than would be justifiable under the present conditions of cost. Mr. Reid also testifies that at the time of the organization of the American Tin Plate Company the various plants which entered into it had contracts with jobbers and others for supplying tin plate at low prices, ranging from \$2.65 to \$2.75 per box. These contracts amounted to about 4,000,000 boxes, and continued up to July 1, 1899. Moreover, the American Tin Plate Company, during the early months of 1899, made large contracts, which it was still working on when Mr. Reid testified, October, 1899, at prices much lower than have since prevailed, ranging from \$3 to \$3.75. (GRAHAM, 853, 862; REID, 867, 874, 881.)

Mr. GREER also states that many of the mills which entered the American Tin Plate Company had orders for future delivery extending up to October 1, 1899, or even to January 1, 1900. The entire product of the large New Castle and Shenango plants was thus sold in advance. Moreover, some of the smaller mills had not been cautious enough to cover their supplies for making this plate, and the American Tin Plate Company has been compelled to purchase materials at advanced prices in many cases to make products selling at low prices. (924.)

In support of these general statements Mr. REID made detailed statements as to the increase in the cost of materials, labor, etc. The price of standard coke plates increased from \$2.60 per box immediately prior to the formation of the combination to \$4.65 in October, 1899. These prices are at the mills. Meantime there had been an increase in the price of steel from \$17.50 per ton to \$38 per ton. At the time of the rapid increase in the price of plates from \$3.87½ to \$4.65 per box, steel advanced from \$22 to \$38 per ton. The price of tin has also doubled during the past year. Mr. Graham adds that the cost of acids, rolls and castings, fuel, etc., has also increased materially, while wages have been advanced about 15 per cent.

Mr. Reid expresses the opinion that the present high prices of steel, and consequently of tin plates, will run through at least all of the year 1900. (853, 867.)

Mr. TAYLOR, an independent tin-plate manufacturer, believes that the increase in the price of tin plate during the past year has been entirely justified by the increase in the cost of materials and of labor. If the price had not been advanced, the business would have been done at a loss. During the same time that the

American product has advanced \$2 per box, the price in Wales has advanced \$1.50 per box, and the witness considers that this difference of 50 cents no more than offsets the difference between the cost of labor in the two markets.

Mr. Taylor does not believe that the profits of the manufacture of tin plate are greater at the present high prices than they were before. The advance is normal. The price of tin was about 13 or 14 cents per pound in 1898, but rose in the latter part of 1899 to 34 cents, and in October still stood at 28 cents. This increase is due largely to the greater demand for tin in this country, as well as to the increase in the Welsh output. In the case of plates carrying very heavy coatings, such as those manufactured by the N. & G. Taylor Company, the increase in cost has been especially great.

Mr. Taylor admits that the American Tin Plate Company practically fixes the price of tin plates, but maintains that its action hitherto has not been arbitrary and unjust. (983, 984, 988, 940.)

A. Effects of increased price.—Mr. GOING believes that the increase in the cost of tin cans as the result of higher prices of tin plate can hardly be sufficient to affect the consumption of canned goods. An increase from \$2.60 to \$4.65 per box on tin plate would mean an increase in the cost of a can of three-fourths of a cent or a cent.

Mr. Going states further that can manufacturers so far have felt no special pinch from the combination, especially because they have had contracts for supplying their material during the year 1899. (918, 921.)

B. Quality of product of combination.—Mr. GOING, a retired manufacturer of tin cans, states that he has heard from canners that the coating of plates since the formation of the combination is thinner and less satisfactory. (916: as to relative quality of American and Welsh product, see below, p. 189.)

Replying to the statements of Mr. Going as to the relative quality of tin plate before and since the organization of the American Tin Plate Company, Mr. GREER declares that the quality at present is uniformly better. As district manager of the large New Castle plant, Mr. Greer has instructions from the head of the operating department at Chicago to make a good quality of plate. The mills are doing the best they can to improve and expect to turn out a still higher grade of plate next year. (926, 929.)

VI. RELATIVE ECONOMY AND ADVANTAGE OF MANUFACTURE BY COMBINATION.

A. Generally.—Mr. GRAHAM testified that the combination could effect saving by the large plants which it would employ, which would reduce the expense of operation. He believes that the plants have already been better managed in the short time since the combination. There have, however, been very few new devices or improvements in methods of manufacture for many years. As many men are required in the black-plate mill to-day as were required in Wales 7 years ago or even 25 years ago. The machinery used is perhaps heavier and stronger. Very few features of the machinery are covered by patents. (855, 857, 861.)

Mr. GRAHAM states that, while one of the chief purposes of the combination was to prevent suicidal cutting of prices, the American Tin Plate Company also expects to improve the physical condition and equipment of the plants. There is a marked difference in economy between the old-fashioned mills, with wooden buildings and few conveniences, and the modern plant, with iron buildings, electric cranes for handling the materials, etc. The appliances in larger mills will result in saving. (855.)

Mr. GREER believes that the time is too short to make possible a fair judgment as to the advantages and disadvantages of combination in the tin-plate industry. He believes that the present policy of the American Tin Plate Company is to consider carefully the interests of the buyer and to deal justly with all its customers. (920, 930.)

Mr. GRIFFITHS denies that the American Tin Plate Company can be in any way beneficial to the country as a whole. Whatever savings it may effect by shipping from the nearest mills, etc., go into its own pockets and are not divided with the consumer. The establishment of such a combination furnishes a bad precedent, tending to encourage other industries to enter into combinations for controlling conditions of business and to discourage individuals from entering into industry. The witness believes that the Tin Plate Company can pay dividends even on its inflated capitalization, at the expense of the consumer. The manufacturers would

never have gone into this company, surrendering their chances for making a good profit individually, unless they had expected a remarkably good premium of gain by the establishment of a monopoly. (910.)

B. Large plants.—Mr. REID testifies that by the control of a large number of different plants the tin-plate industry can be specialized to advantage. Thusterne plates can be finished entirely at one mill and coke plates at another. The saving, however, would not be great. The witness does not believe that the combination has as yet effected any saving in the cost of labor, and doubts whether it will be able to do so. (877.)

Mr. GRIFFITHS believes that the limit of economy in manufacture is reached with a plant of from 4 to 6 mills. He understands that the experience of Wales has shown a 4-mill plant to be more profitable than larger ones. (915.)

Mr. GREER, referring to the above statement of Mr. Griffiths, states that the opinions of the Welsh manufacturers as to methods of making tin plate are of comparatively little value. American ideas have advanced very rapidly and we have learned little from Wales. (925.)

It appears from the evidence above referred to under the heading of capitalization that the cost of erecting a plant with a larger number of mills is not proportionately less, but no detailed evidence is brought forward by the defenders of the tin-plate combination as to the relative cost of operation in such plants.

C. Personal superintendence.—Mr. GRIFFITHS believes that the independent manufacturer, before the combination and since the combination, has been able to manufacture tin plate much more economically than the American Tin Plate Company, chiefly because under separate control the individual owner is directly on the ground and continually cudgeling his brain in the direction of his own interest. The tin-plate business is a peculiarly difficult one, different from any other, and involving many details which greatly affect profits. It needs to be done under the personal eye of the owner. It is impossible for a manager who, according to the present practice of the American Tin Plate Company, is supposed to manage 20 or 30 mills in several different plants, and who is able to visit each one only about once a week, to get as good results as under the previous practice. There needs to be some one to look after the superintendent of the plant every day. The witness admits that there is some advantage in the practice of the American Tin Plate Company in requiring frequent reports from the superintendents of the different plants, and in comparing these reports to ascertain the relative efficiency. But this practice is not as satisfactory as direct management by the owner. (899, 900.)

To this Mr. REID and Mr. GREER reply that, as a matter of fact, a large proportion of the previous owners of tin-plate plants are stockholders and officers in the American Tin Plate Company, and that many of them are giving their undivided attention to the operation of the same mills which they had charge of before the combination. Thus, in the case of the large establishments at New Castle, Mr. Greer, the former manager, is still in entire control. (877; 926, 929.)

Mr. TAYLOR, an independent tin-plate dipper, states that one plant of reasonable capacity in a single place can be better managed than a number of scattered plants under a central superintendent. Supervision is extremely important in the tin-plate business, and can not be satisfactorily exercised by visiting officers. The American Tin Plate Company, however, realizes this, and is adopting the practice of dismantling outside mills and concentrating its production in a few large plants under the best supervision. (941.)

D. Economy in labor.—Mr. REID states that the combination has not reduced the number of its employees either as a whole or in proportion to the amount of product. It has not even reduced the expenses of office work, although the separate office establishments of the different plants have been discontinued, practically all of the men having been taken to the office at Chicago. (876, 877.)

Mr. GRIFFITHS testifies that the American Tin Plate Company has as yet made no savings in the cost of labor by combination. Even before the advance in the scale of wages the pay roll had become larger than before. He does not believe there has been much saving in the cost of superintendence. The district managers are paid at present about the same salaries as the various superintendents were formerly paid. (899, 900.)

E. Economy in purchase of supplies.—Mr. REID testifies that the American Tin Plate Company is enabled to effect some saving by its large purchases of supplies. Large buyers can obtain tin at 2 or 3 cents a pound less than smaller buyers. The combination uses perhaps \$40,000 worth of acid per month, and there is some economy in the purchase of this in large quantities. (877.)

Mr. GRIFFITHS, an independent manufacturer, also believes that the combination makes savings by its large purchases. He understands that it buys all of its block tin from Phelps, Dodge & Co., of New York, and all of its palm oil from Crookes & Co., etc. The individual manufacturer would perhaps not be able to lay in a 6-months' supply of material in advance as the combination is able to do. The saving in this regard is perhaps comparatively small, however. The witness suggests also that the American Tin Plate Company may be paying much less than the current market price for its steel. On this subject see the statements as to the relation between the combination and the various steel companies, pp. 192, 194. (913.)

F. Savings in freight.—Mr. GRAHAM states that the Tin Plate Company receives no special freight rates from railways, so far as his personal knowledge goes. But there is a saving in freight by shipping goods from the most convenient mill. Thus, orders for goods in the East will be furnished from the Pittsburg and other Eastern plants, and Western orders from the Indiana and other Western plants, whereas formerly there was large expense from long shipments and cross freights. (856.)

Mr. REID also claims a saving of freights in this manner. (877.)

Mr. GRIFFITHS admits that there may be considerable saving to the combination by the ability to furnish tin plates from the nearest mills, saving the crossing of freights. He does not believe that this saving is sufficient to offset the disadvantage of the lack of personal superintendence by the owner. (913.)

Mr. TAYLOR, an independent manufacturer, is of the opinion that considerable savings must be made by the combination in this way. (942.)

G. Economy in selling.—Mr. REID states that the former method of selling was not especially expensive, since the owners and managers of the plants attended largely to the sales business themselves. Nevertheless, the present system of consolidation, which enables these managers to devote their entire time to the mill instead of giving a part of it to the selling business, results in the manufacture of a better product. (877.)

Mr. GRAHAM states that under the combination there is an unquestionable and large saving in the selling of goods. The company has been able to dispense with the services of numerous traveling and commission men. Each separate plant formerly had a more or less elaborate system of distribution. (855.)

VII. EFFECT OF COMBINATION ON LABOR.

(See also as to closing of plants. pp. 177, 178.)

A. Increase of wages.—The number of employees of the American Tin Plate Company, according to Mr. GRAHAM, is 20,000 or 25,000. Practically all the concerns in the combination pay the scale of wages fixed by the Amalgamated Association of Iron, Steel and Tin Workers. There is one mill at Monessen, Pa., which has somewhat different machinery, in which a slight variation is allowed by agreement. Mills which formerly did not pay this scale of wages have been brought up to it. (858, 861.)

Mr. REID testifies to the same effect as Mr. Graham. He adds that a general advance of 15 per cent in the wages of skilled labor has been made since the formation of the combination, while the wages of ordinary labor have been advanced about 20 per cent. In adjusting scales between different mills there has been a still greater advance in many cases.

Mr. Reid also submitted the full text of the existing agreement with the Amalgamated Association governing rolling mills manufacturing tin plate, for the year ending June 30, 1900, together with the corresponding scales and regulations for the years 1899, 1898, and 1897. The wages fixed in these tables are for piece-work, so much being paid per ton for the different kinds of work on plates of different sizes. A limit of the amount of work which any man is allowed to perform and receive pay for during 8 hours, the length of the day's work, is imposed, varying according to the thickness of the sheets rolled.

The wages are arranged upon a sliding scale, the base prices given being computed upon a selling price of \$4.25 per box for coke tin plates. For each 10 cents increase in the price per box 2 per cent is to be added to the price fixed for the different classes of work. The agreement for the year ending June 30, 1900, however, provides that the base prices named shall be the minimum for that year, so that there can be no reduction whatever until the expiration of that time.

Mr. Reid also submitted a statement showing the relative wages in 1898 and 1899 of the blacksmiths, carpenters, and miscellaneous workers and laborers

employed by the American Tin Plate Company who do not come under the agreement with the Amalgamated Association. Where the rate of wages per day was less than \$1.50, prior to January 1, 1899, the new rate is 15 per cent higher; from \$1.50 to \$2.12 per cent higher; and from \$2 to \$2.50, 10 per cent higher. In the finishing department, including the tinner's, the advance since January 1, 1899, has been from 15 to 50 per cent. (869-874.)

Mr. REID states further that the skilled laborers of the American Tin Plate Company are the best-paid laborers in the country. There is 1 roller to each mill for each shift. He can make, under the present scale of prices, nearly \$10 per day for 8 hours' work. He may have an assistant roller, but the next most skilled men are the doubler and catcher, who make \$6 or \$7 per day. The workers in the tinning establishment are also paid on a regular scale fixed by the recently formed union. A tinner can make, the witness understands, from \$2.50 to \$3 per day and his helper \$2 per day. The work is not highly skilled. In Elwood, Ind., for example, most of the workers were taken from the farms or the streets and became sufficiently skilled within 2 or 3 months.

In addition, there are many ordinary laborers employed in the packing and shipping work, their present wages being \$1.40 per day. Women are also employed in the packing houses, and make about \$1.25 per day. Some boys as young as 16 years of age are employed, chiefly in managing the grease in connection with the rollers.

The witness believes that the skilled laborers engaged in this industry live very well: that they have pianos, horses and buggies, lace curtains, and all the comforts of life. (879.)

B. Strikes and union labor.—Mr. REID stated that the American Tin Plate Company had encountered only one strike, which was confined to a plant at Lisbon, Ohio. It was a nonunion mill, and during the process of unionizing it there was a temporary misunderstanding, but the mill is now operating under the Amalgamated scale. (876.)

Mr. GREER, district manager of the New Castle mills, states that the American Tin Plate Company agreed with its workmen to allow them to unionize all the mills, save the one at Mousessen. He knows of no strikes since the organization of the American Tin Plate Company, except an unimportant one at Elwood, Ind., caused by the discharge of one of the workmen for taking spirituous liquors into the mill in violation of the rules. He believes that the officers of the Amalgamated Association were not justified in declaring this strike.

The American Tin Plate Company has always been ready to recognize the unions and to treat with them. (928.)

C. Ownership of stock by employees.—Mr. MOORE and Mr. GRAHAM both point out that a certain number of employees of the American Tin Plate Company own small amounts of stock. Mr. Graham states that the company has not specially sought to encourage this. Mr. Moore says that he took special pains to furnish small amounts of stock to employees desiring it at the time when the combination was being formed. (854, 961.)

D. Labor in dipping plant.—Mr. TAYLOR states that the N. & G. Taylor Company pays very full wages in its tinning plant, the rates being graded for the different processes according to the skill. The most skilled labor is paid by the piece. Some women are employed to clean plates. The employees are not organized, but the witness believes that the wages are about the same as those of union labor. There have been no strikes, and the men have always been well satisfied. It is necessary to have efficient labor on account of the high grade of tin plates produced by this company. Most of the labor is native, although a few Welshmen were employed at the time when the works first started. (932, 936.)

VIII. THE TARIFF AND THE TIN-PLATE INDUSTRY.

A. Effect in building up manufacture.—1. *Generally.*—It is made clear by the evidence of all of the witnesses that the tin-plate industry in the United States has been built up practically since the McKinley tariff of 1890, which raised the duty on tin plates from 1 to 2.2 cents per pound. Without the protection, all the witnesses agree, the industry could not have been profitably established. Having once been established, it was able to submit to the reduction of the duty to 1.2 cents by the Wilson tariff of 1894, and is now sufficiently protected by the duty of 1.5 cents under the Dingley tariff of 1897.

Mr. REID pointed out that the tariff on tin plate had built up a great industry giving employment to thousands of men, not only in the tin-plate mills themselves, but in the manufacture of steel for the plates, of acids, and other supplies.

All these raw materials were formerly manufactured abroad, and by bringing the manufacture to this country employment has been greatly increased. Possibly \$30,000,000 has been kept from going abroad for payment for such raw materials. (878.)

2. Lowering of prices.—Mr. REID says that the introduction of the industry into this country has decreased the cost of tin plates to the consumer. Before the tariff of 1890, the prices of tin plates had been \$6 or \$7 per box, while since that time they have run down as low as \$2.60, and are even now only \$4.65. The average price now is from \$1.50 to \$2 per box lower than before plates were manufactured in this country. (878.)

Mr. TAYLOR, an independent dipper of tin plate, likewise declares that the establishment of the tin-plate industry in this country, owing to the tariff, has saved many millions of dollars to consumers in lowered prices, and has very greatly increased the employment of labor. He believes that the conditions for making tin plate are more favorable in this country than anywhere else. The establishment of the tariff was not due especially to organized labor, but to the recognition of the desirability of establishing this new industry. (934.)

Mr. TAYLOR further states that immediately after the passage of the McKinley act, and before the duties went into effect, large quantities of tin plate were imported with a view to gaining the profit at the time of the increase of tariff. But the importations were so large that prices declined immediately after the tariff went into effect, and they have been lower ever since than before the act of 1890. (935.)

3. Early history of industry and tariff.—Mr. REID, president of the American Tin Plate Company, testifies that when the tariff was first established in 1890 numerous mills were soon erected, but that for some time they were operated, at least in certain instances, at a loss, because of the ignorance as to methods. Many Welshmen were brought over, and the witness considers that their knowledge was not adapted to American conditions. The plant at Elwood, Ind., was at one time selling tin plates at \$5.85 per box which cost \$9 to make. (878.)

Mr. GREER also states that the American methods of production are much superior to those employed by the Welsh. Nearly all of the old Welsh ideas have been abandoned during the development of the industry in this country. By careful and intense application of American engineers and workmen very great improvements have been made. (925.)

B. Sufficiency of protection.—Mr. REID further testifies that the tariff at present is sufficient to prevent the importation of tin plates of ordinary grade. The price of tin plates at the mills in the United States in October, 1899, was \$4.65, while the price of foreign plates at New York was \$5.27½. There is practically a margin of 50 cents, which could at the present prices be taken from the duty without admitting foreign tin plate. (878.)

Several witnesses testify that at present no tin plate is imported into this country, unless of certain special high grades, or unless intended for reexportation, with a drawback of the duty. Mr. GOING states that imported tin plate is invariably used in the manufacture of tin cans intended for exportation of food products. It was also pointed out that the Standard Oil Company imports large amounts of tin plate for making its tin cans for shipping oil abroad. (GRIFFITHS, 915; GOING, 931.)

C. Necessity of protection.—Mr. GRAHAM, vice-president of the American Tin Plate Company, declares that the removal of the tariff on tin plate would destroy the industry in this country. (854.)

Mr. GRIFFITHS, an independent manufacturer of tin plate, also maintains that protection is still necessary in the United States to enable the tin-plate industry to be carried on profitably. Even at the time when the price of tin plates was lowest in this country, during 1898, the minimum cost in New York would have been \$2.78 per box, whereas the imported tin plate could have been put down there at \$2.18 per box, exclusive of the duty. (909, 910.)

Mr. TAYLOR, an independent dipper of tin plate, agrees that it would be impossible at present to dispense with the tariff. If the conditions existing during 1898 had continued, it might have been possible to manufacture tin plate in this country at as low a cost as in Wales. Protection is especially necessary to prevent speculative importations of tin plate at particularly unfavorable times.

The immediate result of the abolition of the duty on tin plate, according to Mr. Taylor, would be to increase the price of the foreign product materially; much of it would immediately come to this country. American manufacturers could not at first compete against this importation, but might gradually adjust themselves to the changed circumstances. It would be necessary to reduce wages largely, or else men would be thrown out of work. Profits would have to be much less than

at present. The raw materials for manufacturing tin plate would also have to be obtained at lower prices, which would have a reacting influence upon the iron and steel industries. In fact, it would be impossible to disturb the tariff on tin plate without disturbing everything else. (934, 939.)

Mr. GRAHAM states that the rates paid to workmen in the tin-plate industry in this country are two and one-half to three times greater than in Wales. (861.)

Mr. REID states that he believes the rollers, or most skilled laborers in the tin-plate industry, receive about \$3.50 per day in Wales as compared with nearly \$10 in this country. (880.)

Mr. TAYLOR testifies that there are no large aggregations of capital or combinations of manufacturers in the tin-plate industry in Great Britain, except that a few English manufacturers of large tin sheets have always been combined during the past 25 or 30 years. (940.)

Notwithstanding the great improvements in production in this country, Mr. REID believes that the cost of production in Great Britain, especially on account of the lower wages of labor, will long continue to be so low that American tin plate can not be exported in competition. The cost of labor is a large item in the cost of tin plate, and wages of skilled labor are almost three times as high in this country as in Wales.

Mr. Reid further states that there are about 400 tin-plate mills in Europe, as compared with 300 in this country, but that the United States can produce 30 per cent more per mill. This country, he believes, consumes practically two-thirds of the tin-plate production of the world. (882.)

D. Relative quality of American product.—Mr. GOING, who has been engaged in the manufacture of tin cans and the canning of goods, testifies that when tin plate first began to be manufactured in the United States it was somewhat inferior. But by the improvements in machinery, methods, and skill the black plates have been made more ductile and the coating has been put on more satisfactorily. Mr. Going states, however, that imported tin plate formerly carried 5 pounds of tin to 100 pounds of black iron. Several years ago, when the business commenced to be less profitable in this country, the amount of tin was reduced and is now about 2½ pounds. The witness has been told by can manufacturers that the coating has become still thinner since the formation of the combination. Can manufacturers desire good plate, since they have to guarantee that the contents of the can will not be spoiled. While the effect of poor or thin coating on the contents of the can is not apt to be injurious to health, the inside of the can is likely to become discolored and unsightly. (916, 920, 921.)

Other witnesses, however, maintain that American tin plates are superior, both in the quality of the black plates themselves and in the tinning. This is claimed by Mr. GRAHAM, of the American Tin Plate Company. (861.)

Referring to the statements of Mr. Going, Mr. GREER, the manager of the New Castle mills, states that no coke plates used for canning purposes made in Wales or in America ever carried 5 pounds of coating. Only very high grades of charcoal plates have such a coating. Welsh coke plates for canning purposes have for several years been less heavily coated than American plates. Mr. Greer also refers to the great softness and ductility of American Bessemer black plates. (926.)

Mr. TAYLOR, an independent tin-plate manufacturer, likewise states that American Bessemer black plates have improved greatly in quality and are very largely superior in ductility, tensile strength, surface, and finish to those made abroad. Few improvements have been made here in open-hearth steel plates, but there is comparatively little difference in the quality of our Bessemer and open-hearth plates. In some of the high grades also the American product has improved less rapidly and is still inferior, but these are unimportant in quantity.

Considerable improvements have also been made in this country in tinning. (932, 936.)

E. Effect of tariff on combination.—None of the witnesses attribute the formation of the existing tin-plate combination to the tariff in any other sense than that the industry itself owes its existence to the tariff. Mr. REID specifically denies that the tariff had anything to do with the formation of the American Tin Plate Company. (881.)

Mr. GRIFFITHS, an independent manufacturer of tin plate, who is opposed strongly to the American Tin Plate Company, likewise holds that the tariff can be considered in no sense the father of the trust. (912.)

NATIONAL STEEL COMPANY.

WITNESS.

Page.

Reis, Wm. E., president of the National Steel Company 943-953

I. ORGANIZATION, CAPITALIZATION, ETC.

A. Organization.—Mr. REIS, president of the National Steel Company, states that that company was organized in February, 1899, under the laws of New Jersey, with a capital of \$39,000,000, \$27,000,000 of 7 per cent cumulative preferred stock and \$32,000,000 of common stock. The company includes six steel plants, located at New Castle, Youngstown, Sharon, Mingo Junction, Bellaire, and Columbus. These plants are engaged in producing steel billets and slabs, which are the raw materials for making tin plates and various other products. The plants include 15 blast furnaces. The company also owns iron mines in northern Michigan at Iron Mountain and Ishpeming. These are expected to produce from 1,250,000 to 1,400,000 tons of ore annually, the total amount required for the use of the steel plants in the combination being about 3,000,000 tons. The National Steel Company also owns nine lake boats for transporting ore, capable of carrying about 1,000,000 tons annually. (944, 945.)

B. Conformity with New Jersey corporation laws.—Mr. REIS submits an extract from the minutes of the first meeting of the stockholders directing the appointment of an agent and the establishment of a principal office in the State of New Jersey and providing for a record of stock transfers to be open at all times to the inspection of stockholders. So far as the witness knows, this resolution has been carried out and conformed to. (903.)

C. Capitalization.—The organization of the National Steel Company was accomplished by Judge Moore, the organizer of the American Tin Plate Company, and the method employed was substantially the same in each case. The various concerns in the combination gave options on their plants, with the privilege of taking all cash or part or all stock. The plant with which Mr. Reis was connected chose to take all stock in the transaction. One share of preferred stock was given for each \$100 of cash value, and in addition one share of common stock. The cash value in the case of Mr. Reis's plant was that which had been fixed in an offer made for the plant by another company 30 days before the organization of the combination.

Mr. Reis does not know exactly the disposition made of the stocks of the company, but states that it was the general supposition that the additional \$5,000,000 of common stock above the amount of preferred stock was used in the promotion of the scheme. At the present market values of common stock this surplus would be worth about \$2,500,000. The general expenses of bringing together such a combination are very considerable. (944, 949; compare Moore, 959.)

D. Dividends.—The company has so far (October, 1899,) paid two quarterly dividends upon its preferred stock and the president states that its profits exceed its dividends. The company has been making improvements and enlarging its plant and there are hopes that it may pay dividends on the common stock. The present value of preferred stock on the market is 95 or 96: of common stock, 50 to 52.

E. Value of plants.—The steel plants in the combination are capable of producing 5,000 tons of steel per day. It was formerly roughly estimated that to erect a blast furnace would cost \$100,000 for each 100 tons of daily production. Mr. Reis declares, however, that the three blast furnaces which are now being built by the National Steel Company will probably cost three times the amount of this estimate, owing to the very great increase in the cost of machinery, materials, and labor. Moreover, in order to run a plant properly there ought to be working capital to an amount equal to at least half of the cost of the plant itself. The iron ore used has to be brought from Lake Superior during the open season of navigation, and it requires considerable money to freight and store it until it is used.

The mining properties owned by the National Steel Company in northern Michigan are considered by Mr. Reis to be of very great value, especially in view of the marked increase in the price of ore, which Mr. Reis believes is likely to remain at the present high values. These mining lands are perhaps worth 200 per cent more now than they were a year ago. The witness is unable to estimate for how long a period the mines owned by the National Steel Company will be able to

supply its demand. During the years 1892 to 1898 there had been many failures in the iron region, due to the excessive competition and surplus of production above demand, and especially to the development of the Mesaba region, where the cost of production at first was insignificant. (945, 949, 950.)

II. OUTPUT. PRICES.

A. Control of output.—Mr. REIS testifies that the National Steel Company is not a "trust" in the ordinary sense, since it makes no attempt to secure control of a large proportion of the output of steel. Its economies are sought in the combination of steel plants with sources of raw materials. The National Steel Company produces only about 18 per cent of the Bessemer steel made in this country. The other chief concerns engaged in steel production are the Carnegie Steel Company; Federal Steel Company; the Maryland; Jones & Laughlin Steel Company; Wheeling Steel and Iron Company, and the Lorain Steel Company.

B. Prices.—Mr. Reis testifies that the increase in the price of steel has been due to the great increase of demand and to the fact that surplus stocks and materials have been exhausted by the heavy exportation of the past 2 years. The average price of Bessemer pig iron in 1894 at Pittsburg was about \$11.38; 1895, \$13.72; 1896, \$12.14; 1897, \$10.13; 1898, \$10.33. The present advance in prices commenced in December, 1898, and at the time of the testimony, October, 1899, the price of pig iron was \$22.50 to \$23. The National Steel Company is a large buyer of pig iron, besides manufacturing it itself, and naturally has had no effect in forcing up the price. The price of steel billets—the main product of the National Steel Company—has varied in somewhat the same proportions as the price of pig iron. The average price per ton in 1894 was \$16.58; 1895, \$18.48; 1896, \$18.83; 1897, \$15.08; 1898, \$15.31. The quoted prices since January, 1899, have ranged from \$34 to \$38, with an occasional price for a small quantity, under special circumstances, as high as \$44, such figures as these last, according to Mr. Reis, in no sense representing the true market.

Mr. Reis points out especially that, owing to the large contracts made in advance by steel plants, the actual average price received by them during the year 1899 has been much less than the quoted price for new contracts. Thus during August the average price received by the National Steel Company was only \$21, while the market quotations ranged from \$31 to \$44. In October the company had contracts on hand for 700,000 tons of steel.

As to the general increase in the demand for iron materials and steel during the past 2 years, Mr. Reis states that the increased use of iron and steel for structural purposes, especially in erecting large office buildings, has so greatly raised the demand as to explain largely the advance in prices. He considers that this demand is likely to continue and increase. As a result of this increased demand for iron, practically all of the pig-iron furnaces in Pennsylvania are now in operation. Some of these have been idle during the past 5 or 6 years, but they were mostly antiquated plants, which will not be able to live if the present high prices cease. (945, 946, 950, 951.)

III. ADVANTAGES OF CONSOLIDATION.

Mr. REIS testifies that the National Steel Company was not formed especially on account of the unprofitable condition of business. Several of the plants which entered the combination, if not all of them, were fairly prosperous and had been running continuously. It has already been pointed out that the combination makes no attempt to control the supply of steel. The main advantage of the organization of the National Steel Company has been in bringing the production of raw material and of steel together. This has put the companies in the combination into a better condition to compete with the other large concerns. To secure raw materials, ore and coal, is absolutely essential to the success of the business, and to the extent that the company itself controls the source of these raw materials it is in a stronger position.

Some saving will also be effected in freights by shipping goods from the nearest transportation point. (947.)

IV. LABOR.

Part of the works of the National Steel Company, according to Mr. REIS, are operated by labor belonging to the Amalgamated Association of Iron and Steel Workers, while the others are nonunion. In both cases, however, the wages of

practically all of the men are fixed by agreement for the entire year. It is not possible to make the rate uniform in all different plants, because the methods of production and local conditions vary materially. Thus a modern plant is allowed by the Amalgamated Association to manufacture more per man than an old-fashioned plant. The men not belonging to the Amalgamated Association get relatively the same wages as those in the association.

There has been a marked increase in wages for all skilled labor employed by the National Steel Company. The new scale adopted on July 1, 1899, for the ensuing year, increased wages in some cases 15 per cent and in others 20 per cent.

There have been no strikes since the organization of the National Steel Company. The company has increased the number of employees, but this is partly due to the fact that new construction is going on. About 8,000 men are employed at all the steel works, 1,800 more than were employed in March. But the several plants which entered the combination had mostly been running quite regularly before the combination was formed. (946, 948, 951.)

V. RELATIONS TO AMERICAN TIN PLATE AND AMERICAN STEEL HOOP COMPANIES.

Mr. REIS testifies that there are a number of directors in the National Steel Company who are also directors in the American Tin Plate Company and the American Steel Hoop Company. In fact, all of the members of the executive committee of the steel company are large stockholders in the others, while all the companies have the same treasurer. Nevertheless there is no formal relation between the three companies, and they make contracts with one another in the same way as with any other concern. The National Steel Company sells perhaps one-fourth or one-fifth of its product to the American Tin Plate Company. The object of the relation between the different companies is to assure them markets for their products and sources of supply for their raw materials. (947, 948.)

VI. TARIFF.

Mr. REIS states that the tariff, so far as it is placed upon steel billets, bars, and sheets, is no longer necessary for the protection of the industry. No steel is imported, and during the past 8 or 10 years the tariff has cut no figure. But if the tariff should be removed from tin plate or from certain other branches of the iron and steel industry there would be an indirect effect upon the making of steel. (947.)

AMERICAN STEEL HOOP COMPANY.

WITNESS.

Guthrie, Charles S., president	Page. 953-958
--------------------------------------	------------------

I. ORGANIZATION.

Mr. GUTHRIE, president of the American Steel Hoop Company, testifies that it was incorporated on April 17, 1899, with a capital of \$14,000,000 preferred stock and \$19,000,000 common stock. The products of this company are a variety of light iron and steel hoops, bands, cotton ties, bars, rounds, and half-rounds, etc. These are all rolled on high-speed rolls.

This company, like the American Tin Plate Company and the National Steel Company, was promoted by Judge Moore and is more or less closely related with the companies just named. (953, 954, 957.)

II. PRICES.

The prices of the products of the American Steel Hoop Company have advanced greatly since the formation of the combination; but, according to Mr. Guthrie, the increase has not been relatively as great as that in the cost of raw material. Just before the company was organized, steel, the chief raw material, cost about \$18 or \$19 per ton. At present (October, 1899) the price is from \$34 to \$38. The former price for the base of the product of the company was \$1.40; at present it is \$2.15. The price for hoops or bands is about \$50 per ton, as compared with \$35 to \$38 for the raw material. (954.)

III. ECONOMIES.

Mr. GUTHRIE says that one of the chief advantages of the consolidation in the American Steel Hoop Company is the possibility of specializing products in different plants. Eighty-five or ninety different sizes of goods are produced, which would necessitate constant changing of the rolling machinery in a single plant. At present one mill may be given a large order for a particular class of goods, with an economy of from \$1 to \$1.50 per ton.

Further saving is effected by concentrating the management, bookkeeping, etc., in one office. Miscellaneous expenses are thus materially reduced. Thus the expense of selling was formerly never less than 50 cents per ton and usually \$1. It has been reduced to 40 cents per ton.

The company takes pains to require daily reports from each plant and to compare these reports carefully, with a view to preventing carelessness and inefficiency on the part of the superintendent.

By shipping from the nearest plant considerable saving in freight is made.

The combination has sought to put its plants in control of the most able managers. If a previous owner or manager of a plant has shown himself thoroughly competent he retains his position after the plant joins the combination; older and less efficient men, who frequently desire to retire, are displaced by younger and more energetic men.

The combination is also advantageous in developing the export trade. The large capital and the large amount of business make it possible to employ agents all over the world and to spend large sums in pioneering, as would be impossible for a smaller concern. (953, 954, 956, 957.)

IV. WAGES.

Mr. GUTHRIE testifies that the wages paid by the American Steel Hoop Company have been advanced from 15 to 25 per cent since its organization. About half of the men employed belong to the Amalgamated Association of Iron and Steel Workers. The Pittsburg mills are nonunion. The nonunion men are paid practically the same rates as those belonging to the association, contracts being made individually with the men. In a sense the Amalgamated Association fixes the wages for these men and is thus a benefit to them.

The wages are fixed by annual agreement, the rates differing in the different plants according to the conditions, the machinery used, etc. Some classes of work are adjusted on a sliding scale, wages varying with the price of the product. (955.)

V. TARIFF AND EXPORT TRADE.

Mr. GUTHRIE believes that protection is still necessary for American steel and iron products, although we can already compete in the sale of those products practically throughout the world and are likely to be more and more able to control the world market. In the absence of a tariff foreign manufacturers make America a dumping ground for their surplus product. They expect to get their profit from the home trade and maintain prices there by disposing of temporary surpluses in this country. The ocean freights from England to Galveston and Charleston, for example, are less than the rail and ocean freights from Pittsburg to those cities.

The fact that we export steel is no sign that we need no protection. American manufacturers, too, sometimes follow the practice of exporting a surplus product at a price less than the average cost of the entire output—considerably less than the price in this country. The Carnegie Company thus at one time proposed to sell a large quantity of steel abroad at 20 per cent less than the domestic price in order to "keep things moving and bring gold back to this country." A year ago the American Steel Hoop Company was exporting its products quite freely. At present it can export only by cutting prices, on account of the high domestic demand. If, however, favorable ocean freights can be obtained, especially by the establishment of an American merchant marine, our steel products can compete in every country, even in England itself.

This country has a very great advantage over England in the cheapness of raw material for making steel and iron products. The cost of coal in England is \$4.50 per ton; in Pittsburg, \$1.50. Iron ore costs less, and transportation rates on the Great Lakes are lower than anywhere else in the world. The Americans have high ability and intelligence, and it is only a question of time when they will control the iron and steel markets of the world. (955, 956.)

VI. RELATIONS WITH STEEL COMPANIES.

Mr. GUTHRIE refers to the connection between the American Steel Hoop Company and the National Steel Company and the American Tin Plate Company. (This relation is also discussed in connection with the testimony concerning those two companies; see pp. 186, 192.) The arrangement has brought together the greatest ability engaged in a variety of iron and steel industries, and in this way all the branches are developed. Thus the National Steel Company, as producer of raw material, may agree to furnish a large quantity of steel at less than the ordinary price for the sake of enabling one of the other companies to fill a large order or to secure some new foreign market. The National Steel Company is anxious to increase its tonnage and to run its mills at full capacity, which lowers the cost of production. The American Steel Hoop Company also has close relations with the Carnegie Company, from which it buys considerable amounts of steel. (957.)

FEDERAL STEEL COMPANY.

WITNESSES.

	Page.
Stetson, F. S., counselor at law	960-982
Gary, E. H., president of Federal Steel Company	982-1003

I. ORGANIZATION, CAPITALIZATION, ETC.

A. Description of business.—Mr. GARY states that the Federal Steel Company owns all the capital of the Minnesota Iron Company, the Illinois Steel Company, the Lorain Steel Company, and the Elgin, Joliet and Eastern Railroad Company.

The Minnesota Iron Company is the owner of 150,000 acres of iron ore property on the Vermilion and Mesaba ranges. It owns the Duluth and Iron Range Railroad Company, connecting its mines with Lake Superior at Two Harbors and Duluth. It owns large ore docks and also 22 steel lake vessels capable of carrying 2,000,000 tons per annum. The product of the Minnesota Iron Company will probably be 8,500,000 tons in 1900.

The Lorain Steel Company manufactures chiefly steel rails for street railways, and to some extent steel billets. It produces about 500,000 tons of pig iron per year. It also owns the stock of the Johnson Company at Johnstown, Pa., which is chiefly engaged in manufacturing frog switches and crossings for street railroads, also electric motors.

The Illinois Steel Company has plants at North Chicago, West Chicago, South Chicago, Milwaukee, and Joliet. It produces about 1,500,000 tons of pig iron per year, and also manufactures steel rails, billets, plates, etc. It owns the Chicago, Lake Shore and Eastern Railway, which connects its plants in the neighborhood of Chicago. It also owns large tracts of coal property in Pennsylvania and West Virginia, and makes there about 1,500,000 tons of coke per year. This company also owns iron mines in Wisconsin and Michigan.

The Elgin, Joliet and Eastern Railroad Company is called the Outer Belt Line of Chicago, running around the city at a distance of about 30 miles from its center. (982, 984, 985.)

B. Form of organization.—Provisions of charter.—1. *General.*—Mr. STETSON, a lawyer who drafted the charter and conducted the legal arrangements in the organization of the Federal Steel Company, testified that it was organized in September, 1898, with an authorized capital of \$100,000,000 6 per cent noncumulative preferred stock and \$100,000,000 common stock. Of this, \$98,000,000 in all was originally issued.

The purpose of the combination was to acquire, not the property, but a majority at least of the stocks, of the Minnesota Iron Company, the Illinois Steel Company, and the Elgin, Joliet and Eastern Railway Company. Practically all of the shares of these companies were actually acquired. (969, 970.)

2. *Rights of stockholders and directors.*—The articles of incorporation of the Federal Steel Company provide that the board of directors shall determine to what extent the acts and books of the corporation shall be open to the stockholders; the stockholders have no right of inspection except as conferred by statute or by the board of directors or by resolution of the stockholders. Mr.

Stetson explains that the purpose of this provision is merely to shut off any indefinite or common-law right of inspection, leaving the definition of that right, aside from the statutory provision, to be determined by the corporation itself. It is very difficult for administrative officers of a corporation, often mere clerks, to know who shall be recognized and what information shall be granted. The right should be clearly and definitely set forth. Stockholders should have access to the stock and transfer books, subject only to the restriction that the inspection shall be at a convenient time. (971, 974.)

Mr. GARY testifies that the Federal Steel Company has at times been unreasonably annoyed by inquiries from stockholders, its stock being largely distributed, but it has sought to give whatever information was desired if available. He does not consider that the New Jersey laws are calculated to work disadvantage to stockholders. (996.)

3. *Purchase of stock by corporation.*—The articles of incorporation of the Federal Steel Company authorize the directors to buy any stocks of the company with surplus earnings or accumulated profits. This is not a usual provision, but it is allowed by the laws of New Jersey. It is entirely improper, in the opinion of Mr. Stetson, that corporate funds, other than surplus, should be paid to stockholders under the guise of buying stock. But when the surplus is thus used it is simply a more convenient method of reducing capital, which is permitted by all laws. (971, 972.)

4. *Power of directors to increase numbers.*—The charter further provides that the directors may increase their own number and elect additional directors until the next meeting of the stockholders. Mr. Stetson explains that this provision is desirable, even though it does somewhat limit the power of stockholders and increase that of directors. It is fair to the stockholders because they agree to it. When a corporation is first started the preliminary work can be most conveniently done by a small directorate. Afterwards the organization should be completed and the number of directors increased, and it is inconvenient to call a stockholders' meeting for this purpose. (972.)

5. *New Jersey law.*—Mr. GARY, president of the Federal Steel Company, states that it was incorporated in New Jersey because the laws there seemed to give all the powers which were absolutely needed, which was not true of the laws of most other States. Thus, in Illinois a manufacturing corporation can not hold the stocks of other corporations; in Pennsylvania and West Virginia the amount of capitalization is limited. The witness knows of no provision in the New Jersey law especially to the disadvantage of stockholders. There are doubtless illegal practices under the New Jersey law, but the same is true of other States. The Federal Steel Company certainly had only honest intentions in incorporating there. (996.)

Mr. STETSON refers to the same and other reasons why New Jersey was preferred to other States. (971; see also below, p. [?].)

6. *History of organization.*—Mr. GARY testifies that the Federal Steel Company made a contract with J. P. Morgan & Co. to deliver to the steel company stocks of the three original constituent companies, together with a certain amount of cash. In exchange the steel company was to issue to J. P. Morgan & Co. or to the stockholders of the separate companies a certain amount of its stock. Mr. Gary insists especially that no large payments were made to the promoters and that it was intended to issue stock of the Federal Steel Company on the basis of the actual value of the properties acquired.

Mr. Gary submitted later a copy of the original contract made with J. P. Morgan & Co. as managers of a syndicate. This provides that at least two-thirds of the shares of the separate companies must be acquired and that with the shares the stockholders must supply a certain amount of cash. Each share of the Minnesota Iron Company, on payment of \$27.10 in cash, was to receive 135.5 per cent of preferred stock of the Federal Steel Company and 108.4 per cent of common stock. Each share of the Illinois Steel Company, on payment of \$20 in cash, was to receive 100 per cent in preferred stock and 80 per cent in common stock. Each share of the Elgin Company, on paying \$17.50 in cash, was to receive 87.5 per cent in preferred stock and 70 per cent in common stock of the Federal Steel Company. J. P. Morgan & Co. agreed to secure altogether \$14,075,000 in cash, a syndicate being formed to supply whatever cash was not secured from the stockholders under the terms of the above arrangement.

As a matter of fact, J. P. Morgan & Co. succeeded in obtaining practically all of the shares outstanding of each of these companies. The capital stock of the Minnesota Iron Company was \$16,500,000; of the Illinois Steel Company, \$18,650,000; of the Elgin, Joliet and Eastern Railway Company, \$6,000,000. The Lorain Steel Company entered the combination later, its capital stock being

\$12,000,000. The total amount of stock issued by the Federal Steel Company was somewhat over \$58,000,000 preferred and \$46,000,000 common. The profit made by J. P. Morgan & Co., according to Mr. Gary, "in making this exchange and doing this business," was about \$200,000. Mr. Gary believes, however, that J. P. Morgan & Co. already controlled a majority of the stock of these several constituent companies when they made the organization contract. (Their actual profit on the whole transaction, therefore, may have been much greater than their nominal commission.) (986-989, 992, 1008.)

D. Value of properties.—Mr. GARY states further that the properties acquired by the Federal Steel Company were estimated to be worth the entire amount of stock issued, including both preferred and common stock. The book values of the different plants which entered the combination, minus their bonded debts, amounted to about \$45,000,000. These book values are the cost values of construction, purchases, etc. Besides, the separate companies had on hand about \$10,000,000 in cash. The property held, especially mining lands, had increased in value above the amount of original cost entered on the books by about \$31,000,000, making the total value of the properties acquired by the Federal Steel Company \$86,000,000. In addition, \$14,075,000 in cash was obtained by the arrangement with the syndicate above described.

In explanation of the increase in the values of lands referred to, Mr. Gary states that the Illinois Steel Company owned one particular tract of coal lands of 1,132 acres, which cost about \$500 per acre. It has recently been sold for about \$1,000 per acre. The Illinois Steel Company had one iron mine that cost about \$75,000, for which it has recently been offered \$800,000. The Minnesota Iron Company has one mine which is estimated to contain about 25,000,000 tons of iron ore; on this basis its value is from \$10,000,000 to \$15,000,000 greater than its original cost.

The value of the different properties was carefully investigated by experts in determining the proportion of stocks of the Federal Steel Company which should be issued in exchange for the stocks of the separate companies. The investigation was made on behalf of the organizers of the Federal Steel Company itself, and also on behalf of the separate companies, since their interests after entering the combination would be affected by the values of the other plants. The companies were jealous of one another. (986, 987.)

The sources of income of the Federal Steel Company are dividends on the stocks of the underlying companies, interest on its cash in hand, and profits on coal lands bought since the company was formed, in which about \$2,000,000 has been invested. (995.)

Bonded debt.—The total bonded indebtedness of the several companies controlled by the Federal Steel Company, deducting the amount of bonds held by the companies themselves, is \$26,468,000. The figures are shown in detail in a statement submitted by Mr. Gary. The Federal Steel Company did not guarantee the payment of these bonds, nor does it hold any part of them. The amount of indebtedness, however, was deducted in estimating the values of the plants at the time of the purchase of their stocks. (992, 993.)

E. Further issues of stock.—About \$100,000,000 of the authorized capital stock of the Federal Steel Company remains unissued. It is provided that this may be issued only at par, for cash or properties at actual value. (993.)

F. Dividends.—The Federal Steel Company has so far (October, 1899) paid two dividends of $1\frac{1}{2}$ per cent upon its preferred stock. A dividend was declared upon the common stock, but was enjoined by some stockholders on the technical ground that dividends could not be paid until the end of the year. Money has been set aside for this dividend. Mr. Gary believes that this suit was brought for stock-jobbing purposes and not in the real interest of stockholders. The price of stock went down to some extent as the result. The witness is sure that none of the directors of the company had anything to do with the bringing of the suits or bought a single share of the stock during the depression of prices which followed. There are in fact no speculators in the directory of the company, although some of the directors have from time to time bought stocks when they were low. (998, 996.)

G. Nature of combination.—1. *Not a "trust."*—Mr. GARY states that the Federal Steel Company is not a trust in any sense. It has not sought to restrict competition and has not brought together companies which were competing with one another, as is the case with most so-called trusts. The company has bought the stocks of companies doing different lines of business, just as an individual might do. Nor are the directors of the Federal Steel Company trustees in any sense. They are not bound to consider the interests of any other corporation than their

own, but exercise the same control over the constituent companies that any majority stockholder in those companies might do.

There are 15 directors of the Federal Steel Company. These do not control a majority of the stock of that company, nor did they before the consolidation control a majority of the stocks of the separate companies. Some of them in fact were small holders of the stocks or were not interested at all. There is no secret arrangement between the separate companies, but the Federal Steel Company owns their stock absolutely and openly. (988, 989, 990, 994, 995.)

Mr. Gary considers the method of organization and control adopted, by ownership of stock and consequent indirect control of properties, as economical and advantageous as outright purchase of properties. The officers of the subordinate companies are not mere honorary men, but practically hard-working superintendents. (995.)

2. Relations of constituent companies.—Mr. GARY testifies that the officers of the Federal Steel Company have no direct control over the affairs of the separate companies whose stock it owns, aside from the power to elect directors at the annual meetings. Of course the existence of this power brings the officers of the Federal Steel Company into close relation with the officers of the separate companies, and there is frequent consultation as to the methods of business, just as would naturally be the case if any individual held practically the entire stock of a corporation. The directors of the constituent companies are not identical. The separate companies work in harmony, securing supplies from one another, and to some extent adjusting their production so as to make the total as economical as possible. Nevertheless the separate companies contract with one another as independent corporations, and do not always give one another preference as compared with outside parties. Each company is anxious to make its own earnings as large as possible, if for no other reason, in order to make a good showing. If the Illinois Steel Company desires to purchase ore, it will get it wherever it can get it cheapest, whether from the Minnesota Iron Company or elsewhere. So, too, the Minnesota Iron Company sells to the highest bidder, and would not furnish ore to the Illinois Steel Company at less than it could get elsewhere. As a matter of fact the Minnesota Iron Company has sold during the past year not quite half of its production to the steel companies connected with the Federal Steel Company. The Illinois Steel Company buys more ore from others than from the Minnesota Iron Company, for the reason that the production of the latter is of very high grade, while the steel company can mix cheaper ores in part with this high-grade ore. (985, 988, 989, 994, 995.)

II. OUTPUT AND PRICES.

A. Control of output.—Mr. GARY emphasizes the fact that the Federal Steel Company does not attempt to control all or a very large proportion of the output in any of its lines, nor is it in any way able to do so. The Illinois Steel Company produces about 30 per cent of the steel rails of the country. It makes perhaps one-tenth of the coke produced in the country. The Illinois Steel Company and the Lorain Steel Company together produce about 2,000,000 tons of pig iron out of a total annual production of 14,000,000 or 15,000,000 tons. (985.)

B. Prices.—Mr. GARY points out that the rise in prices of steel products has not been greater than that in the prices of raw materials. Although the Federal Steel Company produces much pig iron, it also buys large quantities, and the price has increased from about \$11 a year ago to \$22.50 or \$23. Coke formerly cost about \$1.50 per ton, but the Federal Steel Company is now buying it at from \$2.50 to \$3 per ton. Rails have risen from \$18 to \$33. It costs about \$8 or \$9 to convert a ton of pig iron into rails, so that little is now left for return upon the investment.

Although the Federal Steel Company has had some advantage during the past year in having contracts for ore at a low price, at the same time it had large contracts for finished products at less than the present prices. Over one-half of the rails manufactured during 1899 were sold at a low contract figure. (990.)

III. ECONOMIES OF COMBINATION.

A. Saving of official salaries.—Mr. GARY testified that considerable economy had been effected through the displacement of unnecessary officers in the companies entering the Federal Steel Company, and to some extent by the reduction of salaries of officers not dispensed with. A table submitted by the witness showing the number of employees of all classes in 1898 and 1899, together with the comparative wages, indicates an increase of 4.76 per cent in the number of officers

and clerks, but a decrease of 6.26 per cent in their average daily pay, and a slight decrease in the total expenditures. In view of the increase in the number of laborers and the amount of business, this is considered a noticeable saving. (983, 991.)

B. Improvement in methods.—It is expected also that by bringing together plants having different methods and managed by individuals having different information and forms of skill, the best advantages can be utilized in all the plants. (984, 985.)

C. Harmonious action between companies.—The chief advantage secured by bringing together the different companies in the Federal Steel Company is that of establishing a harmony between all the different branches of the steel industry, enabling one concern to handle the business from the beginning to the end, obtaining any profit there may be in any part of the industry. It is not intended to restrict competition or to seek a monopoly in any way. The wants of each of the constituent companies are understood by the others, through the harmonizing influence of the Federal Steel Company, and they cooperate with one another to a certain degree. Thus the Illinois Steel company is protected from a possible lack of material by the ability to get practically all it requires from the Minnesota Iron Company, while the Minnesota Iron Company is protected from a possible surplus by having customers in the Lorain Steel Company and the Illinois Steel Company.

On the other hand, the separate companies are not by any means completely consolidated, nor do the officers of the Federal Steel Company have any direct control over the conduct of the business, further than through the election once a year of the directors. (See pp. 196, 197) (983-986.)

IV. WAGES.

Mr. GARY testifies that there has been a marked increase in wages since the formation of the Federal Steel Company. The number of employees has also been increased. So far there has been no difficulty with labor. The separate companies combined in the Federal Steel Company make their own arrangements with the Amalgamated Association or with nonunion employees. The witness submitted the following table showing the number and compensation of employees in 1898, prior to the formation of the company, and in August, 1899. (983, 991.)

Comparative statement of employees, and wages received by same, of the Federal Steel Company's constituent companies for the months of October, 1898, and August, 1899.

	Number of employees			Average daily compensation.			Total monthly compensation.		
	October, 1898.	August, 1899.	Per cent increase.	October, 1898.	August, 1899.	Per cent increase.	October, 1898.	August, 1899.	Per cent increase.
Officers and clerks at headquarters..	294	306	4.76	\$5.27	\$4.94	-6.26	\$46,525.69	\$45,652.03	-1.88
General superintendence.....	574	630	11.32	2.95	2.97	.68	50,623.30	56,732.10	12.06
Skilled laborers.....	7,405	8,584	15.92	2.32	2.53	9.05	710,099.80	651,349.06	-8.31
Common laborers...	8,078	9,879	22.32	1.47	1.70	15.64	356,778.97	503,615.95	41.16
Miners (not including those in Connellsville coke district).....	1,168	1,276	9.25	1.71	1.96	14.62	53,208.15	74,879.00	40.73
All employees of the Southwestern Connellsville Coke Co.....	1,200	1,173	-2.25	1.40	1.74	18.78	53,739.57	61,222.05	13.93
Grand total....	18,717	21,869	16.79	1.92	2.13	10.94	1,077,580.48	1,393,450.19	29.31

Total annual wages paid employees on basis of August, 1899, roll, \$16,721,402.23.

V. TARIFF AND EXPORT TRADE.

Mr. GARY testifies that he believes protection still to be necessary in the steel industry. With regard to each particular class of manufactures inquiry should be made as to the need of protection and the amount of it. Free trade applied to many industries would permit foreign goods to be brought in to the absolute ruin of those industries. Not only would labor thus be injured, but ultimately the foreigner would be able to make his own prices to the injury of the consumer. But if the tariff is so high as to create a monopoly, it has gone too far. The question of the need of protection is intimately connected with that of freight. This country is exporting steel rails to Japan, the tariff on steel products being greater than freight to Japan, but we could not export them to England at present.

Germany is especially to be feared as a competitor in the steel industries. The Germans have ore and coal close together, and can manufacture pig iron, in the opinion of the witness, cheaper than any others. Coke is being made in ovens which utilize all the by-products; these are being put in in this country to some extent. The witness believes that German wages are only 65 or 70 cents a day—very much less than in this country.

Mr. GARY testifies further that although the demand in the United States for steel is so great at present that it is difficult to supply it, he has been inclined to keep up export shipments in order to retain certain markets. The business may be needed 2 or 3 years hence in order to keep up tonnage and employment. The Lorain Steel Company has recently taken a large contract for street-railroad rails in Scotland, while steel has also been shipped recently to Japan at a price below the domestic price. (998, 999, 1001.)

VI. CORPORATION AND POLITICS.

Mr. GARY testifies that the Federal Steel Company has not sought in any way to influence politics or elections, that it has declined to contribute to campaign funds, and that no influence is exercised on the vote of the employees. All of these practices, Mr. Gary thinks, should be discountenanced. (996, 997.)

AMERICAN STEEL AND WIRE COMPANY.**WITNESSES.**

	Page.
Gates, John W., chairman American Steel and Wire Company	1005-1084
Pam, Max, attorney at law	1084-1089

I. ORGANIZATION, CAPITALIZATION, ETC.

A. Description of business.—The American Steel and Wire Company operates iron mines in the Lake Superior region. It controls, perhaps, one-sixth or one-seventh of the output of that region. It owns and operates coal mines and burns coke. It operates 8 or 9 blast furnaces, 17 open-hearth furnaces, from 22 to 25 rod rolling mills, and from 20 to 30 wire mills. Its finished product is plain wire, barbed wire, wire fencing, rope, etc., wire nails, and all kindred articles. The company does not produce all its own raw materials, but buys from 40 to 45 per cent of them.

Probably one-half or two-thirds in value of the stockholders of the American Steel and Wire Company are identical with those of the American Steamship Company, operating ore and grain boats on the Great Lakes. It has, however, so happened that these vessels have, during 1899, carried no ore for the Steel and Wire Company. The manager of the steamship company is directed to earn as much as possible with the boats. (Gates, 1005, 1007.)

B. History of organization.—Mr. GATES, chairman of the American Steel and Wire Company of New Jersey, testified concerning the formation of that company. It was organized on January 12, 1899. A gradual process of consolidating wire plants had been going on previously. As early as 1890 companies in which Mr. Gates was interested practically controlled the manufacture of barbed wire in this country. In December, 1897, and January, 1898, J. P. Morgan & Co. investigated the value of the various wire plants throughout the country with a view to further consolidation. The American Steel and Wire Company of Illinois, formed in March, 1898, seems to have resulted from this effort. Mr. Gates,

chairman of the American Steel and Wire Company of Illinois, in conjunction with Mr. Ellwood, bought during December, 1898, a number of wire mills, and took options on others. The thought of complete consolidation was apparently in mind, but these organizers did not know how far the movement would go, and they bought no plant which they were not willing to take irrespective of consolidation. They bought the plants, so far as they themselves carried the matter, outright.

When the possibility of a very general consolidation was shown, Mr. Gates and Mr. Ellwood went to New York and turned over their options to Mr. Voorhees, who carried on the further arrangements for financing the operation. Mr. Ellwood and Mr. Gates became, to quite an extent, the underwriters for the stock of the new company. Ultimately Mr. Voorhees acquired by exchange all of the stocks of the American Steel and Wire Company of Illinois, and either the stocks or the properties of most of the various companies now in the combination. Some plants were bought some time after the organization of the company.

The separate companies were not continued and simply controlled by ownership of stock, but in all cases except perhaps one were dissolved.

The following is the list of plants which now make up the combination: 12 or 14 plants formerly owned by the American Steel and Wire Company of Illinois; Washburn-Moen Company, which had works at Worcester, Mass., Waukegan, Ill., and San Francisco; the Cleveland Rolling Mill Company; the Oliver-Snyder Steel Company, of Pittsburg, formerly called the Hazensworth; the Edith Furnace Company, of Pittsburg; the Oliver Wire Company, of Pittsburg; the wire department of the Shenango Valley Steel Company, of Newcastle; the Pittsburg Wire Company, of Braddock; the Cincinnati Barbed Wire Fence Company, of Cincinnati; the Indiana Wire Fence Company, of Crawfordville, Ind.; the Consolidated Barbed Wire Company, of Lawrence, Kans., and Joliet, Ill.; the wire department of the Portage Iron Company, of Duncansville, Pa.; the Worcester Wire Company, of Worcester, Mass.; the Schoenberger Steel Company, of Pittsburg; the Puget Sound Wire Nail Company, of Everett, Wash.; the Laidlaw Bale and Tie Company, of Joliet and Kansas City; the Newburg Wire Nail Company, of Newburg, N. Y.

Causes.—The combination into the American Steel and Wire Company was not rendered necessary by excessive competition and consequent losses among the wire companies. The Consolidated Steel and Wire Company, for example, made between 27 and 28 per cent during the last 3 years of its existence. It was believed, however, that more profit would be made through better management under consolidation. (1033, 1034.)

D. Capitalization and value of plants.—The capital of the American Steel and Wire Company consists of \$40,000,000 preferred and \$50,000,000 common stock. The various plants consolidated stand on the books at present as having cost the combination about \$75,000,000, and there is a working capital of perhaps \$16,000,000 or \$18,000,000 above that. The value of \$75,000,000 includes the plants as working plants, comprising good will, patents, and everything.

So far as the plants entering the combination were purchased by Mr. Gates and Mr. Ellwood, negotiations were made with each company separately, on as favorable a basis as possible. No company knew what the others were receiving, and the purchasers did not pay more than they were willing to pay, irrespective of any consolidation. Mr. Gates was thoroughly familiar with wire plants, and he himself had priced these plants a year before. He had the figures furnished by accountants employed by J. P. Morgan & Co. previously, giving the profits of these plants for 3 years. Any one of the plants so bought could have been sold at any time since at from 25 to 40 per cent more than was paid.

As to the actual value of the plants as plants, irrespective of good will, Mr. Gates states that competent engineers employed by J. P. Morgan & Co. appraised a year before perhaps 70 per cent of the plants which entered the combination, and their value was estimated at about \$28,000,000. Since then the cost of materials, construction, etc., has increased at least 80 per cent. The witness estimates that the actual value of the plants to-day is probably \$50,000,000 to \$60,000,000, while perhaps \$10,000,000 or \$15,000,000 of the stock issued represents good will, patents, which were numerous, and earning capacity.

Mr. Gates believes that capitalization should be based on earning power rather than any other basis. Good will is valued much more highly in England than in the United States, the capitalization of companies being essentially based on their earnings. If a railway with a certain mileage earns more than another with double the length of line, the first railroad is worth more and may fairly be capitalized for more. Nevertheless there is no necessity for Government regulation of rates or charges, since competition will prevent extortion. (1020, 1021, 1032.)

Mr. GATES afterwards submitted a copy of the notice issued by the directors of the American Steel and Wire Company of Illinois to the stockholders with regard to the formation of the American Steel and Wire Company of New Jersey and the purchase of other plants. The notice states that the new corporation will acquire, either through direct ownership or through the ownership of a majority of the capital stock, various plants enumerated, which have been assured to it on a fair basis. A syndicate has been formed which will furnish the necessary capital for these purchases, in addition providing a working capital of about \$18,000,000, exclusive of the working capital of the several concerns, the total amount of capital to be furnished by the syndicate being \$28,000,000. Arrangements have been made for the exchange of the stock of the New Jersey company for that of the American Steel and Wire Company of Illinois, provided a majority be offered, on the basis of one share of preferred stock and six-tenths of one share of common stock of the New Jersey corporation for each share of the preferred stock of the Illinois corporation, and 1.2 shares of the common stock of the New Jersey company for each share of the common stock of the other. The transfer was made through J. & W. Seligman & Co., of New York, and the Illinois Trust and Savings Bank, of Chicago, as the agents of that company. (1019, 1030.)

E. Dividends.—Mr. GATES states that the American Steel and Wire Company has earned a good dividend on its common stock, but that the directors have not voted a dividend, believing that it is desirable to acquire additional properties, and to put all of the properties in shape, so that when the present unusual prosperity has subsided, dividends can be regularly paid. (1034.)

I. EFFECT ON OUTPUT AND PRICES.

A. Control of output.—Mr. GATES testifies that the American Steel and Wire Company produces from 75 to 90 or 95 per cent of the steel rods and smooth wire (the basis of wire nails, etc.) manufactured in this country. The combination owns 2 rod mills, while there are 5 large rod mills outside, 3 belonging to the Federal Steel Company. The American Steel and Wire Company produces about the same proportion—65 to 95 per cent—of wire nails. It has practically a monopoly of the manufacture of barbed wire and wire fence, by ownership of all the patents on these goods and on the machinery used in making them. There are, however, two or three concerns which manufacture barbed wire under a license, and these have no agreement as to prices.

Mr. Gates states that the American Steel and Wire Company has not sought to limit competition or to acquire a monopoly. It is true that the company, owing to its superior advantages, can undersell most smaller manufacturers. Some of these, such as the manufacturers of woven-wire fencing, have been furnished the finished product by the American Steel and Wire Company to fill their orders, at prices which enable them to make a good profit. Many of the smaller manufacturers have not the facilities for making steel, or perhaps for making rods. They compete simply in the finished products—nails, etc.—and may buy rods and wire from the American Steel and Wire Company. In such cases the combination makes no agreement as to the prices to be maintained for the finished products, nor does it in any way seek to injure or restrict these competitors. Moreover, they can readily obtain their raw material from other sources.

The American Steel and Wire Company makes no discriminations in charges as between different buyers, except on the basis of the quantity purchased. The price for carload lots is 15 cents per keg less than on part carloads, while the jobber's price on larger quantities than the carload is 15 cents lower still.

There is no monopoly of wire-nail machinery or other machinery, excepting for barbed wire and woven wire. The machinery is not for the most part patented, and can be made by any machine shop, since it is not difficult to manufacture.

Mr. Gates believes, however, that the combination has a certain advantage in securing trade, owing to the fact that large buyers believe that by keeping up their trade with the combination they will be more certain of securing a supply at reasonable prices in case of a tight in business, of shortage, etc. (1005, 1010, 1011, 1022-1024.)

B. Closing of plants.—The American Steel and Wire Company has closed 5 of the plants which it obtained at the formation of the combination, at Duncansville, Pa., Puget Sound, Crawfordsville, Lawrence, Kans., and Cincinnati. A plant at Newburg, N. Y., was closed at the time it was bought. Apparently some plants owned by the former American Steel and Wire Company of Illinois were closed earlier. Mr. Gates states that the reasons for buying plants which were afterwards closed were special in each case. For example, the Puget Sound company had a contract

to buy a large quantity of raw material at a very low price. Several hundred thousand dollars were made by securing that contract through buying the plant. The Crawfordsville plant had a similar contract with the American Steel and Wire Company which would have been very expensive for the latter to fill. The Newburg Wire Nail Company was bought in order to prevent complications as to patents.

The closing of the plants was due in every case to lack of economy in their operation. Sometimes they were badly located, sometimes badly constructed, sometimes both. It might, perhaps, pay to operate them at the present high prices if raw material could be obtained. Part of the plants have been dismantled and their machinery shipped elsewhere, while others could be reopened. The company is producing as rapidly as possible, and has increased its output for 1899 by 15 to 20 per cent as compared with 1898. (1028, 1029.)

C. Prices.—1. *Generally.*—Mr. GATES testifies that the increase in the price of smooth wire and of wire nails since the formation of the American Steel and Wire Company has been caused chiefly by the higher price of raw materials and of labor. The increase in barbed wire and woven wire fence has been greater, owing to the practical monopoly which the combination enjoys through patents.

The company, although it manufactures part of its own pig iron and steel, buys more than half of these products. The price of pig iron has increased from \$9 to \$24 per ton within the past 2 years. The price of wire meantime has increased perhaps 125 or 150 per cent, and that of wire nails about the same.

It is not just to compare simply the price of raw material with the price of the finished product by taking the difference at different prices. There is a waste of 8 per cent, perhaps, in rolling steel. If billets cost \$15 per ton the loss is \$1.20; if they cost \$35 per ton the loss is \$3.80, which makes this item very much more important as raw material increases in cost.

2. *Barbed wire.*—As to barbed wire, Mr. Gates admits that the combination has a practical monopoly, and that it keeps the price higher than would perhaps be the case under free competition. But this higher price is largely justified by the exceedingly large payments which the combination has made for patents on barbed-wire and machinery. Even as it is, the prices of barbed wire have decreased immensely as compared with 15 or 20 years ago, and they have even dropped 50 or 60 per cent since 1890, although companies with which Mr. Gates has been interested have practically controlled the manufacture of barbed wire since that date.

It is the practice of a large concern which has a practical monopoly not to handle the business so as to "crowd the mourners." It would be bad policy to try to make so much money in 6 months as to ruin the business for the next 12 or 18 months. By increasing the output, greater profits can be obtained. What was thought a fair rate per 100 pounds on barbed wire a few years ago is now a very high price on account of the increased tonnage.

So far as outside manufacturers are making barbed wire under license from the combination, no agreement is made with them for maintaining prices. (1008, 1009, 1032, 1033.)

D. Raw materials.—In fuller support of his statement concerning the increase in the price of raw materials, Mr. GATES points out that the value of iron ore at the mines stood at about \$2.75 per ton, on the basis of Norrie ore, in 1897, at \$2.80 in 1898, and at from \$2.90 to \$3 in 1899. These latter prices were chiefly fixed by contract during the winter of 1898-99, before the great increase in demand was known. For 1900 the manufacturers will probably be willing to pay as high as \$5.50 per ton. There was never before 1899 produced in this country more than 10,000,000 tons of pig iron in any year, while the output for 1899 will probably be more than 13,000,000 tons. Until 1899 the value of ore in the ground was not considered more than, at the outside, 40 cents or 50 cents per ton. Mines can now be sold on the basis of about \$2 per ton. Before 1899 the largest output of ore from the Lake Superior district in any year was perhaps 13,000,000 tons. In 1899 it is likely to prove 16,000,000 or 17,000,000 tons, and the prospects are that it may reach 20,000,000 tons in 1900.

Lake freight rates have also increased materially during 1899, although they have varied greatly in different cases according to previous contracts. The rates from the head of Lake Superior to lower lake ports were as low as 45 cents or 50 cents per ton during 1896, and did not rise above 70 cents per ton during 1897 and 1898. The charges have ranged during 1899 from 60 cents to \$2. The witness believes the actual cost of lake transportation averages not less than 60 cents per ton.

The cost of transporting ore from Lake Erie ports to Pittsburg, where a large proportion of the mills of the American Steel and Wire Company are located, is about 80 cents per ton.

The American Steel and Wire Company buys more than half of the steel which it uses. It is a large buyer of what is known as soft steel, containing 0.04 to 0.10 per cent of carbon. In the past the company has been able to buy this steel at from \$13.50 to \$16 per ton. The last purchases have been at \$32 per ton, while considerable steel has been bought during 1899 at \$48 and \$50 per ton. The company has sold finished product at \$40 per ton where the raw material, the steel, cost \$50 per ton. These special cases have been due to existing contracts with manufacturing companies. On the whole, Mr. Gates believes that manufacturers of wire and other steel products have not made nearly as much profit from the advance in prices as the public has been led to believe.

In explanation of the general increase in the price of steel and steel products, Mr. Gates states that there has been an immense increase in consumption and demand for various purposes, and there has not been enough steel to go around. The shipbuilding business has never been so active, and those building vessels have been compelled to pay exceedingly high prices, often resulting in losses. The witness knows of ships part of whose steel plates have cost \$1.20, and others as high as \$3, on account of the change in prices. Again, up to 2 or 3 years ago railways transported goods mostly in cars containing only 15 or 20 tons; now they are using cars that carry 50 or 60 tons, and have increased the maximum train loads from perhaps 800 tons to 2,000 tons. These changes necessitate heavier cars, locomotives, rails, and bridges. There are 5,000 miles of railways laid with 60 to 70 pound rails, which must be replaced with 75 to 100 pound rails. The construction of steel cars is practically a new thing, but during 1899 nearly a thousand tons of plate are being used daily for this purpose. The increased demand for steel in erecting buildings is also noteworthy. Mr. Gates believes that the steel used in making cars, vessels, buildings, and bridges to-day is equal to the total output of iron and steel in the United States 15 or 20 years ago. On account of these large demands for steel, which are not likely to decrease soon, Mr. Gates believes that prices will not probably fall materially for at least 2 or 3 years. (1006, 1007.)

E. Control of iron and steel output.—Mr. GATES, chairman of the American Steel and Wire Company, testifies that there is no combination or agreement between the 4 leading iron and steel companies—the Carnegie, Federal, National, and American Steel and Wire companies. It is true that Mr. Gary, now president of the Federal Steel Company, was formerly interested in the wire company, but there is no common interest, nor to any large extent common ownership. The American Steel and Wire Company buys steel from all of the other companies, being perhaps the largest customer of the Carnegie and Federal companies.

Nor do these 4 companies together control the entire production of iron and steel. As to iron mines, their interests are confined to the Lake Superior region, while most of the more eastern manufacturers in this country are supplied from the Lake Champlain, Cuban, and Spanish mines. The ore production of our Southern States is large and growing, and is to a considerable extent owned by the iron manufacturers of the South independent of the 4 great companies. Mr. Gates estimates that these 4 companies produce 60 per cent of the total ore output of the United States in 1899.

Mr. Gates does not believe that more than 30 or 40 per cent of the iron furnaces in the country are owned by the Carnegie, Federal, National, and American Steel and Wire companies. Perhaps 80 per cent of the Bessemer steel business is controlled by them, and 50 or 60 per cent of the open-hearth steel. (1022, 1023, 1027.)

III. ECONOMIES OF COMBINATION.

A. Reduction in officers and salaries.—Mr. GATES stated that a considerable saving had been effected by doing away with the official organizations of the separate plants entering the American Steel and Wire combination. Each plant formerly had its president, vice-presidents, managers, and other officers. These have been largely done away with, the business being put in charge of officers in New York and Chicago, while the operation of the plants is under the control of district superintendents. Perhaps 50 per cent of the high-priced officers have been dispensed with. The company has also dispensed with about 200 traveling men.

B. Freights.—The buyers of the products of the American Steel and Wire Company will be furnished with goods from the nearest plants, effecting a saving of cross freights, which Mr. Gates believes will amount to \$500,000 or even \$1,000,000 a year. The company, however, receives no special rates, rebates, or commissions in view of its large shipments. It pays the regular schedule rates.

C. Patents.—The chief advantage as regards the common ownership of patents brought about by the combination is the avoiding of lawsuits, which were formerly numerous.

D. Bad debts.—The centralization of the business in one company enables greater pressure to be brought to bear upon purchasers and greater care to be exercised to prevent bad debts. Formerly a merchant might buy from and quibble with half a dozen manufacturers, and so secure goods on credit, without paying for them. The witness believes that the percentage of loss from bad debts has been reduced from one-half of one per cent to one-twenty-fifth of one per cent.

E. Combination of different branches of industry.—Great advantage is also expected, especially when the company is more developed and its plans are more fully carried out, from its control of different branches of the industry—mines, transportation, steel, etc. The company will always be certain of its supplies of raw material, and can thus operate more certainly and economically. (1030, 1031.)

IV. WAGES.

Mr. GATES testifies that the American Steel and Wire Company is paying about 40 per cent higher wages now than the constituent companies were paying before the combination. The company has made two advances of 15 per cent each and one of 10 per cent, he believes. The men who roll steel are paid on a sliding scale, and the increase in the price of the output has very greatly raised their wages.

The average advance has been fully 40 per cent, while in some cases it would be 150 per cent. The American Steel and Wire Company does not recognize the Amalgamated Association of Iron and Steel Workers. It makes agreements with committees representing the men in the individual mills, these agreements running usually through the year. The company makes no distinction between union and nonunion men, but pays all the same wages. The scales fixed to a considerable extent follow those adopted by the Amalgamated Association in other mills, so far as they apply to similar classes of work. The witness believes that since the organization of the present company there has been no proposition on the part of the Amalgamated Association to deal with this company, but if such a proposition were made it would be refused.

The wages paid to the miners of iron and coal employed by the combination, as well as the coke burners, are at whatever rates prevail at the time in the district. (1011, 1013.)

V. TARIFF AND FOREIGN TRADE.

A. Need of protection.—Mr. GATES believes that the protection of wire rods and other wire products has been highly beneficial in building up the industry and in increasing employment. When the duty was first asked for in 1888, perhaps 40 or 50 per cent of the wire rods used in the United States were manufactured here, the remainder being imported. To-day America exports a great many wire rods and similar products, and imports practically none.

The witness believes that protection is still needed for this industry. The necessity of protection is intimately bound up with the amount of transportation charges. The wages paid in the wire industry in this country, Mr. Gates believes, are from 60 to 85 per cent more than in Europe. This is due to the fact that American laborers have a higher standard of living, not to the greater cost of living, which Mr. Gates specifically denies to exist.

Germany is the chief competitor of the United States in steel products, and this country has a great advantage over Germany. Thus, the cost of a ton of coke in Germany is \$5, while until recently it was about \$1.50 in the United States. The cost of ore here is also less, while American railroads are the cheapest transporters in the world. Nevertheless, German producers have special advantages through the aid of the government. The government-owned railways favor export business by charging perhaps one-tenth as much per ton per mile for goods intended for export as for those employed within the country. Moreover, the German manufacturers (apparently of wire rods) receive a subsidy, according to Mr. Gates, of \$7.25 on every ton of goods they export, that subsidy being made up by various allied lines of manufacturing, in order to encourage the export business.

Other countries also favor their export trade by subsidizing steamship and mail lines, while the absence of an American merchant marine makes ocean freight rates from this country higher than those enjoyed by European countries. Thus until recently shipments of wire from New York to Argentina have been made by way of England, because the rates from London and Liverpool were so much lower than from New York direct. The rates from German ports to Brazil are also especially low.

B. Export trade and prices.—The exports of wire products have been materially increased by the combination. Thus in 1898 they amounted to less than 100,000 tons; in 1899 they will be more than 200,000 tons. Systematic efforts have been made to secure business. The combination has a very large trade in China and Japan. Thus during the month of August the Chinese trade was larger than that with any other country. Shipments to the Orient are mostly overland to the Pacific coast, the railways making favorable rates. Exports to England have been increasing with great rapidity, the company doing an average business in London of \$15,000 to \$20,000 per day, and selling perhaps 60 per cent of all the wire used in Great Britain.

The price at which the American Steel and Wire Company is selling in foreign markets at present is less than the domestic price. The reason for this is that by working up a permanent foreign business the company can assure the constant operation of its mills and thus make goods cheaper, and can make profits from maintaining foreign prices at times when there is a decline in the home price. By manufacturing perhaps 200,000 tons of wire per annum for export, the entire cost of manufacture can be materially cheapened and in the long run the domestic consumer will receive a lower price. The prices at home and abroad are entirely independent of one another, varying according to the local demand and the cost of raw material in each place, and the competition. The business is run to get the largest net profit and the largest tonnage. (1014-1017.)

C. Syndicates in Europe.—Mr. GATES further testifies that the manufacturers of practically all classes of steel products in Germany are united in syndicates, with formal written agreements for dividing output and maintaining prices. These agreements are legal under the German laws and can be enforced. Thus the coke men have a syndicate, the coal miners a syndicate, the pig-iron makers, rod makers, wire makers, nail makers, etc., separate syndicates. Each combination has a general agent who practically does the selling for all the different manufacturers. The idea of these manufacturers is that they have really but one competitor to be considered, the United States, and they work in harmony in order to protect their export business. As a rule their prices are from 30 to 35 per cent higher to the home trade than to the foreign trade. The different classes of steel industries are also more or less associated together.

The witness believes that the government of Germany exercises quite thorough supervision over these combinations, both for the purpose of taxation and for the purpose of encouraging manufacture and especially export trade. The witness does not understand the exact nature of this supervision.

Mr. Gates also believes that English manufacturers of wire products are quite thoroughly organized, although England is not an important competitor in the wire business. (1017, 1018.)

D. International combination.—During 1899 Mr. GATES went to Germany and other countries of Europe and conferred with wire makers there with a purpose of forming an agreement for dividing the tonnage of wire products in the entire world between the different countries on an equitable basis, and of maintaining prices. Mr. Gates desired to secure 50 per cent of the business to the American combination, but was only offered 45 per cent, and moreover became distrustful, so that the negotiations were dropped, and there is no thought of proceeding further with the matter. The Germans, also, wished to increase prices by \$30 per ton, while Mr. Gates thought \$10 per ton sufficient. (1017, 1018, 1024.)

NATIONAL SHEAR COMPANY.

WITNESSES.

	Page.
Pearson, James C., private banker	1041-1043
Wiss, F. C. J., vice-president National Shear Company	1043-1047

A. Organization.—Mr. WISS, vice-president of the National Shear Company, testifies that it was organized in September, 1898. The combination was formed largely under the influence of Mr. J. H. Parks, in association with Mr. J. H. Claus, of the Claus Shear Company. At first it was attempted to form an agreement between the manufacturers at meetings, but this having failed, the promoters took it upon themselves to secure options on the factories of the principal manufacturers. The witness, like other manufacturers, knew that a combination was

being sought, but did not know definitely what others were going in, nor concerning the amount of capitalization. He was led to believe that options had been secured on all the principal plants, and that these options would be exercised. The promoters, he understands, issued all the stock to themselves, with the proviso that if they should not succeed in turning over certain factories to the company, a proportion of it should revert to the treasury. In the case of the owners of the separate plants, it was merely a question of selling outright. They did not know how much the other plants received. Mr. Wiss demanded for his plant a certain amount of cash, but when this was not forthcoming and a proportion of stock was offered, he finally accepted in payment a certain amount of cash, a certain amount of notes of the company, and some stock in addition, with the option to take stock for any portion of the other consideration.

The witness believes that options were secured originally on plants controlling between 80 and 90 per cent of the output of shears in this country, but these were not all exercised, and the combination is apparently, in his opinion, not as satisfactory an organization as was expected. (1043-1047.)

B. Capitalization, value of plants, etc.—Mr. Wiss further testifies that the amount of capital authorized was \$1,000,000 preferred stock and \$2,000,000 common stock. Of the preferred stock \$955,000 has been issued, the total issue of both classes being \$2,410,000.

The witness believes that the net value of the plants which actually entered the concern, exclusive of quick assets, is probably \$500,000 at the present time. Two of the factories have been closed down and the machinery taken out, and the value of these is very slight.

The company has so far paid no dividends, even on its preferred stock, and Mr. Wiss does not believe the stocks would find purchasers, even if listed on the market. (1044, 1047.)

Mr. PEARSON, a private banker of Boston, confirmed some of the details stated by Mr. Wiss. He added that it was his understanding that the company was practically organized on borrowed money, and that the plants which came into it were largely paid for by notes of the company itself, or by cash secured upon notes to the witness. Mr. Pearson made a private arrangement with the promoters of the company to discount their notes at 6 per cent interest to the amount of \$200,000. If he continued to discount these notes he was to receive after 9 months a certain amount of stock of the company; and after 18 months an additional amount. The amount due after 18 months was to be \$30,000 preferred stock and \$225,000 common stock; after 9 months a little less than one-half was payable. The stock was issued in the names of friends of Mr. Pearson, and held in escrow. At the end of the first 9 months, not being satisfied with the way the company was doing business, Mr. Pearson abandoned the arrangement, but the stock which was then due to him was not handed over. He believes that the notes are good. He is satisfied that the money obtained on these notes was practically all the working capital, aside from stock on hand, which the company possessed, and that part, at least, of it was paid to other factories for entering the combination. He had been inclined at the outset to believe that the venture was rather unsound, which is the reason for the insertion of the 9 months' clause. (1041-1043.)

C. Output and prices.—Mr. Wiss testifies that 5 shear companies are at present in the combination. The output is probably 60 per cent of the total produced in this country. There are 4 or 5 other companies outside of the combination, the largest being the Heinisch & Sons Company.

During the 8 years preceding the formation of the combination, there had been exceedingly fierce competition, which had reduced prices. The competition of two of the concerns was scarcely legitimate, since they had failed in business and were paying a mere nominal dividend to their creditors.

Since the organization was formed prices have been advanced to certain customers, although the witness understands that concessions have been made since that time. He is not himself familiar with the selling business nor an active manager of the plant in which he was formerly interested. The increased cost of raw material has to be considered, although the value of the material compared with the labor entering the finished product is relatively small. There has been an advance in wages since the advance in prices. (1044, 1045.)

D. Economies of combination.—Mr. Wiss believes that some economy should be made in the business by the combination. Patents are relatively unimportant, and as yet he knows of no specialization of work in particular plants, each of the establishments running practically as it did before. There should be advantages in the cost of administration and of selling, in buying material, and in adopting at the different works the advantages of each other. (1045.)

E. Tariff.—Mr. Wiss states that the shears manufactured in this country are mostly of larger size than those imported, there being no attempt of American manufacturers to compete with the smaller imported scissors. Probably 90 per cent of all the scissors under six inches long sold in this country are imported. Without protection, however, the witness believes that many of the larger shears would also be imported.

The tariff led to great increase of competition in the hope of securing profits from protection, and has thus indirectly brought about the present combination. (1046.)

INTERNATIONAL SILVER COMPANY.

WITNESSES.

	Page.
Dodd, Samuel, president International Silver Company.....	1049-1062
Watrous, William H., director International Silver Company.....	1062-1066
Rogers, N. Burton, independent manufacturer.....	1066-1075

I. ORGANIZATION, CAPITALIZATION, ETC.

A. Description of business.—Mr. DODD, president of the International Silver Company, states that its business consists of the manufacturing of all classes of silver plated ware, including so-called flat ware, knives, forks, spoons, etc., and hollow ware, table ware, etc. The base of hollow ware is pig tin, and of flat ware nickel silver. The company also manufactures a small amount of sterling silver. (1049.)

B. Organization.—The International Silver Company was organized November 21, 1898. Mr. Dodd himself had nothing to do with the organization. The following is a list of the companies which entered the combination: Wilcox Silver Plate Company, Meriden Britannia Company, Meriden Silver Plate Company, in Meriden; Barber Silver Plate Company, William Rogers Manufacturing Company, of Hartford, Conn.; Rogers Bros. and Rogers & Hamilton, of Waterbury, Conn.; Middletown Plate Company, of Middletown, Conn.; Derby Silver Company, of Derby, Conn.; Holmes Edwards Silver Company, of Bridgeport, Conn.; Simpson, Hall & Miller Company, of Wilmington, Conn.; Simpson Nickel Plate Company, of Wilmington, Conn.; Norwich Cutlery Company, of Norwich; Manhattan Silver Company, of Lyons, N. Y.; the Standard Silver Company, of Toronto, Canada; Watrous Manufacturing Company, Warrington, Conn.

These companies, Mr. Dodd points out, are practically all located in Connecticut, and the combination is a sort of "family affair." The different companies have all been acquainted with one another's affairs, and although they have competed vigorously in the past their relations have been more or less friendly.

The International Silver Company has bought outright the plants of all the different companies except the one in Lyons, N. Y., and the one in Canada, and it intends to make its ownership of these complete as soon as necessary legal adjustments can be made. The consideration paid to each company was not known by the others. A certain proportion of cash was paid to each, and a certain proportion of preferred and common stock. The witness, for example, simply told the organizers that he would sell a majority of the stock of his company for such and such a price, provided a certain number of other plants were secured, and provided the total capitalization of the company did not exceed a certain figure. (1051, 1053, 1054.)

Mr. N. B. ROGERS, vice-president of the firm of C. Rogers & Bros., independent silver-plate manufacturers, testifies that negotiations were made some time before the actual incorporation of the International Silver Company. The promoters asked C. Rogers & Bros. to give an option upon their business, on condition that all the other plants which it was proposed to unite should be secured. In connection with the arrangements an investigation of the books of the company was made, which was intended to be confidential. No one company was to know the value of the plants of the others or the amounts paid to them. Each company desired to retain a certain influence, and accordingly was to be represented by a director in the combination. But some of the larger concerns demanded additional directors, and the first attempt to form an organization failed. Some of the companies demanded all cash for their plants and could not secure it.

Later a new combination was made, leaving out three or four of those which had taken part in the previous negotiations. The witness heard that this new combi-

nation had been given by the promoters accurate knowledge as to the results of the examination of the other plants. There have been some suggestions of an indefinite nature to C. Rogers & Bros. since the organization of the company that it would be well for them to enter the combination, but no definite proposal has been made.

Mr. Rogers further states that the options which were given on the different plants were taken by a mere dummy, a clerk in the promoters' office without financial standing, the idea being that there would be no one who could be held in case the movement failed. (1807.)

C. Capitalization.—The authorized capital of the International Silver Company consists of \$9,000,000 preferred stock and \$11,000,000 common stock. The amount of preferred stock issued so far is \$5,111,500; of common stock, \$9,896,000. In addition the company has issued \$3,900,000 of bonds.

Each company made its own arrangement as to the price for its plants and the proportion which each should be paid in cash and in stocks. The Wilcox Silver Plate Company, with which Mr. Dodd was then connected, received for each share of its stock of the par value of \$25, \$25 in cash, \$50 in preferred stock, and \$25 in common stock. This the witness considered a fair value for the plant. In better times the stock of the company had sold at 375 per cent.

Mr. DODD expressed considerable unwillingness to state the cash value of the plants of the combination as compared with the capitalization and with the value of trade-marks and good will. He had no figures or manner of knowing accurately. He finally ventured an opinion that the plants might be worth \$10,000,000 and the trade-marks, patents, etc., as much more. Mr. Dodd is not inclined to use the term "good will" in connection with the business, but attributes high value to the trade-marks of different companies. The International Silver Company bought all the various trade-marks of the constituent companies, such as, for example, the name "Rogers Bros." The public does not care especially for salesmen or for officers of companies as individuals; it has no "good will" toward them; but, for example, the name of the Wilcox Silver Plate Company has come to be known as indicating a high quality of goods. If the same goods were stamped with another name they could not be sold so readily. The establishment of the value of this trade-mark required many years of labor and many thousands of dollars of money. The basis of the value of the stock of the Wilcox Silver Plate Company was its earning capacity rather than anything else.

A later estimate made by Mr. Dodd places the proportion of the property of the International Silver Company represented by the value of plants, machinery, merchandise, etc., at from 45 to 50 per cent. (1054, 1055, 1057, 1059, 1061.)

Mr. ROGERS testifies that the arrangement for the purchase of the plant of C. Rogers & Bros. was that they should be paid \$500,000 in cash, \$300,000 in preferred stock, and \$150,000 in common stock. The latter was understood to be a bonus. The larger the proportion of the payment which should be taken in preferred stock instead of cash the more common stock would be given. Those proposing to join the combination hoped that the preferred and common stock together would be worth more than par.

C. Rogers & Bros. expected that the other plants would be taken in on essentially the same basis as their own. The inventory value of their plant was over \$600,000, exclusive of good will and trade-marks. It had been believed that the \$9,000,000 of preferred stock which was to be issued represented a fair valuation of all the plants to be consolidated. Later various individuals began to fear that the capitalization was too large for regular payment of dividends. It was understood, Mr. Rogers adds, that the promoters of the company were to receive as their compensation 8 per cent of the total capitalization of \$20,000,000, in common stock. (1068, 1073.)

D. Wall street pool of common stock.—It appears that the stock of the International Silver Company rapidly depreciated in value from January to May, 1899. The preferred stock stood at 87½ on January 6, and at 66½ on May 26. The common stock rose from 28½ on January 6 to 38½ on February 24, but fell to 11 on May 6, and has since recovered only in part.

Mr. DODD testifies that various holders of the common stock placed it in a pool, assigning it to New York bankers, with the understanding that if it should not be sold at as high as 30 before May 1 it should be returned to the owners. The witness was unwilling to state whether he himself had assigned any stock in this manner. Whatever was done was purely private action of stockholders and had nothing to do with their official relation to the International Silver Company. The witness believes that the pool was a failure from beginning to end. Stocks fell steadily in value instead of rising. He considers, however, that it would

have been just as legitimate for him, although he was president of the company, to enter such a pool, as regards the shares which he himself owned, as if any outsider had bought the shares and entered the pool. (1060, 1061.)

Mr. ROGERS states that he was told by a stockholder, and considers the information reliable, that between \$8,000,000 and \$9,000,000 out of the \$11,000,000 of common stock of the International Silver Company was placed in the pool referred to. The pool had about 800 more shares on its hands at the close of the period, May 1, than when it began. (1070, 1071.)

E. Dividends and salaries.—The International Silver Company had up to November, 1899, declared no dividends on either its preferred or common stock. Mr. ROGERS understood from a stockholder of the company that at the time it was expected to vote a dividend none was voted, but the salaries of the directors and officers were advanced. He understands that the salaries of the active directors, which had been \$5,000, were raised to \$10,000, and of the president from \$7,000 to \$12,000, and that the treasurer received \$25,000. (1075.)

Mr. DODD and Mr. WATROUS later furnished the commission, in reply to interrogatories, a statement that the company had never actually passed a dividend, because no date had been fixed at which dividends should regularly be paid. Salaries were fixed on March 27, 1899, to date from January 1, 1899. The president receives \$12,000, four directors who are managers of the largest factories, \$10,000 each, and one other director \$7,500. No director receives a salary unless he is an active manager. The treasurer receives no salary, while the assistant treasurer is paid \$8,000 per annum. (1062, 1066.)

II. OUTPUT, COMPETITION, AND PRICES.

A. Control of output and competition.—Mr. DODD estimates that the International Silver Company manufactures perhaps 55 or 60 per cent of the plated silverware of the country and about 10 per cent of the sterling silver. The combination was confessedly formed for the purpose of reducing competition, and, from the testimony above summarized, it appears that it was expected to bring in a larger proportion of the plants than were actually united. Mr. Dodd states that the saving or advantage from reducing competition was expected to be about as important as that from economy in production. Mr. ROGERS also refers to the purpose of the combination to suppress competition. (1067.)

Mr. Dodd states, however, that the International Silver Company meets very strong competition. There are probably 40 or 50 outside concerns in the United States, including, among others, Reed & Barton, very prominent manufacturers, and C. Rogers & Bros., who control one of the Rogers trade-marks. Most of the companies actually in the combination are located in Connecticut, and there is considerable advantage in removing their competition against one another. At present, however, outside competitors are underselling the International in various places, and it does not attempt to cut prices to meet them.

Mr. Dodd further states that the International Silver Company has not closed plants, although it has transferred the machinery and men from two plants to others where there was sufficient room, thus effecting a saving. The actual output of the various plants is perhaps 20 per cent greater for 1899 than for 1898, since some of the plants were not working at their full capacity. The number of employees has been increased 10 or 12 per cent. (1051, 1054, 1055, 1059, 1067.)

Mr. ROGERS states that there is danger, in his opinion, to outside competitors, as well as to the interests of the stockholders of the International Silver Company, in the possibility that the methods of competition of that company may be influenced by speculation. Prices may be cut in order to affect the value of stocks, regardless of the cost of production. The witness believes that ordinary methods of fair competition are not to be feared by his own concern. Although there are advantages in a good, well-managed combination, a carefully operated, independent business can take care of itself. (1074, 1075.)

B. Prices.—Mr. DODD states that from 1893 to 1899 the price of silverware decreased or remained stationary. The average decrease from 1894 to 1897 he estimates at from $7\frac{1}{2}$ to 10 per cent. There was an increase of 10 per cent in the price of flat ware, in February or March, 1899. On September 1 the price of hollow ware was increased 10 per cent.

The witness believes that this increase in prices is no more than commensurate with the increased cost of material and wages. The raw material of flat ware is nickel silver, which contains mostly copper, and copper has risen in price 60 or 70 per cent. Tin, which is the basis of hollow ware, has doubled in price since 1898. The cost of raw materials may be estimated as about half the value of the finished

product. The witness does not make clear, however, the proportion of the value of the silver to the other raw materials.

Mr. Dodd admits that the combination has been able to keep up prices to some degree and in certain cases, by avoiding the cutting which formerly existed between the members of the present combination. But, taking it altogether, the consumer is getting goods relatively cheaper than before. The witness adds that a fair price must be secured from the consumer if the wages of the workmen are to be kept up. Cutting of prices means cutting of wages. Mr. Dodd also believes that the quality of goods manufactured has been either maintained or improved. (1051, 1053, 1056, 1060.)

Mr. ROGERS states that shortly after the formation of the International Silver Company it began to cut prices vigorously. The price of knives, as the witness believed at the time, was cut below cost. Soon after, perhaps in February, prices were advanced, orders having been secured from as many customers as possible at the lower prices. C. Rogers & Bros. have found the efforts of the International Silver Company to take away their trade more active than those of the previous independent concerns. The combination is maintaining the price of the Rogers 1847 brand and is reducing those of other brands, including other Rogers brands. The witness believes that the quality of the goods on which the price is being cut has deteriorated. His company has made tests and found this to be the case.

Mr. Rogers further states that the price of goods manufactured by his own concern has been advanced during the past year, but that the cost of materials and of labor have also increased considerably. There is a greater demand for goods than before, and the profits of the company are higher than they were in the depressed time preceding. (1071, 1072.)

III. ECONOMIES OF COMBINATION.

Mr. DODD, president of the International Silver Company, testified concerning the economies already effected or anticipated by the combination. It is not expected to eliminate competition, although competition has doubtless been somewhat reduced, but the chief advantages are in more economical production.

The cost of administration, officers, etc., is reduced by bringing all the companies into one.

Goods can be bought somewhat more economically in large quantities, although there is practically no saving in buying silver or pig tin, which are largely employed. The salaries of the various buyers of goods are also saved. Mr. WATROUS also mentioned this economy, speaking especially of the uniform and lower prices now paid for fancy boxes, etc. Mr. ROGERS supposes large purchases can usually be made at better rates, but thinks his concern buys as cheaply as the combination.

The cost of selling goods will be largely reduced. As yet few traveling men have been dispensed with, each factory pushing its goods in this way as before; the witness knows of only two who have been laid off. But considerable saving will be effected by closing part of the stores which have been maintained in large cities for selling goods at retail. The witness expects that perhaps 10 out of 15 throughout the country may thus be closed, although so far only one has been closed.

Further saving will be made by consolidating factories, where, for example, one has more room and machinery than the output demands. Two concerns have thus been already transferred to different roofs; practically there is no reduction in the business done. Power and other expenses are thus saved. Entirely different plants are required for manufacturing hollow and flat ware. A plant costing one and one-half or two millions is desirable for the cheapest production.

The common use of trade-marks is stated by Mr. WATROUS to be one of the chief advantages of combination, but he admits that as yet no factory makes goods under the trade-mark of another. Apparently the chief economy referred to here is a suppression of competition between these trade-marks.

Mr. ROGERS, an independent manufacturer, believes that there must be considerable saving from the consolidation in various ways. The bringing together of different plants into one establishment is an economy. There would also be, in the opinion of the witness, considerable saving in advertising. Some of the trade-marks are still being advertised as extensively as ever, the Rogers 1847 brand especially being even more advertised than before; but some other brands are being less advertised. Possibly better discounts are obtained from advertising agents by giving them larger advertisements for the combination than the separate plants could give. (Dodd, 1049, 1050; Watrous, 1063; Rogers, 1070, 1073.)

IV. LABOR.

Mr. DODD states that the labor employed by the International Silver Company is not union labor. The wages are not uniform, since the labor is skilled and the amount earned by different individuals varies according to their capacity. Each man is dealt with individually. Wages are not, in the opinion of Mr. Dodd, ever raised voluntarily, but when one of the employees asks for higher wages, as he is likely to do if the prices of the products increase, the company grants it, if it finds it necessary and desirable.

The wages of the labor employed by the combination have been increased, on the average, from 5 to 7½ per cent during the past year. (1052, 1056.)

Mr. WATROUS, one of the directors and managers of the International Silver Company, confirms the testimony of Mr. Dodd as to the character of labor and the methods of fixing wages. He states that wages are fixed entirely by individual bargaining. The men are doing different classes of work, and are not all equally competent. When a man is able to do a greater quantity and better quality of work his wages are raised independently of any question of general prosperity; that is, there is a system of promotion. The witness admits, however, that it is the rule that the men must personally apply for an increase as their skill increases, not obtaining it as a matter of course. The company has never reduced wages.

Most of the laborers employed are native-born New Englanders, some being of German descent. The wages paid range from \$1.50 to \$4 per day.

A large proportion of female labor is employed, especially in the plating works. The witness believes that in most plating establishments more than half of the employees are women, who are engaged in burnishing, packing, etc. In the manufacture of the base for plating the proportion of women is very much less. The work which the women do is not men's work, and they are not paid in the same manner.

Both of these witnesses hold that many of the employees of the International Silver Company are comparatively well off, practically all being permanent residents. The relations between the employers and employees have always been satisfactory, and there have scarcely been any strikes or labor disputes. (Dodd, 1052, 1056; Watrous, 1064, 1066.)

Mr. ROGERS testifies that the plant of C. Rogers & Bros. at Meriden has increased wages in practically the same proportion as the plants of the International Silver Company at that place, from 5 to 7½ per cent. The plant at Danbury, which is engaged in manufacturing various specialties, has increased wages somewhat more—from 10 to 20 per cent. The work at Danbury is less skilled than at Meriden. The output of the Danbury plant, consisting of specialties, meets much less competition than that of the Meriden plant. Wages were raised voluntarily by C. Rogers & Bros. before the prices were advanced. The workmen are not organized. They are paid partly by time and partly by the piece. The concern has never had any strike.

Men entering the Danbury works are paid perhaps \$4 to \$6 per week for a few weeks, while they learn the trade, and then gradually work up to as high as \$9 to \$12 per week. The hours are 10 per day. (1071-1074.)

V. BRANDS OF ROGERS & BROS.

Mr. ROGERS, of C. Rogers & Bros., testifies that the original firm of Rogers & Bros. was established some time between 1830 and 1840 at Hartford and later moved to Waterbury. The brand became known as representing reliable goods. Afterwards Rogers & Bros. sold out to a corporation, the brand being retained. One of the brothers, in connection with another relative named Gilbert Rogers, started in business in New York. The Meriden Britannia Company soon after offered Mr. Gilbert Rogers a percentage for the use of his name. Later this company entered an arrangement with the original Rogers & Bros. corporation to use its name, and dismissed Mr. Gilbert Rogers. Thereupon, about 34 years ago, three brothers of the witness, including Mr. Gilbert Rogers, formed the concern C. Rogers & Bros. at Meriden, and stamped that name on the goods. The courts upheld the right of this company to use its own name, providing goods were kept equal in equality to the original Rogers Brothers. The witness does not understand by what right the International Silver Company continues to use the trade-mark, Rogers Brothers, 1847, since the Meriden Britannia Company's right to it was supposed to expire after 10 years. There are one or two other Rogers trade-marks also, but C. Rogers & Bros. are the only company outside the

combination using a Rogers trade-mark. About 13 or 14 years ago the witness started the Rogers Silver Plate Company at Danbury. Since the International Silver Company was formed this latter concern has been amalgamated in ownership with C. Rogers & Bros., of Meriden. (1069, 1070.)

VI. EXPORT TRADE.

Mr. ROGERS stated that his own establishment exports considerable silverware, chiefly in the form of novelties, particularly mantel ornaments and clocks. Ordinary silverware has always been somewhat less expensive in Europe than in the United States, but American products have excelled in finish and are now beginning to compete in price. The domestic markets for silverware belong almost altogether to the domestic manufacturers. (1074.)

GLUCOSE SUGAR REFINING COMPANY

A. Description of business.—1. Products of corn.—Mr. MAS testifies that glucose sugar is manufactured in connection with numerous by-products. The chief product of corn is corn flour, largely used for mixing with other flours. Next comes starch and glucose sugar, made by transforming it chemically. Dextrine is used for making mucilages and sizes. Corn oil is used as a substitute or cheapener of other food and painting oils, and by vulcanization as a substitute for rubber. Corn cake is used in the same way as flaxseed cake. (73, 74.)

2. Glucose sugar.—Glucose sugar is not a substitute, strictly speaking, for cane sugar. It is worth only 1.35 cents per pound. But there is a demand for a cheaper sweetening material for sirups, candies, etc. Glucose is objectionable because of its mineral acid reaction. It is used extensively as a substitute for yeast in making beer. (82, 83.)

Mr. HAVEMEYER testifies that glucose sugar does not compete with cane sugar, but that sirups made from glucose have practically displaced refined molasses. (114.)

3. Corn flour.—According to Mr. MAS corn flour or flourine, on account of its cheapness, is mixed with other flours. It is undoubtedly nutritive, but will not make good bread alone. When bills were before Congress to restrict mixing of flour, Mr. Mas, as chemist of the Glucose Sugar Refining Company, was asked to prepare testimonials as to its wholesomeness, to counteract prejudice. He refused to do so, as it was not his business, and as he was not satisfied that flourine was as good as wheat flour. Mixtures are made in secret usually, and are difficult to discover, but microscopic examination shows a difference in texture. The witness has found "startling results" in examining certain samples of flour sent him from Minneapolis. (73, 77, 79, 83.)

4. Corn oil.—Mr. MAS, as chemist for the American Glucose Company in 1897, invented a process for refining corn oil. He believes that crude corn oil is now being sold by the Glucose Sugar Refining Company under the name of refined. Samples have been submitted to him by large consumers in various sections of the country which are only crude oil. Large consumers can easily recognize the difference by the use of a glass, but small consumers would not. (75, 80.)

Mr. MAS states further that corn oil is now chiefly used for mixing with other oils. It is exported largely to Europe and comes back mixed with cod-liver oil and olive oil, or is sold as a substitute for them. Olive oil costs not less than \$1 per gallon: corn oil, 80 cents. It is also mixed with linseed oil. The difficulty of detecting mixtures is great. (73, 74.)

By a process of vulcanization a substitute for rubber is made which costs 6 or 7 cents per pound (rubber costing about \$1), and which can be mixed with pure rubber. It is less elastic, but almost equally acid proof. Mr. Mas does not think it is popular or successful, although considerably used. The process has been known for 50 years in Europe, but was recently patented here, the witness believes, through an agent of the Glucose Sugar Refining Company, since the specifications are almost identical with the wording of a report made by him to that company. He does not consider the process properly patentable. (74, 77, 78, 81.)

B. Glucose Sugar Refining Company.—Mr. MAS testifies that this combination was formed in July or August, 1897, and included all the plants in the country except one, controlling 90 to 95 per cent of the output. Most of the plants are old, the real estate constituting their chief value, and Mr. MAS thinks \$6,000,000 would

be a fair price for them. The capital of the company is \$40,000,000, on which it pays 5 per cent. The witness believes the corn-oil refinery of the American Glucose Company at Peoria, which he planned, did not cost over \$25,000, but that it was taken by the trust at \$500,000. (78, 81, 86.)

The witness also believes the American Sugar Refining Company has some interest in the Glucose Sugar Refining Company. When he became chemist for the latter company its president told him that Mr. H. O. Havemeyer was his uncle, and hinted that he might have an opportunity to become chemist for the Sugar Trust. If this is so, it extends the number of commodities influenced by the Sugar Trust very greatly. (81-83.)

Mr. Havemeyer, on the other hand, testifies that the American Sugar Refining Company has no interest in the Glucose Company, though he himself owns perhaps 100 shares in it. (114.)

C. Effect on prices.—According to Mr. MAS, before the formation of the combination in 1897, the price of glucose was about 80 cents per 100 pounds. After combination it doubled and is now about \$1.35. Crude corn oil was then sold at \$2.25 per 100 pounds and is now sold, the witness believes, under the name of refined oil, at \$4. The witness admits that for a time before the trust was formed refined oil was sold by the American Glucose Company at \$3.50. The price of corn flour can not be ascertained because its use is chiefly secret. (79, 80.)

GENERAL ASPECTS OF COMBINATIONS— CAUSES, EFFECTS, REMEDIES, ETC.

	Page of digest.
I. Causes of combination	214
A. The universal tendency toward combination and its general causes	214
B. Undue tariff protection	214
C. Railway discriminations	215
II. Effects of combination	216
A. Aggregation of capital, and corporations, in themselves	216
B. How far are monopolies and consequent abuses possible. Competition	218
C. Effects of combination generally	220
D. Rebate system	225
III. State legislation as a remedy for general evils	225
A. Justification of State legislation	225
B. Existing law and its working	226
C. Suggestions for State legislation	228
D. Publicity through examinations, reports, etc	230
IV. National legislation as a remedy for general evils	232
A. General discussion. Powers of Congress	232
B. National incorporation laws	236
C. Freer rights under patents	237
D. Removal of tariff	237
E. Federal regulation of railways. Prevention of discriminations	237
V. Corporation laws in their general aspect	239
A. General features of corporation laws	239
B. General characteristics of laws of certain States	240
C. Taxation of corporations in different States	241
VI. Rights of stockholders and their protection	242
A. General discussion	242
B. Protection of stockholders under New Jersey law	243
C. West Virginia law	247
D. Delaware law	248
VII. Abuses as to capitalization. Protection of investors	248
A. What constitutes overcapitalization	249
B. Dangers of overcapitalization and fraudulent issues of stock	249
C. How far should laws regulate capitalization and stock issues	250
D. Existing provisions as to payment of capital	251
E. Regulation of capitalization in Massachusetts	251
F. English and German regulations as to promotion and capitalization	252
G. Corporate shares without nominal value	253

LIST OF WITNESSES.

NOTE.—In addition to these witnesses who testified exclusively on general subjects, the opinions and evidence upon such subjects of witnesses testifying more particularly concerning special combinations are also summarized under this general division. No attempt, however, is made here to bring together conclusions based only on specific testimony as to individual combinations.

	Page of testimony.
Allen, Charles C., lawyer, St. Louis	1177-1211
Dill, James B., lawyer, New York City	1077-1089
Dos Passos, John E., lawyer, New York City	1130-1177
Edgerton, Charles E., Ithaca, N. Y.	1123-1125
Hansell, Frank R., secretary New Jersey Corporation Guarantee and Trust Company.	1094-1096
Huffcut, Ernest W., Cornell University Law School	1211-1219
Garvin, James S., assistant secretary New Jersey Registration and Trust Company.	1098, 1099
King, Charles N., secretary New Jersey Corporations' Agency.	1106-1111
Marwick, James, accountant Corporation Trust Company of New Jersey	1096-1098
Myers, James J., member Massachusetts State legislature	1127-1138
Nevins, Andrew P., counsel Corporation Trust Company of West Virginia	1111-1119,
Ryan, Dennis B., lawyer, Jersey City	1090-1106
Sawyer, W. L., secretary Corporation Trust Company of Delaware	1125-1127
Smith, J. Ernest, lawyer, Wilmington, Delaware	1119-1123
Wood, Howard K., assistant secretary Corporation Trust Company of New Jersey	1090-1094

I. CAUSES OF COMBINATION.

A. The universal tendency toward combination and its general causes.—Most of the testimony as to the causes of combination is to be found in connection with specific combinations investigated. The most common cause assigned is excessive competition. It is also pointed out, however, that combination of capital is a natural economic development under modern conditions. This is the position, for example, of Mr. Dos Passos, whose evidence is given below.

Mr. THURBER believes that combinations are a natural economic development from the growth of steam, electricity, and machinery. They are necessary because of excessive competition, reducing prices below the line of profit. All forms of industry are being done on a large scale. (4, 8.)

Mr. THURBER testifies that the French chargé d'affaires at Berlin calls attention to the growing centralization of industry in Germany. In Great Britain the tendency is marked. Among other combinations there, these are referred to: dyeing, bleaching in Lancashire, cotton spinning, cotton thread, news paper, engineering, metallic bedsteads, spring mattresses, cased tubes, spun mounts, rolled metal, brass wire, metal tubes, iron and brass fenders, china furniture, electrical fittings, marl for pottery ware, common building bricks, and coffin hardware. In many instances these combinations agree with trade unions to employ only union labor, while the latter agree to work for no firm which is outside of the combination or which cuts prices. Moreover, combination has been going on in distributing lines. Centralization of capital in grocery, provision, oil, drug, and tobacco distribution has gone on rapidly of late. Retail stores also have been grouped in associations for mutual protection. Department stores have been more developed than in America. (9.)

There are, according to Mr. GALL, very few trusts and combinations organized in Canada. Except in the oil business, the people suffer little from monopoly as yet. There is a strong sentiment against combinations, the Toronto Globe being especially vigorous in its opposition. The present Liberal Government has declared that if a trust should secure control of any article the duty on such article would be immediately removed. (685, 686.)

B. Undue tariff protection.—Mr. HAVEMEYER, president of the American Sugar Refining Company, considers that one of the chief causes of industrial combinations in the United States has been undue protection by means of the customs tariff, inducing, in the first place, excessive competition by the establishment of plants in the hope of securing the high margin between the cost and the foreign price plus the duty, and later combination in order to secure the advantage of this margin. The witness declares that the trusts are the mere machinery of the Government for plundering the people. Mr. Havemeyer suggests a uniform tariff of 10 per cent as being probably sufficient. He points out that in the manufacture of steel America can compete with any foreign market, but that under the tariff rails costing \$15 per ton can be sold here for \$24.

Mr. Havemeyer admitted, however, that the Standard Oil Company, the smelter combination, and some other important combinations receive no advantage from the tariff, and in various places admits that competition, quite aside from the tariff, may force consolidation.

Although Mr. Havemeyer believes that the present protection of the sugar refining industry, which he estimates at about 4 per cent, is insufficient, he states that it was originally built up under enormous protection.

The following quotations from Mr. Havemeyer's testimony will be of interest (101, 102, 116, 118, 133, 137):

"The mother of all trusts is the customs tariff bill. The existing bill and the preceding ones have been the occasion of the formation of all the large trusts, with very few exceptions, inasmuch as they provide for an *inordinate* protection to all the interests of the country, sugar refining excepted. Economic advantages incident to the consolidation of large interests in the same line of business are a great incentive to their formation, but these bear a very insignificant proportion to the advantages granted in the way of protection under the customs tariff.

"There probably is not an industry that requires a protection of more than 10 per cent ad valorem, and it is to obtain what is provided over such percentage in the tariff that leads to the formation of what are commonly spoken of as trusts."

"Q. But I asked you this question: If the refining industry of this country was built up under protection or a free-trade system?—A. Protection, enormous protection. Without the tariff I doubt if we should have dared to take the risk of forming the trust. It could have been done; but I certainly should not have risked all I had, which was then embarked in the sugar business, in a trust unless the business had been protected as *it was* by the tariff."

"Q. I put those two things together, first that the protective system has brought such domestic competition that you are compelled to form a trust to keep each others' throats from being cut?—A. That is just the case with sugar. Have I not just told you that prior to the formation of the Sugar Trust 18 companies went out of business, failed, were ruined, and that is the advantage of the tariff? But if you do not stick to real protection in itself, but give these producers 40 to 60 per cent, then they are bent on mulcting the public. The great trouble is the tariff, and there you are."

C. Railway discriminations.—Numerous witnesses attribute the growth of combinations primarily to discriminating rates or other advantages given by railways. They declare that such discriminations continue to exist despite the interstate-commerce act. As to the powers of the Interstate Commerce Commission, see below, pages 238, 239. Most of the evidence on this subject has already been summarized. In this connection witnesses refer to the effect of combinations among railways themselves. The evidence on this latter point is digested below, page 238.

Mr. LOCKWOOD, an independent oil producer, declares that were it not for unfair rates and discriminations on railways the power of trusts would never have developed. Such combinations are not themselves economical. They have no need to be when they receive such railway advantages. In Germany, where rates are alike to all, independent oil refiners can make profits. Men do not now dare to enter business in competition with great combinations for fear of some discrimination in transportation. (391, 392, 393, 399; see also Mr. WESTGATE'S opinion, 382.)

The railways, the witness continues, have throttled the laws of competition. They constitute one gigantic railway trust. They have become the political dictators of the country, practically controlling political bosses, legislators, Congressmen, and judges. They manage the great parties in many of our States, and are corrupting our public affairs. (391.)

Mr. RICE, an independent oil refiner, declares that after filing with the Interstate Commerce Commission general tariffs for public use the railways issue innumerable supplements, special tariffs, circulars, etc., which are filed indiscriminately, and which so amend the original tariffs that no one can tell whether there are inequalities and discriminations or not.

Mr. Rice also expresses the belief that railway companies now resort to the device of paying commissions to nominal agents for securing them large shipments of freight from certain combinations. They claim that such commissions are not illegal; but, as Mr. Rice believes, they sometimes range as high as 50 to 75 per cent of the tariff rate. (727, 732.)

Mr. RICE quotes from Franklin B. Gowen, president of the Philadelphia and Reading Railroad, to the effect that the railway is a public highway, which has been granted the right of eminent domain on the implied promise to perform its services equally for all citizens. There should be the same equality as exists regarding the use of public roads. (740, 741.)

Mr. MONNETT, attorney-general of Ohio, declares that railways and pipe-line companies, when they are given the right of eminent domain, are exercising governmental functions which they could not exercise without special grant. They are bound to act for the public good, and the Government should control them to that end. Their charters should be revoked for violation, either by the State or by the Federal Government, according to the method of granting them. As to interstate commerce, Congress has the right to seize goods shipped in violation of law, and this is not too severe a penalty. (310; 323, 324.)

Mr. ALLEN, a lawyer of St. Louis, believes that the power of trusts rests largely on that of railways. He cites the Standard Oil Company especially as having grown up largely through railway discriminations. He believes that there is not one large shipper in fifty who has not made a great part of his success through special railroad rates. He quotes Mr. A. B. Stickney, president of the Chicago and Great Western Railway, as declaring the danger of such discriminations. The report of the Interstate Commerce Commission for 1899 admits that, despite all its efforts, tariffs are constantly disregarded and discriminations continually occur.

In several cases railroad companies themselves have become largely interested in the production of commodities, and have been the sources of some of the largest trusts. The ownership of coal mines by railroad companies is especially dangerous. The witness quotes from the opinion of an English court, in the case of a railway company operating mines, that the rule has been established that railway companies must not carry on any other business, for the reason that, being armed with the power to raise large sums of money, they might acquire such a preponderating influence over some branch of trade as to drive ordinary private traders out and create a practical monopoly. (1190, 1191.)

II. EFFECTS OF COMBINATION.

A. Aggregation of capital, and corporations, in themselves.—The discussions of witnesses turn in part upon the question whether the mere concentration of a large amount of capital, regardless of any question of monopoly or combination of different interests, is injurious or otherwise, as well as upon the advantages of the corporate form of organization.

1. *Is mere aggregation of capital pernicious?*—Mr. DOS PASSOS, a lawyer of New York, holds that the opposition of many people to so-called combinations is essentially an opposition, not to a technical monopoly, but simply to the aggregation of capital in the hands of corporations. This is the attitude of mind disclosed by debates, party platforms, and public speeches.

The witness declares, however, that the persons holding this view do not show clearly, in the first place, how much capital is considered sufficient to be pernicious. No limit is drawn or can be drawn at one, two, ten, or one hundred millions.

Secondly, those holding these views do not show whether they consider the aggregation of capital in the hands of a corporation more pernicious than in the hands of a partnership or of an individual. Can a different rule be adopted in the one case from that in the other?

Finally, the question is not answered as to the uses of aggregated capital which are to be considered pernicious. Shall a corporation of \$100,000,000 capital be allowed in the railway or insurance business, but not in the manufacturing or real estate business?

The witness believes that the only possible injury from the aggregation of capital comes where the aggregation is accompanied by monopoly. The problem, therefore, is to discover whether monopoly exists. (1143, 1144.)

Mr. Dos Passos further argues that the stockholders of large corporations are not necessarily a few men of great wealth. The shares are distributed among thousands of persons of small means, young and old, widows and orphans, trustees, and executors. The great banking interests especially, although they promote these organizations, retain comparatively small ownership in them.

The attack on combinations proceeds in part, in Mr. Dos Passos's judgment, from opposition to individual wealth as such. The incentive to wealth is a worthy one, and develops intelligence, conservatism, and other qualities beneficial to society. It leads to tremendous exertions of energy. The possession of wealth is one of the greatest elements of stability in every country, and men of wealth have not only a right but a duty to take an active part in political life. (1164-1166.)

Mr. ALLEN, a lawyer of St. Louis, denies that the true issue regarding industrial combinations is that raised by Mr. Dos Passos in which he attempts to consider the question whether aggregation of capital in itself is injurious. Mr. Allen does not himself believe that aggregated capital is necessarily harmful, whether in the hands of individuals or corporations, nor has he heard others claim that it is so. It is only where aggregated capital seeks to create a monopoly that it becomes pernicious. Nevertheless, it is true that the corporate form of organization, the most conspicuous method of aggregating capital, does give an advantage in competition which may readily aid in the development of monopoly. The corporate form itself, unless properly regulated by statute, cloaks a danger.

As showing the enormous power of great aggregations of capital, especially where they already enjoy considerable monopolistic power, Mr. Allen refers to the reported recent acquisition by the managers of the Standard Oil Company of exceedingly extensive control over the gas and electric plants of New York City. It appears that the Standard Oil interests have for some time been large shareholders in one of the great gas companies of that city, and that they have recently bought out the syndicate which practically controls all the electric light, heat, and power franchises. By this purchase it was believed that all the gas companies also could ultimately be brought under the control of the combination by reason of its superior strength and facilities in competition.

Mr. Allen points out further that many great aggregations of capital are engaged in essentially quasi-public enterprises, to use the phrase employed by the courts, "affected with a public interest." These enterprises are so important to the public that unregulated control by private corporations is especially dangerous, and public supervision is essentially justified. Hitherto the decisions of the courts regarding monopolies have largely been confined to these quasi-public corporations. The extent to which the notion "affected with a public interest" can be carried is as yet uncertain. In the well-known case of *Munn v. Illinois*, it was held that the fact that 14 elevators in Chicago had practically agreed to fix rates established a "virtual monopoly," and that the owners, having devoted their property to a use in which the public has an interest, had, in effect, granted "to the public an interest in that use, and must submit to be controlled by the public for the common good, to the extent of the interest" they had thus created. In a later North Dakota case it was held that an elevator which was chiefly used for storing grain purchased outright by its owner, but which was also occasionally used for storing grain belonging to other parties, was subject to a certain statute as being employed for a public purpose. Mr. Allen doubts whether the manufacture of an article of general necessity, such as sugar, can be considered as a quasi-public business, even if a single corporation controls very nearly the entire output and is able largely to dictate prices. (1179, 1185, 1188-1191-1200.)

2. *Advantages of corporate organization.*—Mr. Dos Passos insists that the development of great corporations has been the natural result of the development of industry and commerce; that such corporations have been necessary instruments for accomplishing the constantly growing tasks of industrial life, without which we should not have reached the present stage of advancement.

In this connection the witness traces the gradual development of combinations of energy and capital through the partnership and the limited partnership up to the corporation. The disadvantages of the general partnership, which existed as far back as the times of the ancient Greeks, are the liability of each partner for all the debts, the dissolution of the partnership by the death of any partner, and the necessity of suing each of the parties rather than the partnership. The limited partnership was first introduced into this country by Pennsylvania, and enabled any partner to limit the amount of his liability by giving proper notice to the public.

The large development of the corporate form of organization, according to Mr. Dos Passos, dates from about 1850, when the railroad system first began to be largely introduced. At first the tendency was to limit the amount of capital of corporations, but these limits have gradually been extended or removed.

The chief advantages of the corporate form of organization are perpetual succession regardless of the life of the individual, limited liability of the stockholders for the debts of the corporation, the ready transferability of interest in the corporation through the use of stock certificates, and the possibility of aggregating capital from many sources for a single enterprise. In connection with the last-mentioned point the witness especially emphasizes the convenience of the form of corporation mortgages and bonds. A single individual or a few individuals would not have sufficient funds to lend to a great corporation, nor

would they be willing to risk the large sums necessary upon a single venture. By the device of mortgaging the corporate property to a trustee and selling numerous bonds under the security of this mortgage the loan is obtained from many different individuals. (1146-1149.)

Mr. STETSON, a lawyer of New York, quoted, as stating his own opinion as to the advantages of corporations, from Cook on the law of corporations, to the effect that partnerships have been found clumsy, dangerous, and inefficient for conducting large businesses. There are many disadvantages. If unsuccessful, ruin is brought upon all the members, because each partner is liable absolutely for all debts. Any member may bind the firm. The partnership may be dissolved by the action of any member, or by death. The partnership is restricted in its capital, and narrow in its exclusion of new members. All these disadvantages disappear in the corporate form of organization. The business is done, not by any member of the corporation at random, but by a few chosen directors. Large capital is created by the union of funds from many sources. The organization has perpetual existence, and can not be interfered with by the death of stockholders or their withdrawal. The members are not liable for the debts, and there are many other points of advantage. (981.)

B. How far are monopoly and consequent abuses possible. Competition.—Certain witnesses deny that there are at present any genuine monopolies in this country, or that, even in the absence of legislation, such a monopoly can be maintained for any length of time. Any attempt to raise prices unduly, leads, in their opinion, to competition. This position is denied by other witnesses.

1. *Are "trusts" no longer existent?*—Mr. DOS PASSOS declares that trusts in the technical sense, as combinations of capital, no longer exist in this country, having been discarded because of the condemnation of that form of organization by the courts. The old trust was, in accordance with the customs of law, an arrangement by which the legal owner or holder of property was bound to act for the benefit of the real owner or beneficiary. The trustees of the shares of a number of corporations were bound to operate them for the benefit of the shareholders. They issued trust certificates entitling the holder to an interest in the properties of all the companies. The advantage of this form of combination, as distinguished from complete consolidation into one corporation, was its comparative secrecy, and this the witness considers legitimate. No one except the beneficiary needed to know that the trust agreement had been made. (1141, 1142.)

Mr. ALLEN, replying to the above evidence of Mr. Dos Passos, expresses the opinion that the word "trust" has come to have a definite meaning, and that it does describe a class of organizations which actually possess monopolistic power, and which ought to be repressed in various ways.

Historically speaking, the early trusts under the English law were largely intended to enable corporations, especially religious bodies, to secure perpetual control of large amounts of property. The essential object of the trust agreements which were formed in the United States, especially during the 80's, was to fix prices and limit production. Since these purposes were contrary to law, it was natural that this form of organization should be employed in order to prevent people from knowing the secrets of the trust. This last purpose, which Mr. Dos Passos considers laudable, was simply the result of the illegal character of the combination.

Mr. Allen admits that the decisions of the courts against this form of organization have rendered the technical use of the term trust no longer applicable to existing combinations of capital. But the concrete thing which is understood by the word in popular speech may be defined, according to Mr. Allen, as "a combination of financial interests, formed with the intention of creating a monopoly."

A trust must thus have an element of combination, of bringing together different individuals or bodies which had formerly competed in business, in order thus to control industry and crush out those who venture to stand against the combination. The early combinations in the form of pools having been found ineffective, and also having been held contrary to law, and the succeeding technical "trusts" having been condemned by the courts, the modern form of trust, the consolidated corporation, including numerous formerly separate establishments, has been developed.

To constitute a trust there must be a distinct intention of creating a monopoly. There are, undoubtedly, combinations of capital which have not this intention, but Mr. Allen believes that the purpose of monopolizing has been present in the formation of the larger number of recent combinations. There is no other conceivable advantage to be gained by uniting plants engaged in the same lines of industry in widely separated places. (1178-1182.)

2. *Are there any existing monopolies?*—Mr. DOS PASSOS maintains that there are at present no monopolies in the strict legal and etymological sense of the word, aside from those granted by patents for new inventions. A monopoly is defined to be an exclusive privilege of traffic. Such a pure monopoly can be obtained only by grant of government. Such grants were frequently made in England, especially during the time of Elizabeth, but they do not exist in the United States. Special grants are sometimes made by State and national legislatures, which constitute a monopoly in a certain sense. But such charters are usually limited in time, and of later years have been made revocable, while most States have general laws for incorporation. Nor are there, Mr. Dos Passos apparently thinks, any "virtual monopolies." (1144, 1145, 1150, 1151.)

Mr. ALLEN, in opposition to Mr. Dos Passos, believes that there are at present in this country various important monopolies, and declares that the courts have in various cases declared such monopolies to exist.

The witness cites the decision of Judge Barrett in the sugar case in New York, declaring that a combination which has a tendency to prevent competition and to control prices to the detriment of the public is a monopoly, even though it be not a permanent or complete monopoly. "The question in the end is, Does it inevitably tend to public injury."

Antipathy to monopoly is deeply rooted in the human heart, and it is quite immaterial whether the monopoly exists through public grant or simply as a matter of fact.

The antipathy to monopoly is shown by a long series of statutes and court decisions from the earliest times. The witness cited, especially, various decisions of the English courts, some going back several hundred years. For example, in the case of *D'Arcy v. Allein*, the court held that a grant by Queen Elizabeth of the exclusive privilege of manufacturing and importing playing cards was void as against common law and acts of Parliament, because tending to the public injury, whereas the Queen had intended it to be for the public weal.

Mr. Allen especially denies the statement of Mr. Dos Passos that monopolies by public grant do not exist in the United States. The franchises granted by National, State, and municipal governments to railways, water companies, and various other corporations are essentially monopolistic.

The witness cites numerous recent decisions of the United States courts declaring the existence of monopolies and restraining them either under the common law or under statutes. The case of *Munn v. Illinois*, above referred to, is mentioned in this connection. That case, in spite of some criticism, has been generally followed and may be considered the law of the land.

In an Ohio suit against the Standard Oil Trust the court held that the claim that that combination had improved the quality and cheapened the cost of oil to the consumer was not a valid plea. Such is not the usual result of monopoly, and it is the policy of the law to regard what usually does happen. Temporary reduction of price may have been necessary to crush competition.

In the Knight case, in 1894, Mr. Justice Fuller, while holding that the American Sugar Refining Company did not violate the Federal antitrust law of 1890, conceded that a monopoly existed, declaring that all authorities agree that it is sufficient to show that a combination really tends toward monopoly and toward depriving the public of the advantage which flows from free competition.

The St. Louis court of appeals in 1899 decided that the National Lead Company was a combination in restraint of trade as defined by the Missouri statute, and upheld the defense made by a customer who refused to pay for a bill of goods on that ground. The method of formation of the corporation itself, under the statutes of New Jersey, was such as to imply a purpose or intention of creating a monopoly and suppressing competition.

Wherever, Mr. Allen concludes, the issue has been squarely presented to any Federal or State court, and where the purpose and tendency of any combination toward a "virtual monopoly" has been proved, the principles of the common law have been applied and the combination held illegal and void as in restraint of trade. (1182-1187, 1197.)

3. *Competition as a remedy for monopoly.*—Mr. RICE, an independent oil refiner, believes that even though they receive no advantages in shipment of goods, the great capital of modern combinations, largely acquired by unjust methods, enables them to absolutely destroy other competitors by cutting prices in places where they seek to obtain a foothold. He sees no ultimate remedy but the destruction of these combinations by the forfeiture of their charters. (790.)

Mr. DOWE, president of the Commercial Travelers' National League, declares "that competitors of combinations, lacking sufficient capital, or not being able to

compete over the entire field, are likely to be driven out of business by underselling on the part of combinations, which afterwards recoup themselves by raising prices. (37, 38.)

Mr. McNULTA, receiver of the Distilling and Cattle Feeding Company, does not believe that combinations are dangerous or can long control prices and output where the capital required for competing, as in the distilling business, is not large. The only way such a combination can then control the market is by producing at a lower cost and keeping down prices, in which case it is beneficial. But where a combination is formed in lines requiring large capital, as in iron and steel, it may raise prices and control the market; competition is not a sufficient remedy and the results are very dangerous. Such combinations should be literally crushed by law. They are a menace to our form of government, and it is an inherent power of government to protect its people from oppression. (217, 237, 240.)

Mr. DOS PASSOS declares that the natural laws of trade are sufficient to prevent any such monopoly from lasting. Every effort which has been made to corner any article of commerce has failed; witness the recent attempts at corners in breadstuffs. The moment a business ceases to be conducted in a conservative manner and undertakes to raise prices unduly, outside capital is invited into the field. The new competition which the sugar trust has encountered from time to time is cited as a remarkable proof of this position. (1144, 1145, 1150, 1151.)

Mr. THURBER thinks that combination can not abrogate competition but elevates it to a higher plane. The amount of disposable capital is so great that wherever more than a reasonable profit is obtained, competing capital flows in immediately and brings profits to a minimum. The only trusts which have prospered for any length of time are those conducted on a farsighted basis of moderate profits. The witness cites as illustrations of the effect of competition the experience of sugar, coffee, strawboard, starch, and wire-nail combinations. (614, 617.)

Mr. SMITH, president of the Wholesale Grocers' Association of New York City, declares that practically there can be no monopoly with power to raise prices unless in some highly advertised special article which people demand on account of its name and brand. New capital is always ready to come into an industry if there is a prospect of profit, and combinations must accordingly keep profits and prices reasonable. They may, indeed, become able to undersell smaller producers, but this is chiefly because of their economies. The witness considers legislation unnecessary. (68-72.)

Mr. HAVEMEYER declares that the only way for a combination to prevent competition is by keeping prices below the competitive point. (103-106.)

Mr. STETSON, a corporation lawyer, believes industrial combinations, aside from railways and similar quasi public corporations, can not escape competition, either present or prospective, and that if they do not keep their profits reasonable their business will be taken away from them. (980.)

It is implied also in the testimony of various officers of corporations as to the policy of their organizations that only by economy in production and lower prices can competition be prevented. Mr. GARY, president of the Federal Steel Company, believes that competition will be a sufficient remedy for abuses in regard to all combinations, especially if a certain degree of publicity is secured by which knowledge of excessive profits may be obtained. (1001.)

C. Effects of combination generally.—Most of the evidence as to the effects of combination will be found under the different combinations specially investigated. This is particularly true as to the evidence concerning the evil effects of combinations, their tendency to enhance prices to consumers, and to injure competitors. Several general statements are made by witnesses as to the advantages of combinations, which are summarized below.

1. *Effect of combinations on producers of raw material.*—Mr. THURBER believes that combinations are injurious to producers of raw materials as such. The number of buyers being reduced, competition is lessened and prices lowered. The American Sugar Refining Company especially has secured lower rates for raw sugar. The Standard Oil Company has been more liberal, and, perhaps, paid as much for crude oil as more numerous refiners would have done. Farmers and miners, as chief producers of raw materials, are less benefited by combinations than the more strictly consuming classes are. (12, 13, 23.)

Mr. LEE, president of the independent oil producers' organizations, believes that when a company secures practically a complete monopoly of manufacturing any article it has the producer of the raw material absolutely in its power, and will leave him little margin of profit. This is illustrated by the Standard Oil Company. (279.)

2. *Effect on individual initiative.*—Mr. DOWE, president of the Commercial Travellers' National League, believes that under combination opportunities for advancement from the laboring to the middle class or from the middle class to the highest positions no longer exist. The great superiority of our country hitherto has been its equal opportunities, securing the possibility of rising by ability. The middle class is fast disappearing, and we shall be left with the extremely rich over against the extremely poor. The individuality of citizens is worth more than lowering of prices. The saving, if any, from combination is at the expense of the intellect, strength, and moral character of the great mass of the people. (84, 86.)

Mr. LOCKWOOD also believes that the tendency of combinations is to put power into the hands of a few, making the mass of the people dependent and hence subservient. (391.)

Mr. CLARKE, an independent distiller, considers the effect of combinations on individual enterprise and character their chief evil. (186, 191.)

Mr. MOORE, who has organized several combinations, testifies that so far as the previous officers and managers of establishments entering the combination prove themselves efficient, they are retained, practically in charge of the same plants as before. There are not enough good men to go around in positions of responsibility. On the other hand, there are many older men who have invested in banks and in other permanent investments, and who are glad to retire from active life. Younger men are now running these great industries. (967.)

Mr. THURBER believes that it is undoubtedly difficult or impossible for small manufacturers or dealers to compete independently against great combinations. But when thrown out of separate business, though there may be some cases of hardship, most can find opportunities for proper use of their abilities and for promotion as employees or officers of great companies. Individual capacity is no more prevented from expressing itself by industrial organization than by military organization. The ablest naturally become leaders. (7, 8, 13, 18.)

3. *Relations of combinations and labor.*—Mr. THURBER expresses the opinion that the general effect of combination on the laboring classes is beneficial. During the past decade organization of labor has proceeded more rapidly than that of capital, and wages have increased while profits have decreased. Generally speaking, trusts are likely temporarily to reduce the number of employees if not to reduce wages, but ultimately they widen the markets for products and increase employment. The oil and sugar trusts have never had trouble with their labor. (5, 23, 24.)

Mr. SMITH, president of the Wholesale Grocers' Association of New York City, believes combinations are beneficial to labor. The interests of labor and capital are identical. Workmen are the first to be benefited by the creation of great enterprises through the labor which is given them. The witness believes that laborers get two and one-half times as much food, shelter, and clothing as 30 years ago. (69.)

Mr. LEX believes that great combinations undoubtedly tend to displace labor and ultimately will doubtless tend to reduce wages, although at present the trusts find it good policy to keep their men friendly. The witness does not believe, however, that they pay higher wages than independent employers, although they doubtless pay high salaries for their superintendents and department heads. Ultimately the effect of combinations is to give the employers far greater control over labor. The man who is skilled in one business can not, if discharged, find any other employment. A combination can close one or more of its establishments for the purpose of coercing laborers, and can keep up its profits by increasing the price of its products. In this way workmen will be made more dependent and subservient. Their only help is thorough organization. The witness cites one instance with which he is familiar, of a man discharged by the manager of one plant in a combination, as to whom notice was given to other managers that he should not be employed. He was out of work for one year. Trusts have not been long enough in existence to fully demonstrate their influence on stability of employment or on the conditions of labor. (288-290.)

Mr. DOWE, president of the Commercial Travelers' National League, admits that some trusts have advanced wages, but thinks this has not been due to generosity but to policy through fear of public disapproval. When one organization controls practically all establishments throughout the country, it can close any one in order to resist demands of laborers in it, supplying the market from its other plants. Thus the American Linseed Oil Company, having 35 mills, could easily close down one or more. (83, 85.)

The effect of combinations in displacing commercial travelers is referred to by several witnesses. Mr. DOWE believes the number of commercial travelers in the country to be 350,000, although the census figures of 1890 are only 30,000.

More than 67,000 are members of organizations. There are 368,000 manufacturing and wholesale concerns, and many employ large numbers of salesmen. The witness estimates that 35,000 salesmen have been thrown out of employment by the organization of trusts and 25,000 reduced to two-thirds their previous salaries. This would represent a loss of \$60,000,000 in salaries on a basis of \$1,200 each. The witness cited instances of the baking-powder, bicycle, chair, paper-bag, rubber, tin-plate, steel and rod, sugar, coffee, leather, thread, and type-founders' combinations. Under competition salesmen are necessary to push goods, but under combination dealers must buy from the trust, and goods can be sold without salesmen, or at least by unskilled men at low salaries. Thus the baking-powder trust has replaced men at \$4,000 or \$5,000 a year by others at \$18 per week. In a few instances salesmen may have been taken into the central offices at higher salaries as a matter of policy, but usually, if taken at all, it is at a lower salary. Men thrown out, especially the older ones, find great difficulty in securing other employment, since they are specialists in particular lines. The displacement of traveling men represents also large loss to railways, amounting, on the estimate that each traveler spends \$2.50 per day for 240 days each year, to \$27,000,000; while the loss to hotels would be at least as much as to railways. Many hotels are likely to become bankrupt if more travelers are taken off. (27-36.)

Mr. ALLEN, a lawyer of St. Louis, considers trades unions as frequently coming strictly under his definition of trusts, as combinations of financial interests formed with the intention of creating a monopoly. There can be no doubt that some of these seek to control the supply of particular classes of labor, and thereby interfere with individual liberty of workmen and others. The mere attempt to increase wages or to secure other advantages for labor is not reprehensible but praiseworthy, and the trade union becomes injurious only when it seeks monopoly. Many unions have been conducted with great discretion, and have done no substantial injury to others. The witness concurs in the attitude taken by the courts in England and the United States, recognizing the necessity of combinations of labor under existing conditions, and especially in view of the centralization of capital. (1198, 1199.)

Mr. HAVEMEYER at first stated that "trade organizations and strikes" tend "to reduce all labor to a low level;" that they "take the independence out of a man," and are not an advantage to the working class. He admits, however, under questioning, that a similar effect in destroying independence may come from combinations of capital, and also that if laborers did not consolidate "these corporations would run them out of existence;" and that they have increased their earnings under combinations, though it is not clear here whether he refers to labor or capitalistic combinations. (104, 119.)

4. *Effect of combinations on prices and cost of production. General advantages and disadvantages.*—Few specific statements regarding the effect of combinations on prices are made by the witnesses, aside from the statements relating to individual combinations investigated, although statements of the latter class often imply the belief that effects similar to those met with in individual cases are likely to be found generally. A few witnesses do express general opinions to the effect that combinations raise prices, while others reply that the economy of production under combinations permits the reduction of prices. See also evidence summarized above as to the relation of combinations to competition (p. 219).

Mr. DOWE, as president of the Commercial Travelers' National League, has investigated the attitude of traveling salesmen, having received the opinions of about 8,000 in answer to circular letters or by conversation or through agents. Only two of these have defended trusts. The great body believe that they are not only detrimental to commercial travelers, but dangerous and demoralizing to the community, tending to increase prices, prevent competition, drive out middle men and smaller producers, and increase speculation. Resolutions to this effect proposed before the Travelers' Protective Association, however, were tabled through fear of offending employers. They were not discussed fully on their merits. This organization, moreover, includes only 13,000 members, and does not represent all travelers.

Mr. Dowe further testifies that he has ascertained through correspondence with travelers for numerous trusts the precise increases in prices due to combination. Among others the following are noted: Iron pipe, increase over 100 per cent; tin-ware and enameled ware, about 33 per cent; brass goods, 60 per cent; rubber overshoes, 14 per cent; tin plate, about 30 per cent; clocks, 60 per cent; pipes and brushes, 12½ per cent; combs, 7½ per cent; while other trusts are about to increase prices. The trust in news paper advanced the prices from 1½ to 2½ cents per pound, at first on the pretense of increased demand owing to the news of the Spanish war, but it has not been reduced since.

Mr. Dowe admits, however, that combination undoubtedly makes savings in the cost of the production of some particular products; for instance, through reduction in salaries of traveling men and of officials. But these savings are at the expense of general welfare. (25-40.)

Mr. ROCKEFELLER, president of the Standard Oil Company, testifies that modern industrial combinations secure "all the advantages which would be derived from the cooperation of persons and aggregation of capital." If cooperation, or, what is the same thing, combination, is necessary on a small scale, the limit depends solely upon the necessities of business. As the business grows in size more persons and more capital must be taken in, the partnership must give way to the corporation, and, owing to the division of this country into numerous States, separate corporations must be organized in different States under united control.

The chief advantages of combination are summarized by Mr. Rockefeller as follows:

- (1) Command of necessary capital.
- (2) Extension of limits of business.
- (3) Increase of number of persons interested in the business.
- (4) Economy in the business.
- (5) Improvements and economies which are derived from knowledge of many interested persons of wide experience.
- (6) Power to give the public improved products at less prices and still make a profit for the stockholders.
- (7) Permanent work and good wages for laborers.

The disadvantages or dangers to the public which may arise from combinations are stated by Mr. Rockefeller as follows: "That the power conferred by the combination may be abused; that combinations may be formed for speculation in stocks rather than for conducting business, and that for this purpose prices may be temporarily raised instead of lowered." But the possibility of abuse is no more an argument against combination than the fact that steam may explode is an argument against steam. The abuses can be minimized, the witness believes, by proper legislation. (796, 797.)

Mr. SMITH, president of the Wholesale Grocers' Association of New York City, believes that great aggregations of capital, whether railways or manufacturing corporations, can produce much more cheaply than small ones. They have in fact cheapened everything greatly, thereby increasing the wants of the people and increasing employment. (68, 71, 72.)

Mr. GARY, president of the Federal Steel Company, believes that combinations and aggregation of capital, if certain possibilities of abuse be checked, are beneficial in cheapening production, increasing employment, and extending foreign trade. (1001.)

Mr. THURBER states that he was formerly prejudiced against trusts, but after thorough study became convinced that they are a natural and necessary economic development, and beneficial to the general public. They reduce prices to consumers, excessive prices and profits defeating themselves by inviting competition. For the time being, competing manufacturers and dealers and some employees may be injured. In the long run more wealth is produced, and it is more widely distributed. (4, 6, 18.)

Mr. ARCHBOLD, vice-president of the Standard Oil Company, believes that great aggregations of capital are a natural outgrowth of modern industrial conditions, that they are beneficial to all classes, investors, consumers, and laborers, and that they are especially efficient in extending foreign markets. (562, 565.)

Mr. HAVEMEYER, president of the American Sugar Refining Company, declares that corporations are under no obligations to the States, but the reverse. Hostility to capital drives it out of State, increasing tax rates and injuring business. Trusts are "not in the business for their health," but if all were conducted on the same principles as the sugar trust, the people would profit by having all articles controlled by trusts. The trust means the survival of the fittest, controlling the best brains and management. The day of the individual has passed; if the mass of the people profit at the expense of the individual, the individual should and must go. (108-106, 134, 135.)

Mr. MOORE, who has organized several combinations, believes that they are advantageous generally. Laboring men are coming to favor them since the combination can afford to pay larger wages. The cost of production is reduced and prices thus reduced to the consumer. The witness cites as an example of this latter result the Diamond Match Company, whose output is constantly being reduced in price. (965.)

Mr. CLARKE, an independent whisky distiller, believes that the people are less

injured by the effect of combinations on prices than by speculation in stocks and by loss of individuality of former owners of plants. Combinations of capital render possible enterprises which no individual or small company could undertake. They make experiments and improvements. We are not likely to have competition entirely crushed. (186, 191.)

Mr. DOS PASSOS, a lawyer of New York, believes that large aggregations of capital in the form of great combinations are highly beneficial. If a combination, through skillful management, without the violation of moral or civil law, is able to become successful in business, no envy or prejudice should be allowed to destroy it. The destruction of corporations means the destruction of the present commercial system. Until the opponents of combinations and corporations show affirmatively that they have struck an indisputable blow at our liberties and institutions, it is futile and unnecessary to legislate.

Mr. Dos Passos believes that any mischiefs which may arise from combination of capital are incidental questions of detail. In face of the extraordinary commercial development of this country, and in face of the present prosperity, it is impossible to say honestly that the recent development of these industrial combinations has been an evil, nor does the witness believe that specific evidence to show this has been produced.

It is true that individuals have suffered, especially those who find themselves unable to compete with the larger production and improved methods of combinations. But the "greatest good for the greatest number" must be the test of the justice of any institution.

Mr. Dos Passos quotes the conclusions stated by the chairman of the Chicago Trust Conference to show that the evils which that gentleman believed to be proved were chiefly incidental and open to remedy. The specific proposals which were made are for the most part approved by Mr. Dos Passos. (1152, 1155, 1156-1158.)

5. *Distribution of wealth.*—Mr. THURBER considers it advantageous to have large masses of capital concentrated in able hands. Equality in distribution of wealth is impossible, and if once established would endure but a moment. But in fact the tendency of trusts is to distribute wealth more widely. Previous to combination the number of partners in manufacturing firms was much smaller than the number of stockholders at present. The companies which entered the Sugar Refining Company contained only 27 members; now there are thousands of sugar stockholders. (7, 18, 24.)

Mr. Dos Passos also maintains that the organization of large corporations tends to distribute the ownership of enterprises among numerous stockholders. (1143, 1164.)

6. *Influence of combinations on legislatures, courts, etc.*—Mr. EMERY, an independent oil refiner, believes that the great combinations have practical control of State legislatures in many cases, and that public officers and courts are more or less under their influence. Were it possible to enforce existing antitrust and antidiscrimination acts effectively, further efforts against combinations would scarcely be necessary, but such enforcement can not be secured. The independent refiners have applied to the Attorney-General of the United States at different times for prosecution of the Standard Oil Company, but their letters have been pigeonholed. They have had the same experience in applying to the governor of Pennsylvania to prosecute the monopoly. Even when the corporations are sued before the courts, their officers refuse to give testimony on the ground that they will be incriminated, and in various ways they indefinitely prolong litigation. (670, 671.)

Mr. LOCKWOOD, independent oil producer, also thinks that great corporations have become the political dictators of the country. They control bosses, parties, and through them legislatures and officers. (391.)

Mr. DOS PASSOS admits that there is great danger of corruption of judicial and legislative authorities by great combinations of capital. But he believes that no other remedy than existing statutes against direct bribery and corruption is feasible. It should be remembered also that corruption is often provoked by demagogical attacks on corporations. It is generally believed that no corporation can get even proper and necessary privileges from a legislature without lobbying. (1150.)

Mr. GARY testifies that the Federal Steel Company has not sought in any way to influence politics or elections, that it has declined to contribute campaign funds, and that no influence is exercised on the vote of the employees. All of these practices Mr. Gary thinks should be discountenanced. (996, 997.)

7. *Effect in fostering speculation.*—Mr. THURBER believes that the tendency of combinations is undoubtedly to bring a large proportion of industries under speculative influence. Speculation is inevitable. Speculators will have to educate

themselves as to a variety of industries, and meantime industrial stocks are likely to have a checkered career and to suffer many crashes, but bankers and brokers are acting cautiously in loans and marginal accounts on these new stocks. (7, 19, 20.)

Mr. DOWE, president of the Commercial Travelers' National League, declares that the promoters of trusts usually come from Wall street. The speculative mania leads to the floating of trust stocks, often largely watered, at inflated prices. Sudden increases in prices of commodities are partly intended to manipulate stock markets. Speculation is likely to cause the downfall of many trusts. (26-28, 38.)

D. Rebate system.—The impression prevails among some persons, as was shown by the evidence, that a common device of combinations for maintaining prices and controlling industry is to sell goods to wholesale dealers, granting them, after a certain period, a rebate, provided such wholesalers have not sold the goods at less than fixed prices. Sometimes, it is thought, a further requirement is made that the wholesaler must handle exclusively the goods of the combination, as was shown to be the case in the rebate system adopted by the whisky combination.

Mr. SMITH, president of the Wholesale Grocers' Association of New York City, testified on the other hand that the rebate system is usually intended to protect wholesale dealers from excessive competition among themselves, and not to enable the manufacturer to maintain high prices or exclude competition. The witness considers the system just, since otherwise wholesale dealers, under modern conditions, are forced to handle a large proportion of their business entirely without profit on account of excessive competition. This difficulty arises chiefly in regard to goods of standard quality, where the wholesalers do not seek to push special brands.

The rebate or factor system was, Mr. Smith believes, originated by Proctor & Gamble in the sale of soaps more than 20 years ago. That company has maintained it effectively, thus preventing the cutting of prices by wholesalers. The baking powder companies have adopted the system, and it is likewise employed by the manufacturers of Babbitt's soap, although in the latter case the provision that soap shall not be sold at less than fixed prices has not been effectively enforced.

Mr. Smith further states that it was the excessive competition among wholesale grocers in handling certain standard goods, resulting in absence of profit or absolute loss, which led to the formation of the Wholesale Grocers' Association of New York City. This association was established 11 years ago.

In 1898 the Wholesale Grocers' Association, on motion of its president, adopted resolutions stating the impossibility of securing profits on goods of uniform quality, contending that manufacturers would distribute products most economically through jobbers, and appointing a committee to propose a system of rebates, otherwise known as a factor system, and to attempt to secure its adoption by all manufacturers of such goods. This committee found wholesale grocers unanimous in support of the plan, while many large manufacturers said such a system had been used satisfactorily by them. The committee recommended three different forms of arrangement, all of which met approval from numerous jobbers and manufacturers. In circulars issued in October, 1898, the Wholesale Grocers' Association urged that no one of these arrangements is illegal, but that the third especially, involving no contract and being purely voluntary, is impregnable to legislative attacks. The system is declared to be just and reasonable, and wholesale grocers are urged to influence manufacturers to adopt it. (55-65.)

III. STATE LEGISLATION AS A REMEDY FOR GENERAL EVILS.

A. Justification of State interference.—1. *Legislation and natural liberty.*—Mr. DOS PASSOS, an attorney at law, believes legislation on complex and difficult questions, such as those of economics, should be framed only after careful study by trained commissioners, and not, as so often happens, by hasty and thoughtless action of legislators under the influence of unthinking public opinion. He believes that it would be an advantage to the country if the great mass of State laws enacted during the past half century could be abolished and replaced by condensed statutes, carefully framed. There has been a constant cry for more legislation on the part of the people and of political parties.

Mr. Dos Passos thinks that the State is to be considered as existing by reason of a compact with the individual citizens. The citizen grants allegiance in exchange for protection to himself and his property, and there is a clear contract on the part of the Government not to intrude upon the liberty of the individual except in the case of plain and paramount necessity. (1139-1141.)

In another connection, discussing the demand for greater publicity of the affairs of corporations, Mr. Dos Passos declares that, generally speaking, the corporation

has the same right to privacy and noninterference in its own business as the individual. Unless some obvious and serious mischief will result from failure to do so, the State has no right to regulate individual conduct. It has no right to dictate what religion one shall follow, what he shall eat, or what he shall wear, unless there is some overwhelming necessity to do so. (1162, 1163.)

2. *Power of the State over corporations.*—Mr. DOS PASSOS, while deprecating undue interference with combinations of capital and corporations, admits that they differ from individuals in being creatures of the law, having no natural rights which the law is bound to respect. Moreover, the fact that a great aggregation of wealth in the hands of a corporation gives it advantages in competition and otherwise which the individual can not possess, justifies State regulation. The State should not relax its grip on corporations. It has the absolute right to examine into their conditions, and, under the present constitutions of most States, to extinguish their charters. The State has constant visitatorial powers for the purposes of taxation and of protection to the public. (1164, 1172.)

Mr. ALLEN, a lawyer, expresses the opinion that, aside from the fact that a corporation frequently controls products or services which are so necessary that the company becomes quasi-public in character, the fact that all corporations are creatures of the State gives it the absolute right to control and regulate them. It is a mistake to speak of the rights of corporations as if they were entitled to that same liberty of action and of contract which is guaranteed by our statutes to natural persons. As a matter of fact, our corporation laws have become too loose, enabling members and officers of corporations to elude responsibility, and giving them a dangerous power over the public welfare. The right of a State to interfere is, of course, still stronger in the case of quasi-public corporations. (1189.)

3. *Natural laws superior to legislation.*—Mr. DOS PASSOS believes that natural laws of industry are sufficient to remedy any evils which may arise from combinations, and especially insists that legislation, so far as it goes against these natural laws, is either entirely inoperative or works injurious results not calculated upon by the framer. It is not within the power of the Government at this stage of the development of capital to put down or impede aggregation. Legal and judicial history show that the natural laws of commerce and industry have always defied legislation. This has been especially true regarding the legislation directed against combinations. Thus, the laws against forestalling, regrating, and engrossing, passed in England as early as Edward VI, failed of their purposes and were repealed in 1772, as having a tendency to discourage agriculture and increase prices. The so-called "bubble act" and "Sir John Barnard's act," passed in the eighteenth century to restrict speculation and fraudulent prospectuses, had absolutely no effect.

Similarly the act of Congress of 1864, by which it was made a crime for any person to sell or deal in gold, unless he was the owner thereof, failed entirely to prevent speculation in gold, but had the effect of raising its price, so that the act was repealed in 15 days. The existing antitrust acts, Federal and State, have so far mostly proved ineffective. They have attacked the form and not the substance of aggregated capital; if they had attacked the substance they would have been most injurious. The Sherman antitrust law has been in practice applied chiefly, and in the opinion of the witness injuriously, to railways, although it was not the intention of its framer that it should be so applied. (1152-1155, 1158.)

B. *Existing law and its working.*—1. *Are existing laws sufficient?*—Mr. MONNETT, attorney-general of Ohio, says that Lord Coke fully two centuries ago defined monopoly and its effects in raising the prices and depreciating the quality of products, and driving out labor and competitors, in terms which accurately describe modern conditions. During Queen Elizabeth's time and that of her successors franchises or privileges to maintain monopolies had been granted by the Crown, and the courts, without any parliamentary act, came to hold this illegal. Similar decisions have been made down to this day. The witness nevertheless favors further statute legislation. (813, 814.)

Mr. DOS PASSOS maintains that the existing antitrust and penal laws, together with the common law, afford amply sufficient remedies for all possible evils connected with combinations. They offer protection to the consumer, the investor, and the stockholder. Although decisions of the courts have frequently been made under the statutes recently enacted, Mr. Dos Passos believes that the principles of the common law alone would support every decision. There have, in fact, been a number of decisions holding industrial combinations of different sorts illegal, as being in restraint of trade. Even partial restraint of trade is thus condemned. Mr. Dos Passos believes that the recent decision in the Addyston pipe

case was essentially made under the common law. The decision turns on an agreement to share business in certain territories in a way offensive to the common law, as well as to the Sherman act. (1154, 1163, 1175, 1176.)

Mr. ALLEN, replying to this argument, admits that the principles of the common law can, if properly interpreted so as to apply to changed conditions, reach practically all the evils of monopoly. In the absence of statute the courts can effectively apply the common law. But the great changes in the methods of industry, the complexity of modern civilization, make it wise to define concretely the offenses which are to be condemned rather than to render it necessary to go back to antiquated conditions and forms of procedure. Statutes, moreover, have an educative influence on the people and on the courts. They define clearly the best public opinion in relation to concrete conditions. (1193, 1204.)

See also under National legislation, pp. 232, 233; and under How far are monopoly and consequent abuses possible, p. 219.

2. *Effect of antitrust laws.*—Mr. MOORE does not think that combinations need fear unjust interference with their business by adverse legislation. Various antitrust laws exist, but the products of the great combinations are sold in the States where these laws have been passed. The people want the products and must have them. The Government is never going to pass laws that will drive manufacturers out of business.

Mr. MONNETT, attorney-general of Ohio, states that Michigan has recently adopted an antitrust act with the provision that witnesses testifying concerning trusts shall not be held to incriminate themselves by any testimony. This will prevent the present common practice of refusing to answer questions on the ground that answers will incriminate, and the witness believes that this should be the regular custom. (315.)

3. *Antitrust law of Illinois.*—Mr. PAM, general counsel of the American Steel and Wire Company, does not consider that the present anti trust law of Illinois is an unwise or an unjust law, although the manner of enforcing it might become abusive. He does not believe that the law can possibly apply to such a corporation as the American Steel and Wire Company. It has been interpreted, as regards the Chicago Gas Trust, to apply to the control of the stocks of separate corporations, supposed by the public to be competing with one another, by a syndicate or another corporation, and would doubtless be so held again. The witness does not believe that the law would apply to a corporation which bought up outright all of its competitors, so long as the motive was simply to exercise a man's prerogative of doing that with his money which will produce the most good, without entering into any arrangement in advance to oppress the consumer.

The decision of the Illinois courts regarding the Glucose Company did not strictly come under the provisions of the antitrust act. In the case of the Distilling and Cattle Feeding Company, it was proved that agreements and contracts for the control of output and prices had been made, and the court was compelled to hold this contrary to the law. (1038, 1039.)

Mr. McNULTA, receiver of the Distilling and Cattle Feeding Company, refers to the decision of the Illinois courts that that company was a combination attempting to control trade, and therefore illegal under the Illinois antitrust law. He believes that such corporations as are now being formed in New Jersey would also be held illegal if final decision were reached. He believes they would even be illegal at common law. (216, 217.)

4. *Control over foreign corporations.*—One of the chief difficulties in the application of State laws restricting combinations has been the absence of power to exclude interstate business carried on by foreign corporations. This subject is chiefly discussed below by Mr. Allen and Mr. Huffcut. (223, 232-236.)

Mr. PAM states that the right to do business, so far as it is lawfully conducted, is granted to foreign corporations under the interstate-commerce clause of the national Constitution. Nevertheless, if a foreign corporation undertook any act contrary to the law of the State, that law not being in contravention of the constitution of the State or of the United States, it could be legally restrained from such act. Thus, the American Steel and Wire Company, being incorporated in New Jersey, could not build railroads in Illinois, although, of course, individuals belonging to that company could organize a separate company to carry on the railway business. (1035, 1038.)

The laws of New Jersey provide that when the laws of any other State or nation prescribe greater taxes, penalties, fees, or other obligations and requirements upon corporations organized in New Jersey, and doing business in such other State or nation, than the laws of New Jersey impose upon foreign corporations, the State of New Jersey shall impose additional taxes and other requirements of the same amount and character on corporations organized in other States.

Mr. DILL explains that provisions of this sort, so-called retaliatory laws, have been passed in numerous States. They are intended to secure to foreign corporations the same rights as to domestic corporations. If a similar law were passed in every State, there would be an end to the discussion as to powers of a corporation organized in one State doing business in another State. The witness cited as an instance of abuse from the present state of the law that certain Italian bankers who had been refused the right to incorporate in New Jersey, organized in New York a so-called trust company, which opened a place of business in New Jersey. This has been closed as a result of the act above referred to. (1085, 1086.)

Suggestions for State legislation.—1. *General antimonopoly laws.*—Mr. ALLEN, in view of his discussion of the existing evils connected with combinations and monopolies, makes certain definite suggestions as to State and Federal legislation. As to State laws he recommends the following:

1. Each State should make a stricter classification of corporations, and enforce very rigidly the doctrine of ultra vires. This the State legislatures and courts have the power to do.

2. Each State should require corporate functions to be exercised under such official inspection as will make corporations fairly answerable to the public and prevent them from exceeding their power. Corporations being creatures of the State, it has unlimited power in this direction, and the inspection of banks and similar institutions furnishes a precedent.

3. Each State may provide that no foreign corporation shall do business within its borders without conforming to its laws. The power of the State thus to impose conditions upon foreign corporations doing business in its territory is practically undisputed. The courts have held that corporations are not natural persons, guaranteed by the Federal Constitution equal rights and privileges in the States.

Mr. Allen admits, however, that the question of the power of the State in regard to interstate commerce carried on by foreign corporations is a difficult and unsettled one, and recommends, as pointed out below, that Congress pass laws to aid in defining the rights of corporations and States. He conceives that foreign corporations should be restricted only on the ground of general restraint of trade. It would be possible, perhaps, for laws against combinations organized in other States to be evaded by the device of selling goods to individuals in such States, who should thereupon sell them to persons in the prohibiting State. Mr. Allen believes, however, that by strict interpretation of existing statutes or by additional statutes, it will be possible to prevent such evasions. In any case it will continue to be necessary to prove the intent of restraint of trade. (1187, 1193-1195, 1207, 1208.)

4. Each State can provide that the stockholders of a local corporation shall not combine, by agreement with the stockholders of any other corporation of the same or any other State, or sell or exchange shares, with the effect of restraining trade and tending to produce a virtual monopoly. The courts have always held that a combination for the purpose of boycotting is essentially conspiracy, and a combination of capitalists is just as truly a conspiracy. (1194, 1195.)

Mr. ALLEN admits that it is exceedingly difficult to prove the intent or the effect of creating a monopoly, which is essential to a court decision. Apparently, in the opinion of the witness, the mere control by an individual or a single corporation of a large percentage, or possibly even the whole, of the output of any class of products, would not in itself give evidence of the existence of an intention to restrain trade and enhance prices. The element of an agreement between different producers is apparently essential, but the form of that agreement does not matter, if the intent to restrain trade can be shown in any way. Thus the corporate form of organization would not be evidence that there was no combination, if it could be shown that the single corporation was made by the coming together of different individuals or establishments. The witness admits that the evidence as to the intent might not always be readily available, either from the articles of incorporation or by other written documents. But where plants from widely separated localities are brought together into one management, he believes that some clue to the intent, which could be made the subject of judicial proof, would almost necessarily exist. The mere general opinion and belief that a combination was formed for the purpose of restraining trade would not, apparently, in Mr. Allen's opinion, justify interference by the courts. (1182, 1187, 1197, 1201, 1205.)

Mr. MONNETT, attorney-general of Ohio, believes that it is entirely possible to attack the evil of trusts by stringent laws, provided a sufficient number of States adopt uniform and properly drawn laws. The State can control the business of a foreign corporation within its borders even more effectively than that of a domestic corporation. A provision for prosecution by persons injured is not very effect-

ive, because small dealers and consumers are not damaged in large sums and the expense of litigation is great. (330.)

2. *Prohibition of destructive competition.*—Mr. LEE, an officer of the independent oil organizations, believes that the real evil of combinations is not the mere aggregation of capital, but the use of unfair means to drive competitors out of business. Destructive competition should be made a criminal offense. The courts and juries would have to decide what constitutes destructive competition, judging the intent. If prices be kept far below the cost of production for a long period, whether in all markets or, as is more common, in local markets reached by competitors, that would be sufficient evidence. Penalties in the way of fines against the corporation, and fines and imprisonment of officers, could be effectively enforced. (294, 296.)

Mr. WESTGATE, an independent oil refiner, expresses a similar opinion to that of Mr. Lee. (383.)

Mr. LOCKWOOD, an independent oil producer, favors the enactment of a law requiring great trusts and combinations to fix a price upon their goods which, freights being considered, will be the same in every place throughout the country. This would prevent the increase of prices at noncompetitive points while they are being cut to destroy competition at other places. (394.)

3. *Regulation of charges.*—Mr. LEE thinks that quasi-public corporations, such as telegraph, electric and street railway companies should have strict regulation and their charges should be limited. This, however, is scarcely possible with ordinary business corporations. (294.)

4. *Limitation of capital.*—Mr. LEE believes that the capital of manufacturing and business corporations should be limited to \$1,000,000, which is sufficient to secure perfect division of labor, and which would prevent any company from engaging in destructive competition. If a dozen States should thus limit the amount of capital of corporations which could do business within their limits, there would be room for smaller competitors. A company with \$100,000,000 or \$500,000,000 capital can drive everyone out of business. (294, 295.)

5. *Uniform State legislation.*—Mr. ALLEN believes that it would be highly desirable that State laws regulating corporations and combinations should be uniform. Complete uniformity, however, is entirely impossible to obtain, although partial and approximate uniformity may doubtless be secured. It is certainly an anomaly and a danger that one State can create a corporation which can control the entire national market. Even where uniform laws are passed, court decisions and interpretations are likely to lack uniformity in the practical application of the statutes, or to throw out some of the statutes as unconstitutional.

Mr. STIMSON, in this connection, points out that considerable progress has been made in securing uniformity in certain kinds of laws. For example, 21 States have adopted a uniform law regarding bills and notes, and later proposals in the separate States for the modification of these laws have usually been defeated for the sake of retaining uniformity. (1209, 1210.)

6. *Special taxation.* (See also under National legislation.)—Mr. DOS PASSOS is not clear in his statements as to the amount of taxation which can properly be laid upon large corporations. He admits the desirability of improvements upon present methods, and apparently would be willing to have special methods for the taxation of corporations, although he considers that the average rate or burden of taxation upon corporations should not be proportionally higher than that upon individuals. It is just to investigate carefully the affairs of corporations for the sake of securing a fair levying of taxes, but present statutes already grant ample authority in this direction. (1172, 1173.)

Mr. LEE, an officer of the independent oil organizations, suggests that an income tax of 50 per cent on the profits of combinations would be a satisfactory remedy, except for the great difficulty of enforcing it. An inheritance tax would be largely evaded by gifts during life, and if graded would be objected to as unjust. (296.)

Mr. THURBER does not favor a proposal to take as a tax all profits of combinations above a certain dividend. They should be taxed as other individuals or corporations. Monopoly profits can not exist because of inflow of fresh capital. Combinations have given the public great benefit by their economies. The witness does not see how taxation of the income of trusts would tend to check overcapitalization. It would be unjust as a tax on good management. Taxation on stock is fairer. A tax on organization proportional to capital would check overcapitalization somewhat. (17, 21.)

7. *State control of railway rates.*—Mr. MONNETT, attorney-general of Ohio, believes that, the chief cause of the growth of trusts being discrimination in transportation charges, it is the duty of the attorneys-general of the different States to bring suit against transportation companies for violating their charters and to

secure their forfeiture. This may be made an absolute remedy. State regulation of local charges should be more strict than at present. In Ohio 400 per cent more per ton per mile is charged from Columbus to Cardington than from Columbus to Cleveland. A bill introduced in that State to require that the State rate conform to the interstate rate was defeated by the opposition of the railways. It was proposed also to introduce the long and short haul provision requiring the same tonnage rate, with a variation of only 10 per cent for different distances. Where railways are in competition with water transportation or with the Canadian Pacific, as at Chicago and Duluth, lower rates than to noncompeting points are claimed to be necessary. (324-326.)

8. *Public ownership of public utilities.*—Mr. MYERS, chairman of the judiciary committee of the Massachusetts house of representatives, expresses himself in favor of municipal ownership of natural monopolies so far as it is possible to secure honest and efficient service, avoiding political corruption. Under present conditions it will be well for most cities to hesitate before undertaking actual ownership, especially in case careful supervision is exercised over the private companies controlling these monopolies. The cities and towns in Massachusetts have been, in the opinion of the witness, very successful in their ownership and operation of water plants. They have had very little experience with public ownership of gas and electric-light plants. (1136, 1137.)

Mr. MONNETT, attorney-general of Ohio, states that the socialists believe that the trusts are showing us the possibility of public ownership on a large scale, and, therefore, should not be discouraged. He fears that Government ownership of railways and other large enterprises would be dangerous under the present conditions of the civil service, but believes that municipalities should be given the right to determine for themselves what public utilities they will own or operate. (326, 327.)

D. *Publicity through examinations, reports, etc.*—Numerous witnesses, including officers of combinations themselves, are disposed to favor a greater degree of publicity of the affairs of large corporations. This publicity is intended in part as a protection for stockholders and investors, and so far as this is the case the evidence of the witnesses is summarized under another head. (See p. 248.) Publicity is also advocated, however, as a protection to consumers, in order that the true costs of production and profits may be known.

Mr. LEE, an officer of the independent oil organizations, believes that combinations ought to be subject to Government inspection, which is undoubtedly justified under common law. But they do not appear to care much for publicity, since they are already defying public opinion. To put the combinations under the control of the Interstate Commerce Commission would be a difficult problem. (296.)

Mr. LUYTIES, an independent distiller, believes that the Government should look more carefully into the affairs of trusts, requiring them to submit to examinations and publish clear and truthful statements. (258.)

Mr. THURBER believes attempts to exterminate or largely to interfere with trusts unwise. He favors public regulation, involving public reports and inspection of accounts after the fashion of the national banking system. Such regulation may aim to prevent excessive prices, but its main purpose is protection of stockholders and investors against manipulation of stock. To prohibit interstate commerce or use of checks, drafts, etc., to corporations violating the law as to reports would be perhaps not the best penalty. Cumulative fines would be more satisfactory. (15, 16, 20.)

Mr. HAVEMEYER, president of the American Sugar Refining Company, at first stated that the Government ought not to interfere with trusts or regulate them in any way, shape, or manner. Competition is a sufficient regulator of prices; State regulation is unconstitutional. Buyers of stock should take their own risks, and the community has no right to know the earning power of corporations. The great argument against examination of books and publicity is the advantage given to competitors. The witness finally admitted that the supply of necessary articles, food-products, etc., by great corporations, takes on a quasi-public character which justifies regulation; that this might be accomplished without injury to industry, and would be especially advantageous in furnishing more accurate data for legislation. The leading answers of the witness on this point are given below. (128, 129-138.)

"A. There is always an aversion on the part of business men to expose their business to the advantage of competitors, and it is most probable that in case they did give the Government an opportunity to examine their books their condition and methods would leak out to the injury of themselves and the advantage of their competitors.

"Q. Would they be likely to be injured any more than the railroads are?—A. Yes; railroads run in certain districts. It is difficult to get a competing charter. Refineries can be built anywhere at any time.

"Q. Simply because railroads are more of a natural monopoly than refineries?—A. Yes; that is the way to put it.

"Q. Not, you think, that the people as a whole have any less interest in a sugar refinery as a consumer than they have in a railroad?—A. I think people as a whole have more interest in articles that are a matter of food than they have in matters of transportation.

"Q. So that, from the standpoint of the general public interest, if that can count for anything, there is more reason why the Government should get reports from the American Sugar Refining Company than from the railroads?—A. I think it possibly follows that where a corporation like the Sugar Company, or any other large food producer, takes on a quasi-public character, there is more reason why the public should know in reference to it."

"Q. Your own deliberate judgment is that if the inspection could be made fairly and honorably of the books of all corporations that are of this general nature, and if reports should be made regularly, it would be for the benefit of the people and presumably for that of the corporations concerned?—A. It would be the means of giving those who had the legislation in charge some more accurate data upon which to base their judgment and votes, and I really believe that until some such course is adopted industries in this country are in very great danger of very radical changes. If the Republican party, while it is in power, would gradually reduce this inordinate protection that prevails, it would be a very wise thing."

"Q. One word further with reference to the question of publicity. If I understood you correctly, you would yourself favor any bill that should be introduced that would provide for public reports of all corporations if you thought the law would be administered fairly and honestly?—A. Well, that requires more thought than I am able to give it at the moment. I can see no real harm in exposing the affairs of a corporation to governmental inspection, providing some means can be provided to protect that exposure from the advantage of the competitors. *

* * I will state broadly that where a corporation is dealing particularly in things that are essential to the benefit of mankind—clothing, fuel, oil, sugar, rice, food—anything which is peculiarly, as I have described it, of a quasi public character, it would be beneficial to the public to have them all under governmental superintendence."

Mr. ROCKEFELLER, president of the Standard Oil Company, believes in legislation "encouraging combinations of persons and capital for the purpose of carrying on industries, but permitting State supervision, not of a character to hamper industries, but sufficient to prevent frauds upon the public." (797.)

Mr. GARY, president of the Federal Steel Company, declares that it is desirable that all classes of the people should have the fullest possible knowledge of the actual facts concerning great industrial combinations. The ascertaining of such facts will be the chief benefit of the work of the Industrial Commission. Sometimes the people are inclined unduly to restrict corporations, while at other times the laws are too liberal. The great body of the people are desirous of doing the fair thing. They should be given an opportunity to hear both sides and to know the facts, avoiding misunderstandings, which are the chief cause of difficulty. The witness believes that the enforced publicity of the affairs of corporations, under State laws, is one of the best remedies for monopoly and abuses. With plenty of investigation and discussion, the corporation doing an illegitimate business will not succeed in the long run. Aside from the opposition of public opinion, competition will grow up and prove effective. Aggregation of capital, which is not the same as monopoly, is desirable, in order to produce at the lowest cost and in the largest quantity, to furnish employment to labor, and to bring to this country the largest amount of foreign money, without hurting the consumer in the meantime. (996, 1001, 1002.)

As regards the general public, considered as investors and consumers, Mr. Dos Passos denies the justice or the necessity of such extreme publicity of the affairs of corporations as is frequently demanded. No man who is not interested in a corporation has the right to know anything about it. He is entitled to protection only in his contractual relations with the corporation. The State has no more right to interfere with a corporation for the benefit of outsiders than to interfere with a private individual. It is not possible for the Government to undertake to protect all investors or to furnish them brains.

Nevertheless, Mr. Dos Passos believes that it would be just to require certain reports of corporations to be published. He distinctly favors such reports to

stockholders, and thinks that it might be desirable to make them public. Each company should have an auditor, who should make a monthly or a quarterly examination, and report the amount of business that has been done, the money on hand, the general assets and liabilities. Such detailed reports as are required from banks and other quasi-public institutions are superfluous as regards ordinary corporations. (1162, 1168, 1176, 1177.)

Mr. STETSON, a corporation lawyer of New York, expresses the opinion that aside from corporations engaged in public work, like insurance and railway companies, no requirements as to publicity, aside from the right of the stockholders to examine the books and receive published reports, should be imposed on corporations. The chief reason for this is that information thus published might be advantageously used by rivals in trade, and that it is unjust to discriminate by requiring such publicity from corporations when it can not be required from individuals and firms who compete with them. Such combinations as the American Sugar Refining Company are not to be considered as public corporations. They can not escape competition, present or prospective, and if they do not keep the prices of their products reasonable their business will be taken away from them. (975, 980.)

Mr. MOORE, who has organized various combinations, does not consider that greater publicity concerning the business of corporations is necessary than that secured by the presentation of statements of their affairs at the annual meetings. Whatever requirements be made by statutes, deception is possible. (966.)

IV. NATIONAL LEGISLATION AS A REMEDY FOR GENERAL EVILS.

A. General discussion.—Powers of Congress.—Mr. ALLEN, a lawyer of St. Louis, believes that national laws are necessary as a supplement to State legislation for the prevention of monopolies. He is inclined to favor an amendment to the United States Constitution by which corporations doing business throughout the country, and becoming thus of truly national importance, may be controlled entirely by national legislation. In the meantime, however, Congress should attempt to exercise more carefully its power under the interstate-commerce clause of the Constitution, especially defining more accurately the meaning of interstate commerce. The witness makes three definite suggestions:

(1) As aiding these several States in their endeavor to exclude foreign corporations from doing a monopolistic business within their borders, Mr. Allen suggests that Congress should enact a statute prohibiting corporations organized in one State under conditions which violate the laws of another State from engaging in interstate commerce with such prohibiting state. Mr. Allen holds that the interstate-commerce clause of the Constitution does not guarantee unrestricted commerce between the States. It simply assures the right to carry on such commerce with no other restrictions than those imposed by Congress itself. In the *Original Package* case Chief Justice Fuller held that the failure of Congress to impose restrictions under that clause must be construed to have been intentional; but later, when Congress passed an act making liquors transported into a State subject to the laws of that State, the same Justice held that Congress had the right thus to authorize States to impose restrictions. The doctrine of Chief Justice Marshall in *McCulloch v. Maryland*, as to the implied powers of Congress to adopt necessary means to carry out specified powers, would justify far-reaching action by Congress along the line suggested. This opinion has been upheld also in the *Addyston Pipe Company* case.

A definition of interstate commerce is, Mr. Allen admits, difficult to frame. The power of Congress is absolute, however, as regards all transactions which can be brought under that name. Mr. Allen suggests as a desirable method of procedure that Congress should begin by defining certain specific actions as being interstate commerce, and proceed further from time to time in making broader and more accurate definitions, as experience should suggest.

As the law is now interpreted, Mr. Allen believes that it is held that where goods are shipped, for example, from New York to Pennsylvania, the payment being made in New York, the transaction is interstate commerce, but where the goods are paid for in Pennsylvania, the title passing there, it is not so considered. The control of a State over goods, in the opinion of the witness, is held to cease as as soon as the goods are put in the possession of a common carrier for transportation to another State. (1194-1196, 1202, 1203, 1208.)

(2) Let Congress provide that no State shall be allowed to incorporate any company which is formed for the purpose of restraining interstate commerce or establishing a monopoly in any commodity to be sold to the citizens of the several States, and give to the Attorney-General power to enjoin any such corporation from doing business. (1194.)

(3) Mr. Allen quotes from Hon. Francis G. Newlands the suggestion that Congress exercise the power of taxation, a more far-reaching power than that under the interstate-commerce clause. A bureau of industry should be established, to which reports showing the condition and transactions of all corporations should be made.

In connection with this latter suggestion, Mr. Allen believes that the Government has power to require detailed reports of business as a basis for taxation, although the power of taxation has generally been construed to exist for the purpose of raising revenue primarily.

The witness also expresses the opinion that a Federal tax on corporations could be made progressive, increasing with the amount of capitalization or earnings, although the constitutionality of this is more doubtful as regards corporations already formed than as regards those hereafter to be organized, a condition of whose incorporation could be made a submission to any form of taxation. (1194, 1207, 1208.)

Mr. THURBER believes that where business is of interstate nature regulation should be by the Federal Government. There is, however, great legal difficulty in defining interstate business. Such regulations should consist primarily in requiring publicity. (16, 17.)

Mr. GARY, president of the Federal Steel Company, expresses the opinion that the only remedy needed for unlawful restraint of trade by combinations is to enforce the existing common and statute law. There is no need for Congress to pass an act as regards business carried on within the States, nor has Congress the power to do so. All that Congress could do would be to adopt a law which would be practically the present State law and common law. The witness admits, however, that the Federal courts are, on the whole, more satisfactory in their enforcement of laws than the State courts.

Congress has the right to pass a law so far as interstate commerce is concerned, but the Sherman Act is sufficient, and no one doubts the efficacy of the Federal courts in enforcing it. The witness does not believe, however, that the fact that a corporation is engaged in interstate commerce gives Federal authority any jurisdiction over that part of its business which is not interstate. It is limited to interstate business, and could examine the books of the corporation only in so far as they have to do with such business. The line between interstate and intrastate business is indeed difficult to define.

Mr. Gary doubts whether an attempt to amend the Constitution in order to give Congress jurisdiction over corporations would be successful, in view of the intrenchment upon the rights which the States consider their own. (1000, 1003.)

Mr. RICE, an independent oil refiner, declares that the present Sherman Anti-Trust Act is strong enough in its terms to protect the people from combinations if it were enforced. But he declares that the Attorney-General and the various district attorneys under his direction have not tried to enforce the law thoroughly. He states that he has had correspondence with the Attorney-General with regard to proceedings against the Standard Oil Trust, but that that officer has postponed and delayed action. Mr. Rice does not think that fines constitute an effective penalty for violations of the law, but believes that imprisonment would have a beneficial effect. (728.)

Mr. DOS PASSOS, a lawyer of New York, deprecates action by the National Government in regulating corporations and combinations beyond the strict limits of the interstate-commerce clause of the Constitution. The clause giving Congress power to regulate commerce between the several States was adopted in order to prevent the States from hampering one another and practically preventing the existence of a common country. To regulate commerce therefore does not mean to restrain commerce but to prevent it from being restrained. While the witness admits the difficulty of defining precisely the content of interstate commerce, and declares that the decisions of the courts as to its meaning are more or less inconsistent, he believes that Congress has no right under the Constitution to pass at all beyond the field of strict interstate commerce in its legislation.

Further encroachment of the Federal Government on the sphere of the States is to be deprecated by all classes and parties alike, as attacking the very foundation and theory of our institutions. It is essential to our liberties that the various local governments, such as cities, villages, etc., should have recognized rights, not to be invaded by State legislation, and likewise that the States should have proper freedom from Federal interference.

To leave out from the Sherman act the phrase "between the States," so as to make it apply to all commerce, would be unconstitutional. Mr. Dos Passos does not believe that a contract made between a man in one State and a man in

another State is to be considered interstate commerce. Nor does it affect the power of Congress as regards interstate commerce carried on by corporations that the individual States have the right to exclude corporations organized in other States. (1159-1161.)

Professor HUFFCUT, of the Cornell University Law School, submitted a discussion as to the powers of the States and Congress regarding corporations doing business within the States or between the States. (1211-1219.)

Corporations doing an interstate business as well as those doing business within individual States are practically all created by State legislation. If the corporation is not engaged in interstate commerce the State creating it has entire control over it. If it goes into other States to do business it becomes subject to the laws of those States, and they may regulate its operations to the extent of prohibiting it from doing business in their territory. If, on the other hand, it be engaged in interstate commerce, then the Constitution gives sole control over the interstate feature of its business to Congress, and denies all power to the States.

The result of this distribution of powers has been to leave the States largely helpless to remedy the evils which are believed to exist at present. Owing to the largely interstate character of modern business, any remedy for existing evils must come, at least indirectly, through Federal legislation. There are three possible solutions of the difficulty: (1) to retain the present system of dual control, and seek increased harmony of action among the States, and between the States and the National Government; (2) to give to the States, through Congressional action, larger control; (3) to exercise larger control by the National Government.

(1) In discussing the first proposition it is necessary to understand the existing powers of the States and of Congress as interpreted by the courts.

The States have very slight power as regards interstate commerce, and as regards corporations engaged in such commerce. In the matter of interstate commerce the United States are but one country. The reasons which have caused the framers of the Constitution to repose the power to regulate commerce in Congress do not affect the limit or the extent of the power. When Congress has not acted, this is to be taken as indicating its will that commerce shall be free from restrictions. State laws passed to regulate interstate commerce are invalid; although, if used in the exercise of the police power, they are held valid if local in operation and reasonable in their incidental effect upon interstate commerce. A State can not exclude a foreign corporation engaged in interstate commerce. A State can not tax a corporation, even though created under its own laws, upon interstate commerce; nor can it fix rates for carrying interstate commerce.

The United States, on the other hand, are equally circumscribed in their control of nontrading enterprises and of corporations not engaged in interstate commerce. Thus, in the Knight case, it was held that the antitrust law does not extend to a combination for the manufacture of sugar, because manufacture is not trade.

The result of these restrictions is great difficulty in reaching monopolistic corporations. The States could not exclude a trading corporation, while the United States could not attack a manufacturing corporation.

Two acts of Congress have been passed, calculated to aid the States in control of monopolistic enterprises:

(a) The interstate-commerce act has practically had little effect, the powers of the Interstate Commerce Commission not being extensive, and being largely circumscribed by judicial interpretation.

(b) The antitrust act has been the subject of several decisions by the Supreme Court. Its effect may be stated as follows: (1) A restraint of business not included under interstate commerce is not within the prohibitions of the act. (2) A combination which, although affecting interstate commerce, does not restrain it, is not within the act. (3) Any combination which does restrain interstate commerce, whether such restraint be illegal at common law or not, is illegal under the act.

The recent decision in the case of *Addyston Pipe and Steel Company v. United States* is especially referred to by Professor Huffcut as showing the broad interpretation placed by the court upon the antitrust act.

In spite of this liberal interpretation of the Federal antitrust act, it still remains difficult to adjust the balance between the powers of the States and of Congress so as to reach all the evils which arise. There are too many States which are bidding to secure the formation of corporations within their borders to make it likely that harmonious legislation by all the States can be secured, to refuse charters for corporate monopolies.

(3) The second proposed solution is that the National Government shall give to the States a larger, perhaps an exclusive control of corporations engaged in interstate commerce. The question arises whether Congress has the power to delegate such control to the States.

There is no direct authority, Professor Huffcut believes, upon this point. But various decisions cast an indirect light upon it and apparently indicate that Congress has such power. A corporation has no inherent right to go into another State than that of its origin. The only corporations that escape this rule are those engaged in interstate commerce. Congress may remove the impediment to the operation of State laws upon commerce. This has been especially decided in the cases affecting the rights of the States to prevent the sale of intoxicating liquors brought from other States. In this connection Professor Huffcut believes that Congress could also enact a law permitting the statutes of the several States to operate upon convict-made goods brought from other States. Congress may in the same way remove the impediment to the operation of State laws upon corporations engaged in interstate commerce or international commerce. A corporation is not a citizen having the right of equal privileges in the several States guaranteed by the Constitution.

(8) The third proposition is that Congress itself shall take a larger, perhaps exclusive control of corporations engaged in interstate commerce. The question arises how far Congress has the power to limit the right of corporations to engage in interstate commerce to corporations created by Congress itself. In order to force this result Congress might resort to one of three different methods.

(a) It might forbid to such corporations as fall within the definition of monopoly all use of the mails. As an exercise of the police power Congress has already excluded from the mails circulars concerning lotteries and various other publications. The police power extends, not merely to morals and safety, but to the protection of the reasonable and convenient exercise of private rights.

(b) Congress may tax State corporations upon their interstate commerce. This power has already been exercised in the case of the tax imposed on State bank issues, which is intended to suppress the evils arising from lack of uniformity as to circulating notes and to practically drive banks desiring circulation to incorporate under national law. The court in its decision as to this act recognized that the same method might be employed with regard to any other class of corporations. A national act for incorporation of companies doing interstate business, supplemented by a tax on interstate business of State corporations, would therefore be feasible.

In further support of this contention Professor Huffcut cites decisions to show that the power of Congress to regulate interstate commerce is exclusive and is restricted, if at all, only by acquiescence in the exercise of a concurrent power by the States, so far as it has merely a local effect; that Congress has the supplementary power to make all laws which are necessary and proper for carrying into execution the powers expressly granted to it, and under this provision has already created banking and numerous other corporations; that the tax upon operations of corporations engaged in interstate commerce is not a direct tax, and therefore not objectionable for want of uniformity. The privilege to engage in interstate commerce is within the control of Congress, and may therefore be taxed by the power which confers it. Some practical difficulties might arise in determining when an article sold by a corporation has become a part of interstate commerce, but this difficulty is no greater than that experienced in determining the question where the right of a State to tax interstate commerce is raised.

(c.) Congress might, if it saw fit, act directly by prohibiting State corporations from engaging in interstate commerce. Since the States are denied all power to regulate interstate commerce, the National Government has absolute power left to it. It is not possible that in the division of powers anything has been lost. If this were the case, a single State might create an artificial being which is not a citizen of any State or of the United States, and which no other State, nor the United States, could control when it passes outside of the State of its origin.

Conclusion: "Whether, finally, we are to go on under the present system of dual control, or whether we are to have a system of exclusive State control, or whether we are to have a system of exclusive Federal control, seems to be within the province of Congress to decide. The present system rests upon a long development and commends itself to the conservative and the cautious. Whether it is satisfactory or can be made so is for the economists and statesmen to determine. The system of exclusive State control would doubtless lead to different results in different States, and while it might create some confusion and inconvenience, and even hardship, it would eventually furnish a basis for a comparative study of the differing experiments. Whether this loss in uniformity would overbalance the gain from diversity I do not pretend to say. I merely point out that such diversity would furnish the data for a later movement looking toward uniformity in case such a movement should later seem desirable. The system of exclusive Federal control would seem, perhaps, the logical outcome of the constitutional provisions giving to Congress the power to regulate interstate commerce. I am even

disposed to think that it will be the ultimate solution of the present problems. Whether the time is now ripe for it, or whether we need rather to proceed first with tentative experiments under one of the other two methods, is a question upon which we may well hear more before we make haste to decide." (1211-1219.)

B. National incorporation laws.—The organization of national corporations is favored by several witnesses. Some advocate considerable regulation in connection with these laws. Others oppose all such propositions. (See also above, pp. 232-236.)

1. *Advocated.*—Mr. ARCHBOLD, vice-president of the Standard Oil Company, declares that the lack of uniformity in the laws of the various States affecting business corporations is one of the most vexatious features attending the existence of such corporations, and is likewise vexatious to the authorities of the States themselves. He considers that the next step in progress will be the establishment of Federal corporations.

"If such corporations should be made possible, under such fair restrictions and provisions as should rightfully attach to them, any branch of business could be freely entered upon by all comers, and the talk of monopoly would be forever done away with." (580.)

Mr. ROGERS, president of the National Transit Company, agrees with Mr. Archbold in favoring a Federal incorporation law, and declares that the Standard Oil Company would be willing to abandon its organization under State laws for the sake of incorporating under the United States. He does not believe that under the present Constitution such national incorporation laws could be passed, but would favor an amendment for that purpose. Such a system would be of advantage in enabling corporations to do business in the several States subject only to laws of those States as regards taxation and police regulations; it would lessen litigation regarding corporations. (585.)

Mr. ARCHBOLD further declares himself in favor of proper regulation of accounts and publicity of business under such a national corporation law as he advocates. Mr. Rogers confirms the recommendations of Mr. Archbold in this regard. Extracts from Mr. Archbold's testimony follow:

"Q. Would you consider it advantageous to the country as a whole to have greater publicity regarding the business of all the great corporations that now exist? For example, with reference to the amounts of stock that are represented by plant, the amounts represented by patents, by good will, the amounts that are water, and so on. In other words, would you consider it an advantageous thing for the country to have substantially the English corporation law apply in this country?—A. If it could be put into Federal hands, yes.

"Q. And you would favor, then, the publicity of accounts, the making of report to the Federal Government quite in detail?—A. Oh, unquestionably.

"Q. Somewhat the same system as is applied to our national banks?—A. Unquestionably."

"Q. (By Mr. KENNEDY.) Favoring national charters and national supervision, as you say, would you go to the extent of favoring inspection of the books and affairs of each concern, as the national banks are inspected by Government officials?—A. I have not made a study of the subject so as to make a statement in detail as to what the supervision and restriction should be. I should say that is a question that ought to be very carefully considered before expression is made, and I could hardly answer it to-day. On general principles, I favor all fair supervision and making of statements that would enlighten the public." (578, 580.)

Mr. ROCKEFELLER, president of the Standard Oil Company, expresses himself in favor of "federal legislation under which corporations may be created and regulated, if that be possible." (797.)

Mr. GATES, chairman of the American Steel and Wire Company, is much in favor of the granting of national charters, chiefly for the sake of legalizing the business of corporations throughout the country, and preventing undue interference by State laws. He would require a considerable payment to the National Government for charters, and a substantial annual payment thereafter, say \$1,000,000 a year for a charter of \$100,000,000. This payment would be capitalized at the beginning, but would result in preventing overcapitalization. If necessary, such a corporation should be put under the control of a national manufacturing commission, similar to the Interstate Commerce Commission. (1022.)

Mr. DILL, a corporation lawyer of New York, believes that Federal corporation laws are desirable and that they are within the powers of Congress under the clauses of the Constitution referring to the public welfare. The question of corporations has become one of national importance, and either the statutes of each State must provide that foreign corporations shall be on the same level as domestic, or Federal charters are desirable. The witness believes that the Supreme

Court, following the Marshall case, would hold that Congress had power to decide whether or not a national corporation law was a proper measure. Trusts and industrial corporations are as much a matter of public welfare as the incorporation of the Pacific railroads. The President formerly vetoed as unconstitutional appropriations for internal improvements, but river and harbor bills are now considered perfectly constitutional and normal. (1087, 1088.)

Mr. PAM, general counsel of the American Steel and Wire Company, believes that it would be advantageous to corporations doing a business more or less over the entire country if they could be incorporated by national law. It would avoid the exercise by each State of its separate right to construe the powers and duties of each corporation. There would be some question as to the taxing power in case a corporation were organized under national law, and there is some doubt as to the constitutionality of such an incorporation law, except as regards strictly interstate business. The witness is inclined to believe, however, that the general power of Congress to give charters and grants is sufficient to permit special corporation acts, except so far as the rights of individuals to control their own property are interfered with. Congress has already issued special charters to the Nicaragua Canal Company, and to railway corporations designed to operate in the Territories, but also extending beyond the borders of the Territories. (1087, 1088.)

2. *Deprecated.*—Mr. DOS PASSOS, a lawyer of New York, believes that it was a wise stretching of the Constitution to incorporate the Nicaragua Canal Company, but for Congress to incorporate other companies would, in his opinion, be unconstitutional. (1159-1161, 1174.)

Mr. STETSON, a corporation lawyer, believes that a national incorporation law would be unnecessary and therefore harmful. Under the present Constitution Congress has no power to pass such a law except as to interstate commerce; the definition which the courts will give to that term he does not know. The general welfare clause of the Constitution does not, he believes, confer an independent grant of power. (981.)

C. *Freer rights under patents.*—Mr. DOS PASSOS sees no reason for taking away the incentive to invention by withdrawing the right of exclusive manufacture of invented articles secured by the present laws, nor does he favor the suggestion that manufacture be made open to all upon the payment of a royalty to the inventor. He admits that the actual inventor of any device seldom makes much money out of it. The advantage is gained by some corporation usually. (1170, 1171.)

D. *Removal of tariff* (see also above, p. 214).—Mr. BUYNITSKY, assistant chief of the customs division of the Treasury Department, has suggested a bill authorizing the President of the United States, whenever he shall be satisfied that any article subject to customs duty is monopolized and the price controlled by a combination in such a way as to lower the wages of operatives or to secure more than a reasonable profit, to reduce by proclamation the duties on the article to the extent of not less than 5 per cent nor more than 20 per cent thereof. (50.)

Mr. GARY, president of the Federal Steel Company, states that to remove the tariff on articles largely produced by great corporations, provided protection is essential, would of course kill the corporations, but he does not believe that this is the best remedy for monopoly. There might be individuals occupied in producing the same classes of goods, and it would be impossible to withdraw the tariff as regards the corporation and not as regards the individual. The only grounds on which discriminations in the tariff could be justified would be that a corporation was doing an illegal business, and if that is once ascertained there is no need of a change in the tariff in order to suppress the corporation, since combinations in restraint of trade are illegal under common law and statute. (999, 1000.)

Mr. RICE, an independent oil refiner, believes that the tariff should be repealed so far as it applies to articles controlled by trusts and combinations. (780.)

E. *Federal regulation of railways; prevention of discriminations.*—1. *Working of present laws.*—Mr. LOCKWOOD declares that the interstate-commerce act was the result of a movement by the independent refiners of Pennsylvania, but the great railways and trusts seem to pay no attention to the law. The commission is practically powerless, and the trusts constantly threaten to still further embarrass it by testing particular powers and orders in the courts. Thus it was shown 4 or 5 years ago that the Atchison, Topeka and Santa Fe Railroad had paid out more than \$7,000,000 in rebates to favored shippers long after the act was in operation. There is practically no remedy for railway discriminations in the courts. They have been packed with men who will do the bidding of the railways, and the process in any case is too long and expensive. Thus a suit

for conspiracy brought against the Standard Oil Company and the Pennsylvania Railroad in 1879 was removed from the local court to the supreme court of Pennsylvania, which took original jurisdiction, practically stretching the constitution to do so, and the case was hung up. (388-390, 398.)

Mr. ARCHBOLD characterizes this last statement of Mr. Lockwood as outrageous, and calling for no answer. (553.)

Mr. RICE declares that the Interstate Commerce Commission has failed to enforce the law, even where it had power to do so, and where evidence of violation was amply shown. He does not consider that the complaint on the part of the commission of lack of power is altogether justified. He refers to cases which he himself has brought before the commission, where either no decisions have been reached or the decisions have been only partial. (729, 733.)

2. *Combinations among railways.*—Mr. THURBER says that combination among railways was the first prominent form of combination. By forming trunk lines rates were greatly reduced, falling from an average of 3.08 cents in 1865 to 0.72 cent in 1895. While competition of lake transportation and other causes have contributed to this reduction, it is chiefly due to mechanical improvement made possible by aggregation of capital. Rates of water transportation themselves have been greatly reduced by increased size of vessels, brought about by large capital—e. g., Rockefeller whalebacks. Pooling of railways under the supervision of the Interstate Commerce Commission is desirable. (4, 18, 19.)

Mr. RICE, an independent oil refiner, testifies that, although the United States Supreme Court has decided that the Sherman antitrust act applies to combinations of railways, such combinations still exist. Whenever there is a new decision against one of the traffic associations all the others change their names and form of organization, so as to escape liability for past offenses. Mr. Rice quoted from the Official Railway Guide for September, 1899, to show that there are at present 44 traffic associations, which he characterizes as unlawful. Many of the traffic associations include water lines, thus preventing competition from this source. The leading steamship lines on the Great Lakes are also organized into an association by themselves, and, moreover, the majority of them are owned by railroads. Mr. Rice cites the agreement between the Transcontinental Association of Railways and the Pacific Mail Company, dated October 1, 1889, by which \$800,000 per annum was paid to the steamship company for granting the railways the privilege of fixing all passenger and freight rates, both by vessel and rail, between New York and San Francisco.

Mr. Rice also points out the rapid movement toward actual consolidation of railways during the past decade, quoting from Mr. Vreeland, president of the Metropolitan Railway Company of New York, that, since 1890, 946 railroads, aggregating 68,000 miles, have been consolidated.

The witness further declares that these combinations and associations of railways work in entire harmony with the great industrial combinations. The joint capitalization of the railways and the trusts is nearly \$19,000,000,000, fully half of which is fictitious. Mr. Rice estimates that the gross receipts of the railroads are \$800,000,000 annually, and that fully \$100,000,000 annually is taken from the people by unjust discriminations, going to a privileged class of "cold and calculating men, who, by open bribery and naked rascality, secure the favor of the railroad officials." This system of favoritism has been the source of the unequal distribution of wealth in this country. It has enabled men to accumulate fortunes of \$400,000,000 to \$500,000,000, while their fellow-creatures are suffering for the bare necessities of life. (741-746.)

Mr. MONNETT states that the Central Passenger Association has been formed since the Joint Traffic Association was broken up by the decision of the United States Supreme Court. It has issued thousand-mile books, which may be used upon all the roads; they are sold for \$80, and \$10 is returned when it is shown that the tickets have not been transferred. This association is now being brought before the Ohio courts. (829.)

3. *Pooling contracts.*—Mr. STETSON, a railway and corporation lawyer, believes that railways should be allowed to make any corporate contract they choose with one another, subject to annulment by the Interstate Commerce Commission. The contract should continue in force until disapproved by the Interstate Commerce Commission, and, in case of appeal from its decision, until the reasonableness of the rates has been tested by the courts. It would be preferable that the Interstate Commerce Commission should be made a judicial body, with life tenure, and with final power to decide promptly as to railway rates. (978-980.)

Mr. DOS PASSOS, a corporation lawyer of New York, believes that by granting the railways the right to pool and operate their roads in a reasonable way the incentive to freight discriminations will be removed. (1175.)

4. *Increase of powers of the Interstate Commerce Commission.*—Mr. STETSON expresses the opinion that the power of the Interstate Commerce Commission to declare whether a rate is reasonable or unreasonable should be retained, but he sees no reason why rates fixed by railways should not remain in force until held unreasonable, and in case of appeal until the Interstate Commerce Commission has been upheld by the courts. He does not believe there are any unreasonable rates now existing. He does not consider it best to give the final decision as to matters affecting the greatest body of property in the country to a board subject to political influences and to a change in membership every 4 years. If the commission could be changed into a court and its officers given life tenure, final decision might properly be left to it, and the present injurious delays from appeals would be avoided. It is desirable that unreasonable rates, if they exist, should be immediately abolished. (978, 980.)

5. *Publicity of railways.*—Mr. STETSON, who has been employed as counsel in the reorganization of various railways, is strongly in favor of thorough publicity in their management, on account of the public nature of their services, and because of the comparative monopoly which they enjoy in particular places. (978.)

Mr. WESTGATE, an independent oil refiner, advocates the establishment of railroad examiners, who should examine the books and accounts of railroads, especially where complaint is made by persons injured, to discover whether discriminations have been made or whether charges are unjust. (382, 383.)

6. *Government ownership of railways.*—Several witnesses advocate government ownership as the only effective remedy for railway discriminations.

Mr. EMERY, an independent refiner of oil, believes that if it were possible to enforce effectively the existing laws prohibiting discriminations, making some prominent railway men examples by putting them behind prison bars, further action might be unnecessary. But such effective enforcement of law is impracticable.

The experience of Germany and of Norway and Sweden, the witness believes, shows the practicability of government ownership. In the latter case especially the motive of government ownership, which has all been worked out during the past 18 years, was to prevent railway discrimination. The independent refiners have shipped oil in Germany and Norway and Sweden and find they are able to get fair rates. (670, 671.)

Mr. LOCKWOOD, an independent oil producer, states that the independent oil refiners have found in Germany, where the railways are owned by the Government, equal conditions of shipment, and they are able to make a profit. The railways are recognized by the courts and by economists as the people's highways, which can not justly be made private property. The United States could borrow money for acquiring railways at from 1½ to 3 per cent less interest than the railways are now paying on their bonded debts. The danger of partisan abuse of the appointments to the railway service is not especially to be feared. It can be checked by proper civil-service laws, and at any rate the evils could not equal the present political corruption caused by the railways under private ownership. (392, 393.)

Mr. RICE, an independent oil refiner, believes that the influence of railways is so great, especially through their political power, that it is impossible to enforce the existing laws, and hence advocates government ownership. (730.)

7. *Control of railways in Canada.*—Mr. GALL states that there is a law in Canada against railway discriminations, and a railway committee of the privy council with certain powers of investigation. He does not think, however, that this committee has effective power to enforce its decisions. (685.)

V. CORPORATION LAWS IN THEIR GENERAL ASPECT.

Much testimony was presented as to the characteristics and effects of existing corporation laws and as to the desirability of changes in them. Most of the evidence has to do with the question of the relation between stockholders and the corporation, and as to the protection of the public as investors against frauds in capitalization. The testimony on the two latter specific topics is summarized separately.

A. *General features of corporation laws.*—1. *Liberality desirable.*—Mr. MOORE, who has organized several large corporations, expresses the belief that corporation laws should be made more liberal, and that at the same time efforts should be made to make corporate investments more secure. He thinks that the English corporation law has points of advantage, and should be copied in certain respects. The New Jersey law is somewhat along the line of the English one. In England, just

before the annual meeting, a printed copy of a statement of the condition of the company is sent to each stockholder. At the same time the directors, or at least part of them, retire and offer themselves for reelection. The former restrictions on the powers of corporations have been repealed in England, and corporations can now do anything which is legitimate. One result is that their securities can be sold on the exchange on the basis of 3 or 4 per cent interest, whereas the preferred stocks of American companies, with an interest of 7 per cent, barely sell at par. The witness thinks it should be possible for these more profitable investments to be made secure enough to enable people of smaller means to invest in them, and so obtain a larger income than can be got from Government bonds. (964, 966.)

Liability of stockholders.—Mr. STETSON, a corporation lawyer of New York, advocates the abolition of the liability of stockholders of corporations. The person doing business with a corporation should inquire into its solvency and responsibility as a corporation, just as he would inquire concerning an individual with whom he did business. The law provides adequate remedies if false information is given under such circumstances. (974.)

B. General characteristics of laws of certain States.—1. *New Jersey incorporation laws.*—Mr. MOORE, who has organized several great combinations, states that the chief advantage of incorporation in New Jersey, as compared with New York and other States, is that the taxation of corporations is on the whole more reasonable and that the laws are more liberal and just. Other States which place higher taxes upon companies and thus drive them to organize in New Jersey are working against their own interests. The witness considers that each State ought properly to protect the corporations which have their chief business located in the State. The States are getting more fully to understand the nature of corporations and are likely to make their laws more liberal.

The laws of some of the other States are already practically as liberal as those in New Jersey, but New York capitalists who invest largely in these great combinations prefer to have the corporation in New Jersey, which is near at hand. There is some question as to what would be the result upon the location of existing corporations if other States should adopt more liberal laws.

Mr. Moore does not consider that the New Jersey laws are unduly liberal. They guarantee protection to the stockholders, who are allowed to see the books, as they justly should be. The witness does not consider that greater publicity of the affairs of corporations is necessary than that obtained through the statement presented to the stockholders at the annual meeting, as is required in New Jersey. (964, 966.)

Mr. PAM, general counsel of the American Steel and Wire Company, testifies that the reason for the incorporation of that company in New Jersey was that the broad scope of its business, covering production in several different States, and including mining of iron and coal as well as manufacture of steel products, required exceedingly broad powers. The laws of New Jersey are more liberal in their scope than those of most of the other States. They give the corporation power to carry on any legitimate business in any State, and no question can be raised by any other State as to the power of the corporation, so far as its own charter is concerned. The Pennsylvania statute, for example, provides that no nonresident corporation can own more than 100 acres of land. The Illinois laws do not permit a corporation of that State to own stock in other corporations. Under the New Jersey act a corporation can own stock in a Pennsylvania corporation, which may acquire land in excess of 100 acres. This could not be accomplished by an Illinois corporation.

The Illinois law, moreover, exempts from taxation the capital stock of purely manufacturing corporations, but the courts construe the law so that if the company exercises any other power, such as the operation of mines, it is not exempt from taxation. An independent wire company in Illinois which did not engage in other branches of industry would have an advantage over the American Steel and Wire Company in the matter of taxation if the latter were incorporated in that State.

The witness considers that, under modern conditions of industry, where State lines are practically disregarded so far as economic relations are concerned, corporation laws must be liberal in order that business may be properly conducted.

Mr. Pam does not believe that the New Jersey law is unduly lax in its protection of stockholders. If anything the statute there requires greater publicity as regards stockholders than the Illinois law. (1085, 1087.)

Mr. GARY, president of the Federal Steel Company, gave similar reasons why it was incorporated in New Jersey. The witness knows of no provision in the New Jersey law especially to the disadvantage of stockholders. (996.)

Mr. BRADLEY, vice-president of the Distilling Company of America, states essentially the same grounds for the incorporation of that company in New Jersey. (823.)

Mr. STETSON, a corporation lawyer of New York, testifies that, in addition to the wide grant of powers, the advantages of incorporation in New Jersey are: (1) Taxation lower than in New York and in some other States; (2) that the liabilities of stockholders and directors are less than in certain other States, there being no personal liability of stockholders in addition to the amount of capital paid in; (3) that the law permits property to be taken in exchange for stock in accordance with a value determined by the directors in good faith, although it is not true that the stock does not have to be paid for fully in cash or property; (4) that there is no limitation on the amount of indebtedness which a corporation can incur. (971, 975.)

Mr. KING, secretary of the New Jersey Corporations Agency, enumerates essentially the same advantages of New Jersey laws as Mr. Stetson. Mr. King does not believe, however, that the New Jersey laws are the most liberal of those of any State, West Virginia especially having freer laws. He believes, on the whole, that the public are well protected under the New Jersey laws. (1108-1110.)

2. *West Virginia corporation laws.*—Mr. DILL states that a tramp corporation is understood to be one which does all its business outside of the State by which it is incorporated. The laws of West Virginia, in his opinion, permit the formation of such corporations, practically the only restriction laid upon corporations formed there being that the capital is limited to \$5,000,000. The stockholders may meet and the principal office may be located anywhere. There is nothing which must be done within the State. Since it is a recognized principle of law that the courts of one State have no power to compel the books of a corporation organized in another State to be brought to the first State for examination, the stockholders of a tramp corporation have no guarantee of access to its books whatever. (1077-1079.)

3. *Delaware corporation laws.*—The Delaware law, according to Mr. DILL, stands between those of West Virginia and New Jersey in its requirements. It does not demand that the stock and transfer books be kept in the State, but requires duplicates to be kept there, although it is not necessary that the list of stockholders be continually posted to date. (1077-1079.)

Mr. SMITH, an attorney at law, of Wilmington, Del., testifies concerning the adoption and character of the Delaware corporation laws.

Formerly the practice in this State was for the legislature to grant special charters in each case. The new constitution of 1897 authorized the legislature to establish a general corporation law. Such a law was drawn up by a joint committee of the legislature, aided by counsel, and adopted in March, 1899. Its general features were largely modeled on those of the New Jersey statute, but in certain regards the law was made more liberal, confessedly with the purpose of influencing corporations to organize in the State. The main purpose, according to Mr. Smith, was to secure the actual location of business in Delaware, a subsidiary object being to increase the State revenues by the taxes on the corporations formed there. The witness believes that several large corporations, especially some engaged in iron manufacture, have actually settled in the State, largely under the influence of this liberal statute.

The Delaware law fixes no limit to the capitalization or duration of a corporation, further than that the term of its duration must be mentioned in the articles of incorporation. A charter once granted can not be repealed or modified by the legislature, unless by a general act. (1119, 1121, 1123.)

C. *Taxation of corporations in different States.*—1. *New Jersey.*—The relatively low and fixed taxation on corporations in this State is referred to by several witnesses as a reason for incorporating there. (See p. 240.)

Mr. DILL, a lawyer of New York City, testifies that one of the chief advantages which lead corporations to organize in New Jersey in preference to other States is the certainty regarding the amount of taxation. He quotes the statement of a prominent banker of New York that it is advantageous to organize in New Jersey because that State has a surplus in its treasury and will not be driven, as is apt to occur in New York, to squeeze more money out of corporations to make up a deficiency. The taxes are fixed upon a perfectly definite basis, the amount of capital actually paid in, the rate of tax being one-tenth of 1 per cent on capital up to \$3,000,000; one-twentieth of 1 per cent in excess of \$3,000,000, but not over \$5,000,000, and \$50 for each additional \$1,000,000. In some other States there are several boards, with a number of individuals on each, who have power to fix the valuation of corporations for taxation on various bases. The witness believes that an arrangement of this kind leads to great corruption.

As to the reason for the decrease in the rate of taxation as the amount of capital increases, Mr. Dill states that when the statute levying the tax was passed corporations of the present immense capitalization were never dreamed of. The legislature has not yet had time to pass on the new question as to the just taxation of these large corporations. Mr. Dill does not consider that the present arrangement constitutes in itself a special attraction for corporations to go to New Jersey. He implies that strictly proportional taxation would be, in his opinion, more just than the present arrangement. (1081, 1086.)

2. *Delaware*.—The rate of taxation upon corporations is less in Delaware than in New Jersey, but the method is identical. The incorporation fee in Delaware is 15 cents per \$1,000 of capital, as compared with 20 cents in New Jersey. The annual franchise tax is one-twentieth of 1 per cent on the first \$3,000,000 of capital stock actually issued, as compared with one-tenth of 1 per cent in New Jersey. On the excess above \$3,000,000 the tax in Delaware is one-fortieth of 1 per cent, and on the excess above \$5,000,000 \$30 for each \$1,000,000.

Owing to the fact that the State of Delaware has comparatively light expenses, it is not likely that this franchise tax will be increased, but on the contrary it is apt to be decreased, if new corporations come to the State in large numbers. (SMITH, 1119-1123.)

3. *West Virginia*.—This State, unlike most others, requires a fixed annual license fee from all corporations, irrespective of capitalization. The first payment is required before the charter is issued. The amount of the tax is \$10 per year in case the principal place of business is in West Virginia, and \$50 in case the office is outside the State. A sworn statement must be made as to the actual location of the principal place of business, to avoid evasion of the higher fee. (NEVINS, 1113, 1117, 1118.)

4. *Ohio*.—Mr. MONNETT, attorney-general of Ohio, believes that the Ohio franchise tax law is setting the example for various other States. It values the property of the corporation according to the market value of its stock. Railways pay instead a tax of one-half of 1 per cent on gross receipts, under which \$450,000 has been collected. (327.)

VI. RIGHTS OF STOCKHOLDERS AND THEIR PROTECTION.

The belief is implied, even where it is not directly stated, by various witnesses, that corporation laws as now existing often leave stockholders largely at the mercy of the officers of the corporation, and especially that the minority stockholders are not sufficiently protected. This is denied by other witnesses. Testimony was presented especially as to the working of the laws of New Jersey, Delaware, and West Virginia in this regard.

A. *General discussion*.—1. *What should be the powers of directors and the protection of stockholders?*—The question being raised by the exceedingly great powers conferred upon the directors by the charter of the Federal Steel Company, Mr. STERSON, who drafted the charter, states that in his opinion the law should not interfere to limit the powers of the directors or to protect stockholders. There is no such thing as due or undue among competent persons of mature mind. Nothing is so destruable as liberty of compact. If the parties are willing to form a corporation with such powers, let them do so. Most of the evils which are connected with corporations have been due to paternalism, which has made investors believe that they would receive some kind of protection which they do not receive in their dealings with individuals. The investor should ascertain the character of the business into which he enters. Legislation can not make the weak and ignorant strong and competent; they can learn most by experience.

As to the obligation of directors toward stockholders, although directors are trustees, they are held only by the terms of the instrument establishing the trust. The question is simply, what are those terms.

As a matter of fact, the directors themselves usually own a large majority of the stocks of corporations, and are interested in their prosperity. The idea that there is a large body of outside stockholders who are shut out and injured by the action of the directors is a mistake. In case of financial stress, not the stockholders but the directors have to sign notes and incur the burden.

It may sometimes happen that a few stockholders or directors, although owning a majority of the stock, may have interests contrary to those of the small stockholders, who are a majority in numbers. But in the opinion of the witness directors are usually faithful to their trusts, and any gain by increased protection to the minority would be offset by decreased efficiency. (972-974.)

2. *Protection of stockholders under existing laws*.—Mr. DOS PASSOS, a lawyer of New York, believes that the common law, even aside from existing statutes,

secures the stockholder sufficient right of investigation of the affairs of corporations and sufficient protection. Through the instrumentality of a court of equity he may at any time obtain access to the books, although sometimes persons attempting to see the books for fraudulent purposes are refused that privilege. If he be reasonably persistent, an individual stockholder may obtain necessary information despite opposition from officers or large stockholders. The common law also affords ample remedies for fraud or misrepresentation.

The witness admits that frequently a minority of stockholders control the affairs of a corporation, but attributes this altogether to the indifference of the other stockholders. If, however, the majority discover abuse on the part of the minority, it is easy for them to get together and control the corporation.

Mr. Dos Passos advocates, however, full reports of corporate affairs to stockholders. Each company should have an auditor, who should make a monthly or quarterly financial statement showing the general condition and business of the corporation. (1154, 1164, 1167, 1168, 1175.)

3. *Corporation stock trusts.*—Mr. Dos Passos testifies that it has been quite a frequent occurrence lately that the holders of a majority of the shares of a corporation have placed them in the hands of trustees. These trustees have the entire voting power of the stocks, but issue certificates representing a beneficiary right to their earnings. This practice Mr. Dos Passos considers advantageous by establishing a permanent management or policy and by transferring the control from stockholders who take little interest to a few individuals who are interested and familiar with the corporation affairs. It would be possible for one company to be formed within another over and over again in a similar fashion, so that a small fraction of the original shareholders might ultimately control the entire management, but the witness does not consider any restriction of the practice necessary or desirable. (1174, 1175.)

B. *Protection of stockholders under New Jersey laws.*—1. *Summary of law.*—Mr. DILL, a corporation lawyer of New York City, testifies that the distinguishing features of the New Jersey law are:

(1) Stockholders are forbidden by law to hold meetings outside of the State, any act done at such meetings outside the State being void. Meetings must be held at the registered office of the company.

(2) The corporation is required to maintain a principal office in the State of New Jersey, the laws as to this office being perhaps more stringent than in any other State, especially since the amendments of the past 3 years.

Each corporation must state in every paper it files in the office of the secretary of state, and in every statement it publishes, the location of its office in the State and the name of the person in charge as its agent upon whom process may be served. This agent may be an individual or a domestic corporation, but by statute of 1899 no corporation hereafter organized, except a trust company, can act as such agent. A sign giving the name of the corporation must be conspicuously displayed on the outside of the principal office.

At the principal office there must be a person who is authorized to transfer stock, and he is required also, under penalty of \$200 per day, to keep a book which shall contain the name, address, and holdings of every stockholder, posted to date, and a book containing the name and address of every officer of the corporation. Ten days before the annual meeting there must be posted an alphabetical list of stockholders, with their addresses and holdings.

Each corporation must make an annual report, giving the names of its officers, agent, place of business, and other facts, to the secretary of state, and must keep it on file in the principal office.

All these records are open to inspection of all stockholders of the company at all times during business hours.

Corporations are compelled to file in the office of the secretary of state, and inferentially to keep on file in their principal office within the State, a statement under oath of every additional issue of or payment on the capital stock of the company, showing how much was paid in cash and how much in property.

Mr. Dill points out that these provisions of the statute guarantee greater publicity and assure to the stockholders more certain opportunities to ascertain the names of their fellow-stockholders and the condition of the business than the laws of most other States. In New York there is no statute requiring stock and transfer books to be open to stockholders, and although the courts have held that this is a common-law right, the stockholder desiring to enforce the right is compelled to bring suit at heavy expense. In New Jersey, if he is refused access to the books, the chancellor of the State may, without any notice to the other parties, compel the books to be brought to a designated place and kept there.

Most large corporations, according to Mr. Dill, keep sets of stock and transfer

books in New York or other cities as well as in New Jersey, but it is the books in New Jersey which are consulted by the stockholders. Every transfer made in any other office is either wired or mailed to the New Jersey office on the same day, and in the large companies with which the witness has to do the transfers are balanced in both sets of books every day at 3 o'clock. In the case of these large companies stockholders actually make frequent inquiries concerning the holdings of other individuals. There were 77 inquiries made in 3 hours just before a dividend was declared by one of the companies.

In case, however, a person buys a few shares of stock with the fraudulent intent of acquiring information concerning the corporation to its injury, he could be prevented from obtaining access to the books by an injunction. (1077-1080, 1088, 1084.)

Mr. KING, secretary of the New Jersey Corporations Agency, states that the New Jersey laws require the articles of incorporation, and later the annual reports of each corporation, to state who the agent or representative in the State is. If the agent should resign it would be the duty of the corporation to file the appointment of a new agent. The witness believes that it is possible in every case to learn the name of the resident agent at the time from the office of the secretary of state. (1111.)

2. *Evidence as to failure to comply with laws.*—Mr. DILL declares that these strict laws of New Jersey are violated by many corporations, and that there is no effective method of enforcement. The attorney-general is authorized to bring suit against corporations for failure to file their annual reports, and the law prescribes a penalty of \$200 per day, but the witness has seen a statement in the newspapers that of 10,000 corporations taken at random not 2,000 have filed these required statements. Personal investigations made by Mr. Dill on the basis of records in the office of the secretary of state incline him to believe that the statements thus made are well founded. (1079, 1080.)

Mr. EDGERTON, who has visited various companies and attorneys, registered agents of corporations in New Jersey, testifies that as regards large concerns representing numerous and important companies he believes the requirements of the New Jersey statute are generally fulfilled. The names of the corporations represented are posted, usually in the public hallway of the building, although, of course, it is impossible that so many names should be made very conspicuous.

In the case of attorneys and individuals who represent a small number of companies, from 1 or 2 up to 40 or 50, usually less important concerns, the law is seldom observed strictly.

One man stated to Mr. Edgerton that he had never had the names of the corporations represented by him posted. In at least two other instances no names were posted, but it was alleged that the signs had been temporarily removed for the purpose of having new ones painted.

These attorneys and individuals make little attempt to keep up stock and transfer books for the corporations represented. In many cases they spoke with entire frankness to the effect that this provision was entirely unnecessary and unreasonable as regards small companies having few stockholders and scarcely any transfers. One attorney stated that he advises his clients regularly that the law is sufficiently complied with if the books are brought into the State at any time when desired or requested. More often attorneys said that they advised their clients as to what the law required, and allowed them to take their own risks if they saw fit not to comply with it. All the agents maintained that inquiries from stockholders for information were very rarely or never received. The treasurer of one company representing 54 corporations declared that, so far as he knew, no such inquiries had ever been made by the stockholders.

Mr. Edgerton believes that the smaller agencies of corporations also make little attempt to require the companies represented to comply with the law in regard to filing the annual reports in the office of the secretary of state and of the agency. (1128-1125.)

Mr. RYAN, an attorney who acts as registered agent for corporations at Jersey City, testifies that stockholders and officers of corporations frequently appoint him as their agent and hold their first meetings at his office, and that he is then immediately asked to resign, or does so voluntarily, and thereafter has no further connection with the company. He has been especially in the habit of receiving corporations organized by Mr. Whitney and Mr. Noblett, New York promoters, and practically had an arrangement by which his name could be inserted in the certificate filed with the secretary of state as agent of the corporation without consultation with himself. The witness is frequently absent from his office when these stockholders' meetings are held there, and when present often does nothing whatever but stand around. He has no office help.

Mr. Ryan explains, further, that he does not mean that he always formally resigns his position as agent of the corporations thus organized, but that he simply drops their business. The corporations have offices elsewhere, often in the State, and he pays no further attention to them. It may be that his name remains upon the records as the registered agent of the company. Although it is the duty of the company to appoint another agent in case he has resigned, that is the business of the company.

The witness admits that some of the companies which are organized in this way at his office are scarcely sound organizations. They are mostly comparatively small companies—manufacturing companies—with a capital, perhaps, at the outside, of \$200,000. The witness has no knowledge, however, as to the character of their business or their officers. He does not inquire deeply into them.

No records of these companies which do business with Mr. Ryan are usually retained in his office, although there are 6 or 7 of which he is the permanent agent, with possession of certain records. In the other cases he makes a note of the name of the corporation, but keeps no list of the officers or stockholders. He simply knows the incorporators. As to the companies which retain books at Mr. Ryan's office, he believes that he has a full list of the stockholders, prepared annually by the secretary of state or by the officers of the corporations in connection with the annual meeting. Only one of the companies, however, has ever held an annual meeting. The witness is not aware that the law requires a list of stockholders to be kept up to date continually.

Mr. Ryan has several stock-certificate books in his office, and has occasionally made a few transfers of stocks, although he does not mention the names of any companies now existing as to which transfers have been recently made. The class of companies with which the witness is connected do not ordinarily transfer stock to any considerable extent. If a stockholder should ask the witness for information he would tell him all he knew, but often this would be less than the stockholder himself knew.

Mr. Ryan believes that he has been attorney, in the manner above described, for perhaps 75 different companies. As far as he knows he has complied with the New Jersey laws. He charges a fee for his services, usually only \$5 or \$10. The witness denies that any books have been sent to his office recently in order to avoid punishment for noncompliance with the law. He has kept signs on the outside of his office giving the names of the corporations represented, but recently the separate tin signs have been taken down and a new sign covering all the different companies is being painted. The witness does not consider that this neglect amounts to a violation of the law. (1099-1105.)

3. *Registration and trust companies.*—It appears that a large proportion of the more important corporations organized in New Jersey have as their authorized agents for the service of process and as the transfer agents and custodians of the stock books certain corporations specially organized for that purpose, each of which represents a large number of companies. The methods of business of these corporations were described by several witnesses, these being officers of the Corporation Trust Company of New Jersey, Jersey City; the New Jersey Corporation Guarantee and Trust Company, Camden; and the New Jersey Registration and Trust Company, East Orange. According to these witnesses it is the purpose of these companies to facilitate compliance with the New Jersey law by the corporations which they represent.

(a) *Written authority required.*—These trust companies require from each corporation registering with them a written authorization, in the form of a resolution adopted by the corporation. A uniform form is used for this purpose, of which the following is a sample:

"Ordered, (1) That, in compliance with the laws of the State of New Jersey, this corporation have and continuously maintain a principal office and place of business within the State of New Jersey, have an agent at all times in charge thereof, and upon which agent process against this corporation may be served, and in said office keep the stock and transfer books for the inspection of all who are authorized to see the same and for the transfer of stock. That the books in which the transfers of stock shall be registered and the books containing the names of the shareholders shall be at all times, during the usual hours of business, open to the examination of every stockholder at said principal office.

That the name of this corporation be at all times conspicuously displayed at the entrance of its principal office in this State.

"And be it further ordered, until this resolution be duly rescinded.

"(2) That such office and place of business be in and at the Corporation Trust Company building, 80 Grand street, Jersey City, N. J., and that this company be registered with the said trust company.

"(3) That the Corporation Trust Company of New Jersey be, and hereby is, appointed the agent of this corporation for all of the aforesaid purposes, and the agent of this company upon whom legal process against this corporation may be served within the State of New Jersey, and also the transfer agent of the stock of this company." (WOOD, 1089, 1090; HANSELL, 1095; GARVIN, 1098.)

(b) Number of companies represented.—Mr. WOOD testified that the Corporation Trust Company of New Jersey is agent of between 600 and 700 corporations, with a total capital of between \$1,000,000,000 and \$2,000,000,000. Mr. HANSELL stated that the New Jersey Corporation Guarantee and Trust Company represented about 500 companies, with at least \$500,000,000 capital. The New Jersey Registration and Trust Company, according to Mr. GARVIN, is the agent of between 275 and 300 corporations, with a total capitalization of from \$300,000,000 to \$400,000,000. Lists of the corporations thus represented by these trust companies were filed with the Commission in each case. Signs stating the names of each company represented are displayed on the outside of the buildings of these trust corporations. (1090, 1094, 1098.)

(c) Transfer of stock.—The trust companies are authorized themselves to make transfers of the stock of any of the corporations. In such a case the stock certificates are handed in, showing the transfer on the back, the entry is then made in the transfer book, posted in the stock ledger, the new certificate is countersigned, the old one canceled, and the new certificate sent to the registrar of the corporation concerned (a different individual or company), from whom it goes to the new holder. If the trust company is the custodian of the stock certificate book, the old certificate is filed with it, but the trust company is not required to keep the latter book.

As a matter of fact, the trust companies do make some such transfers, but the majority of the transfers are made at offices in New York, Chicago, and elsewhere, this being permitted by the New Jersey statute.

Some, at least, of these trust companies, such as the Corporation Trust Company of New Jersey, themselves have an office in New York, especially for making transfers in accordance with sales on the Stock Exchange. The method of business in that case is as follows: Brokers send to this New York office certificates of stock which are to be transferred, properly signed and stamped, and in exchange receive a small slip or receipt entitling them to the new certificate. The transfer is then made on the books, and a new certificate made out, recorded, and signed in the certificate book. The following morning the certificate is delivered to the registrar of the stock, usually some bank or separate authority, and the registrar delivers it to the broker. The old certificate is sent with the new certificate to the registrar for cancellation, and by him returned and filed in the New York office of the trust company or of the corporation itself.

A transfer book is kept at the New York office practically identical with that kept at the New Jersey office. A record of the transfer is made on a slip at the New York office and sent immediately to New Jersey for entry there. The record at each office is kept complete to date, the form of the book being such that the name, address, and holdings of each stockholder are shown, together with the date of the transfer of all shares to him and from him, and the persons to or from whom transferred. This book is arranged alphabetically, and is known as the stock ledger.

When stocks of any corporation represented by such a trust company are loaned or deposited as collateral, no record appears on the books of the agency, nor would the agency know anything about it. It is a private matter. If the loan is not paid, the stock would be assigned by the holder to the creditor. The stocks can not be transferred except by written authority or assignment of the stockholder. (WOOD, 1090-1098; MARWICK, 1096, 1097; HANSELL, 1095.)

(d) Accessibility to stockholders.—The stock books thus kept by registration and trust companies, so their officers state, are always available to give information to bona fide stockholders. The entire list may be shown to a stockholder in person, but requests for the entire list are not common. Usually the inquiry is as to the holdings of some individual stockholder. The information is furnished by correspondence whenever the trust company knows the signature of the stockholder or a telegram is received from his known place of business. Inquiries are more frequently from out-of-town stockholders than from Wall street. (Ibid.)

(e) Annual reports.—The trust companies, according to the statements of their officers, see that the corporations represented file their annual reports as required by law, and keep these annual reports open to the inspection of stockholders. If a company fails to file a report, the trust company goes after it personally or by letter, and if it absolutely refuses to comply with the law the trust company terminates its contract. Companies usually give no reason in case they fail to file the reports required. (1092, 1096, 1098.)

(f) *Compensation and character of work.*—Mr. WOOD testifies that the corporations contracting with these trust companies to act as their agents pay them by the month or year, in proportion to the amount of work required. Mr. MARWICK states that he could not undertake to do the work for a single large company, such as the Federal Steel Company (capital stock issued about \$100,000,000), with less than six clerks. He has been called upon to issue in one night \$9,000,000 of securities. The new certificates must be ready for use at 10 o'clock in the morning. (1094, 1097.)

4. *New Jersey Corporations Agency.*—Mr. KING, secretary and general manager of the New Jersey Corporations Agency, describes the work of that institution. While it is not formally organized as a trust company, its business, as stated by Mr. King, is carried on in essentially the same manner as that of the companies above described. The agency represents several hundred corporations with a total capital of several hundred millions. Among these are the Amalgamated Copper Company and the American Car and Foundry Company. The name of the agency is in each case on file with the secretary of state as the representative of the corporation, in accordance with law. The witness says that his agency does not in any way neglect or violate the statute. A sign giving the names of the corporations represented is regularly displayed in each case.

Stock and transfer books.—In every case the New Jersey Corporations Agency keeps transfer books of the corporations represented and sees to it that transfers are recorded. The transfers are made at the offices in other States, but lists of them are furnished to the agency. It would be possible for a stockholder to ascertain at any time who the stockholders of the company are and what their holdings are. The slips, however, are not posted in the stock ledgers daily, but in some cases weekly or monthly.

Mr. King explains the desirability of having lists of the stockholders thus open to all stockholders. Otherwise a part or a majority of the stockholders might be able to control the affairs of the company and the others might not even know who their associates were.

The statute of New Jersey also requires an alphabetical list of the stockholders to be posted in the principal office 10 days before each annual meeting. The witness states that his agency regularly insists upon obtaining such a list from the corporations which it represents and on keeping it posted.

Annual reports.—Notices are sent from the secretary of state to the agency, as the principal office of each corporation, that annual reports are due. The agency sees to it that these notices are sent to the corporations, and the reports are then sent to the agency and by it forwarded to Trenton. In case there is any delay the corporation is notified. Mr. King does not think it desirable that such an annual report should be required to contain a balance sheet or financial statement, since it would be disclosing the business of the corporation to competitors. (1106-1109.)

C. *West Virginia law.*—Mr. NEVINS, counsel for the Corporation Trust Company of West Virginia, describes the West Virginia corporation laws and the working of his company.

1. *Situs of companies.*—The State of West Virginia grants charters for corporations to do business at any place whatever. The place of the principal office must be stated in the articles of incorporation, but there is no provision requiring that the record of any change in the situs shall be made in the office of the secretary of state. It is not even necessary that the principal office, in the first place, should be the place where the actual business of the company is carried on. No meeting of the stockholders, not even the first, need be held within the State.

2. *Representation within the State.*—The statutes require that within 30 days after the articles of incorporation are filed the company must file with the secretary of state a sworn power of attorney, designating some person within the State as its legal representative or agent, whose chief function is to accept process in case of suit against the company. There is a provision that a list of the stockholders shall be kept in the office of this agent, but no penalty is attached. The witness believes that a list of the officers of the corporation is practically always kept by such agents in order that they may communicate with the corporation. There is no requirement as to reports to the secretary of state or to the stockholders.

As a matter of fact, the secretary of state acts as the representative of a great many corporations, receiving a personal fee for doing so.

If a stockholder should desire to ascertain the names of other stockholders or other information, his procedure would be to consult the certificate of incorporation to learn what the legal situs of the corporation is, and to ascertain the legal representative within the State. He would then get his information, as far as

possible, from this agent or representative, and also from correspondence with the principal office of the company. (1112-1115.)

8. *The Corporation Trust Company of West Virginia.*—This company, as stated by Mr. NEVINS, has been formed in order to facilitate the organization of corporations under the laws of West Virginia. The company has an agency in New York, and a principal office in Charleston, W. Va. Persons desiring to incorporate will come, for example, to the New York office, secure information concerning the statutes, and the charter and articles of agreement are drawn up on blank forms secured from the secretary of state of West Virginia. These are sent to the Charleston office, and filed in the office of the secretary of state. The charter, being duly signed by the secretary of state, is forwarded to New York and handed over to the corporation. It can then hold its first meeting, not necessarily in the office of the agency, but wherever it pleases. The Charleston office usually appears as the representative of the corporation in West Virginia. (1114.)

D. *Delaware law.*—1. *Summary of law.*—The Delaware law, as stated by Mr. SMITH, an attorney of Wilmington, allows meetings of stockholders, after the first, to be held wherever the charter may provide, thus differing from the New Jersey statute, which requires them to be held within the State.

Original or duplicate stock and transfer books must be kept in the principal office of the company within the State, the law differing from that of New Jersey, which requires the original books to be kept within the State. It is apparently not absolutely required to keep these books posted to date. The law prescribes that an alphabetical list of the stockholders shall be posted in the principal office and furnished to stockholders at least 10 days before their annual meeting.

The Delaware law further requires that, during January of each year, the officers of every corporation organized under the law must make a return to the secretary of state, giving the names of the officers and their residences, the location of the principal office, and the name of the agent within the State on whom process may be served; also an absolute statement of the amount of stock issued by the corporation and outstanding at the time of the report. This report is intended largely for the purposes of taxation, and in the case of companies subject to special forms of taxation, additional details are required. The first reports under this statute were not yet due at the time of Mr. Smith's testimony. (1119-1123.)

2. *Representation of Delaware corporations.*—Several corporations have been formed for the purpose of facilitating compliance with the law, in the manner already described in the case of the New Jersey registration and trust companies.

Mr. SAWYER, secretary of the Corporation Trust Company of Delaware, testifies concerning the methods of that company. He states that he understands two or three other companies have been formed of the same nature, but whereas his company represents from 150 to 175 corporations, he believes that the highest number represented by any other trust company is 15. The Delaware statute has been in force only since March and the methods of business are not as thoroughly perfected as they will be later.

The Corporation Trust Company of Delaware has an office in New York and one in Dover. At the Dover office it has a person to act as representative for the various corporations, and a corporate sign is exhibited for each.

It is the practice of this company to keep the duplicates, rather than the originals, of the stock and transfer books at the Delaware office. The attempt is made to keep the duplicates as nearly up to date as possible, although daily reports of transfers are not apparently customary. Some of the larger companies represented make quite frequent transfers.

There are a number of companies among those represented by the Corporation Trust Company which have not yet issued any stock or filed duplicate books in the office of the trust company. In fact comparatively few of the entire number have done so, but the witness believes that by January 1, 1900, practically all will have complied with the law. The company has been urging the various corporations to attend to the matter.

The first annual report required under the Delaware law is not due until January, 1900, but it is the purpose of the Corporation Trust Company to require each corporation represented to comply with the law. (1125-1127.)

VII. ABUSES AS TO CAPITALIZATION. PROTECTION OF INVESTORS.

It is held by many witnesses, as has been brought out in the testimony concerning specific combinations investigated, that many recently formed corporations are largely overcapitalized. Stocks are issued, it is claimed, for property and services in excess of their value. This constitutes a danger to the general

public, in that prices may be raised to secure dividends on inflated capital, and especially to investors, who are likely to be deceived in the purchase of stocks as to their true value. The regulation of capitalization is advocated by some witnesses and deprecated by others. See also the testimony as to publicity of corporate affairs, summarized above, p. —.

A. What constitutes overcapitalization?—Mr. DOS PASSOS, a lawyer of New York, points out that one class of persons believe that corporations should be capitalized strictly on the basis of actual cost or value of the property, while others would base the capitalization on earning power. The witness believes that under certain circumstances one basis may be just and under other circumstances the other. It is going too far to lay down an arbitrary rule that capitalization shall be based in every case on actual value, regardless of "good will," trade-marks, individual skill, and opportunity.

Mr. DOS PASSOS believes especially that the overcapitalization of railroads, against which complaint is often made, has been almost absolutely necessary in many cases in order to induce capitalists to take the risk of investment in a practically untried enterprise, the profits of which could not be accurately estimated in advance. Thus in the case of the Pacific railroads, capital had to be secured on the basis of engineers' maps and rough estimates, bonds had to be sold much below par, or common stocks had to be given as a bonus to secure capital. The development of the country has been so great that large fortunes have often been made from the increased value of these securities. (1149, 1150.)

Mr. MOORE, the promoter of various combinations, testifies that in the companies which he has formed the preferred stock practically represents the cash value of the various plants at the time of the organization. The preferred and common stock taken together have, in most cases, soon risen to a price greater than par: that is, the selling price of \$100 of preferred stock plus \$100 of common stock has been considerably above \$100. When asked as to the basis of this surplus value above the cost of the properties, the witness states that he can not tell further than that practical men believe in the success of these combinations and subscribe to their stock. The effective management of the plants will turn out to be of more value than the plants themselves. (967.)

Mr. THURBER believes that capitalization should not be based simply on actual cost of the plant. Good will is often the principal value, e. g., newspapers. Earning power is a fair measure by which to regulate capital, even though thereby the percentage of earnings to actual cost is concealed. It is difficult to judge where capitalization becomes excessive, because of variations in earning power. The preferred stock of trusts usually covers the actual cost of plants and common stock is a bonus. Restriction on capitalization in excess of present or immediately probable earning power is perhaps desirable, chiefly for the protection of investors, who may buy under favorable conditions or speculative advances and later fail to receive dividends. A tax on organization, proportional to the amount of capital, would check overcapitalization. (6, 17, 21.)

Mr. GATES, chairman of the American Steel and Wire Company, thinks that capitalization should be based on earning power rather than on cost of plants. The English have a more correct appreciation of this principle and recognize more fully the value of good will than Americans do. (1021.)

Mr. HAVEMEYER, president of the American Sugar Refining Company, expresses somewhat similar opinions to those of Mr. Gates. (111, 116.)

B. Dangers of overcapitalization and fraudulent issues of stock.—Mr. DILL, a corporation lawyer of New York City, believes that, while many corporations with very large capital are not overcapitalized, there are many others which either have a fraudulent purpose originally or may become the cause of fraudulent action. Any corporation which is grossly overcapitalized is presumably organized for the purpose of getting the stock into the hands of the public, and in order to do this there must be either misrepresentation or concealment of material facts. The witness knows of one corporation which he was asked to organize, the value of whose assets was believed, after careful examination by his office, not to exceed \$500,000. The proposed capitalization was \$8,000,000, and the company has since been organized for that sum. The prospectus of this company may not contain directly false representations, but it lacks greatly in the statement of material facts.

Aside from the possible injury to investors from overcapitalization, a fraudulently capitalized company seeks usually to make a show of earnings, and this must result either in robbing the capital or in increasing the prices of its product or reducing the wages of labor.

Mr. Dill knows of at least one large corporation recently formed in which the preferred stock consisted simply of the working capital contributed by outside

parties, and the common stock represented the actual value of the plants put in, without any element of good will. This he has always considered the safest method of capitalization. Nevertheless good will is, in the majority of instances, worth more than the bare plant. One house in New York which failed 3 years ago has disposed of all of its assets except its good will, but was offered \$1,000,000 in cash for that alone recently. (1080, 1084.)

Mr. SMITH, president of Wholesale Grocers' Association, thinks that there is likely to come a time of trade depression when overcapitalized corporations will not be able to pay dividends. Overcapitalization would not harm the original owners of stock, but would injure investors who have bought it at inflated prices. (69.)

Mr. MYERS, chairman of the committee on judiciary of the Massachusetts house of representatives, believes that, while combination often reduces the cost of production and is advantageous, one of the chief motives for the organization of combinations in recent years has been the desire to issue overcapitalized securities, and to dispose of them to the public at a profit. If two shares of stock, one of preferred and one of common, are issued for each unit of actual value, a profit is often gained by unloading this on the community, but the community suffers the consequences. Accordingly, if all States would pass statutes similar to those of Massachusetts to prevent overcapitalization, there would be much less tendency toward combination than at present.

The witness admits, however, that it is very doubtful whether all or even a large proportion of the States can be led to pass such laws. Moreover, in the case of companies doing business in different parts of the country, but securing charters from some particular State, it would be extremely difficult if not impossible for the authorities of that State to know the actual value of property taken in exchange for stock or to decide what constituted a fair capitalization. Mr. Myers implies, therefore, that Federal legislation on this subject would be desirable, but states that he does not know precisely the constitutional power of Congress regarding corporations. (1133, 1138.)

C. How far should laws regulate capitalization and stock issues?—Mr. MYERS describes in detail the provisions made in Massachusetts to prevent overcapitalization of corporations. (See below.) He points out, however, that the main purpose sought in that State has been to protect the consuming public from overcharge and not to protect investors from fraud or abuse. So far as Massachusetts corporations are concerned, the investor is, to be sure, quite thoroughly protected, but it is impossible for the State to prevent its citizens, if they see fit to do so, from investing in the shares of corporations organized in other States which are overcapitalized and fraudulent. It is perhaps best that people should learn by experience to care for themselves in regard to their investments. Nevertheless, the witness believes that if it were possible for all the States to adopt laws similar to those of Massachusetts for the prevention of overcapitalization, or if Federal laws on the subject could constitutionally be adopted, investors would be benefited and the result would be a desirable one. (1137, 1138.)

Mr. LUYTJES, an independent distiller, believes that the Government should look more carefully into the affairs of trusts, requiring them to submit to examination and publish clear and truthful statements. Speculation by officers and unwarranted statements in prospectuses and reports of great corporations are among their chief evils. They should make some return to the public in the way of information for the privilege of incorporation and listing on the stock exchanges. (258.)

Mr. Dos Passos believes that undue interference by legislation for the protection of investors is undesirable, although he is willing to concede the advantage of a certain degree of protection. It is true that some corporations are formed largely for speculative purposes and are overcapitalized, but the witness does not consider this true in any of the recent combinations. Overcapitalization will largely remedy itself by the evident failure of corporations to pay reasonable dividends.

The witness believes that wherever common stock is given as a bonus, without charge, to persons taking preferred stock at par, this may be considered, in a sense, overcapitalization, although the bonus may be based upon what may fairly be anticipated as the profits from the combination, through cheaper production and otherwise.

Mr. Dos Passos believes that it would be advantageous in most cases to require the articles of incorporation of companies to state how much stock is issued for patents, trade-marks, and good will. He does not believe that such an act would in any degree diminish the formation of speculative companies, as is shown by the experience of England, where the laws are strict. It is impossible to guarantee

to the investor that he will make money, especially if he is foolish in his investments. (1166, 1167, 1170.)

The common law also, Mr. Dos Passos declares, offers ample protection to investors and stockholders. If a person is damaged or defrauded by any act of a corporation, or by its promoters or officers, as, for example, by any false or fraudulent statement or suppression of truth in a prospectus, he has the common-law remedy for fraud, both civilly and criminally. For a corporation to declare a dividend which it has not earned is a misdemeanor in certain States. (1154, 1163, 1175, 1176.)

Mr. KING does not consider it desirable that the statutes should require that the precise value of all properties, in detail, which are taken as payment for stock, should be stated in the articles of incorporation. The value of patents, for example, often can not be even roughly estimated in advance. (1108-1110.)

D. Existing provisions as to payment of capital.—*New Jersey law.*—Mr. DILL states that the law of New Jersey is more stringent than that of most States in regard to the payment of capital. It does not permit stock to be issued, as in New York, Delaware, and West Virginia, for that exceedingly indefinite quantity—services. The promoter's idea of the value of his services is largely dependent on how much water he wants to put into the stock. The New Jersey law does permit stock to be issued in exchange for property, but the valuation of the property must be a fair one, and the proportion of property taken for stock must be shown by the records. In case of fraudulent overvaluation of property all the stockholders are held liable for the difference between the real and the actual value, any creditor or stockholder being entitled to bring suit.

No company in New Jersey can commence business with less than \$1,000 of capital actually paid in. As soon as any additional stock is issued or paid in, a sworn certificate must be filed by the officers of the corporation, stating the amount, and the proportion of property and of cash paid. (1080-1082.)

2. West Virginia law.—Mr. NEVINS, secretary of the Corporation Trust Company of West Virginia, describes the provisions of the West Virginia laws.

The maximum limit of capital for any corporation is \$5,000,000. The witness believes that few corporations need a larger capital than this, and that the restriction prevents the formation of consolidated corporations in the nature of trusts.

The articles of incorporation must state—what is not required by the laws of some other States—the amount of capital subscribed by each incorporator and the total amount subscribed, as distinguished from the authorized capital, which is also named. The proportion of the subscription which has been paid in must also be stated, and this must be at least 10 per cent of the amount subscribed. This, according to Mr. Nevins, prevents reckless subscription. There is no requirement as to the time when the remaining stock must be paid in, but naturally the company can not carry on a large business unless enough money is actually paid in.

There is no specific provision in the law requiring that stock shall be paid for in cash, and the courts hold that property or services may be taken. Their value would be determined by the board of directors, but the common law rule that the transaction must be in good faith must be observed.

The liability of stockholders is merely for stock which they own, except in the case of money corporations. (1115-1118.)

3. Delaware law.—No charter may be granted in Delaware to a company with a capital less than \$2,000, and at least \$1,000 must be subscribed, although there is no requirement as to the actual paying in of capital. The constitution authorizes labor and property to be accepted in payment for stock, but prescribes that they shall not be taken for more than the actual value at the time. The legislature has undertaken to say that the judgment of the directors as to the value of property or services, in the absence of fraud, shall be final. The witness does not know whether the courts will consider this latter provision in conformity with the constitution. The law does not require that the certificate of incorporation shall show the number of shares subscribed by the incorporators. (SMITH, 1121.)

E. Regulation of capitalization in Massachusetts.—Mr. MYERS, for the past 5 years chairman of the committee on judiciary in the Massachusetts house of representatives, testifies concerning the provisions of the Massachusetts laws for preventing overcapitalization.

1. General requirements as to capitalization and payment of capital.—The Massachusetts laws have always been stricter than those of most States as to the organization of all classes of corporations. Up to 1899 no company could be created with a capital of over \$1,000,000 without a special act of the legislature, and as a matter of fact only a small number of companies have been formed with over \$1,000,000 capital.

The State has established a commissioner of corporations, who must certify to the correctness of the form of organization. The first statement or form filed must give the amount of capital and the names of the incorporators. Within 30 days, on penalty of liability of every stockholder for the debts of the company, a sworn certificate must be filed that the entire amount of capital stock has actually been paid up, either in cash or in property, the value of which has been duly approved by the commissioner of corporations.

The statute has made no provision for a distinction between preferred and common stock, and the commissioner of corporations has never permitted the issue of these separate classes. There is a provision for the issue of "special stock," but the common stockholders are held liable for every debt of the corporation so long as such special stock is outstanding, so that it is practically never issued.

Mr. Myers believes that a certain number of corporations which would be organized in Massachusetts if the statutes were more liberal go out of the State to incorporate, while the custom of interstate comity allows them thereupon to conduct their business within the State of Massachusetts. The result is some loss of income to the State in taxation, although the tangible property of such corporations within the State is reached by the general property tax. But the witness believes that the advantage of having the entire corporate business of the State done upon a sound basis more than offsets any disadvantage in the way of driving corporations out of the State. (1128, 1129, 1133.)

2. *Capitalization of quasi-public corporations.*—During 1893 and 1894 a strong agitation arose among business men in Massachusetts concerning the possible overcapitalization of quasi-public companies. These companies, which include railway, street railway, gas, electric-light, telephone, and water companies, were conceived by the people to be doing an essentially monopolistic business. It is to the interest of the community that any particular service of this sort should be performed exclusively by a single concern. These lines of business are, in the phrase of economic writers, "natural monopolies." (Owing to this fact they are able to exact excessive charges for their services, unless regulated.)

The State of Massachusetts, for the sake of protecting the consuming public, had already, before this agitation of 1894, sought to control the charges of quasi-public companies to a degree scarcely reached in any other State. These various corporations are required to report to the commissioner of gas companies, railway commissioners, etc., as to the dividends they pay, and as to the details of their earnings. These officers have power to fix rates, or at least to recommend changes in rates, which the force of public opinion practically compels the companies to make.

The belief of those who desired statutes to prevent overcapitalization was that public opinion and State officials might be deceived as to the reasonableness of rates by inflating the capital of companies, so that the rate of dividend, while moderate upon the nominal capital, would be excessive as compared with the actual capital invested. The fundamental idea of the legislation attempted was to supervise the issue of stocks and bonds in such a way as to insure the full payment of the value. The laws are popularly known as the "anti-stock-watering laws."

The first of these statutes provides that no telegraph, telephone, gas, electric-light, steam or street railway, or water company shall declare any stock or scrip dividend, or divide the proceeds of the sale of any stock or scrip among its stockholders, or create any additional stock unless the par value is paid in cash to the treasurer. Three other acts provide for supervision by different State authorities as to issues of stock. Thus, in the case of gas and electric companies, it is provided that only such amounts of stock and bonds may be issued as the board of gas and electric-light commissioners shall, by formal vote, declare to be requisite. The specific amounts authorized for each purpose must be set forth in this vote of the board, and no company shall apply the proceeds of such stocks or bonds to any purpose not thus specified. (1128-1130, 1135.)

3. *Foreign corporations.*—It was feared that the provisions of the above statutes might be evaded by arrangement with foreign corporations. Thus, a foreign corporation might secure possession of the stocks and bonds of local companies, and issue its own obligations on the basis of these underlying stocks and bonds. It was accordingly enacted that if any foreign corporation owning or controlling a majority of the capital of any domestic corporation should thereafter issue stocks or bonds, based upon the property or stock of such domestic corporation, the supreme judicial court might, in its discretion, dissolve the domestic corporation. (1131.)

4. *Evasion of law by means of trusts.*—Mr. MYERS states that these restrictions to prevent overcapitalization have been of late, to some extent, evaded by the device of putting the majority or all of the shares of a company into the hands of

trustees, who issue certificates. There is no provision of the law to prevent the issue of such certificates in excess of the amount of securities held, nor does the witness know of any satisfactory method by which such an arrangement can be prevented. The evil may, perhaps, be reached by a public uprising similar to that which brought about the present laws. (1131, 1135.)

5. *Consolidation of railways and street railways.*—Another form of overcapitalization, which is especially likely to occur in the case of railways and street railways, is in connection with consolidations of different lines by purchase or lease. Thus, a street railway company may be leased to another company, the latter agreeing to pay 10 per cent upon its capital as a rental. This becomes a fixed charge, and the lessee company may plead it as such in defense of higher fares. To avoid this abuse, a provision of the Massachusetts laws requires that all consolidations of railways and street railways, in whatever form, must receive the approval of the board of railroad commissioners, after public hearing. An expert values the property of each company and the commissioners restrict the rates of rental, or the number of shares of the consolidated company which may be issued. (1131, 1132.)

6. *New stock not to be sold under market value.*—Still a further provision of the Massachusetts laws is that, when the shares of any company are worth more than par, new shares are not to be issued simply at par, but must be sold at auction at the market price. If the shares should be issued at par to the stockholders, this would amount to a capitalization of accumulated earnings. Accordingly, when such new shares are issued, the various boards having control of the different classes of corporations are authorized to ascertain what the market value is, and to prevent the issue of shares at less than that value. In this way the corporation secures an amount of money upon its shares equal to the fair value of the stock issued. (1132.)

F. *English and German regulations as to promotion and capitalization.*—Mr. DILL, a lawyer of New York, testifies that the English laws concerning corporations are considerably in advance of any in this country, although those of New Jersey follow some of the most important provisions of the foreign statutes. The English law requires that all stock, into whosever hands it may come, shall be deemed subject to be paid in full in cash unless, before the stock is issued, a contract, open to the public, has been filed, showing which part of the stock has been issued for cash, which for property, and the character and value of the property thus taken. The witness believes that some such provision should be made in all corporation laws. The degree of publicity thus required, however, is still insufficient, and bills are now pending before the British Parliament providing, first, that every statement contained in every prospectus or promotion scheme shall be deemed to refer to money unless otherwise stated; second, that every director and officer of the company shall be held personally liable for all statements or prospectuses issued, this responsibility extending to the failure to state material facts, as well as to direct misrepresentation. The effect of such restrictions as these in the United States, Mr. Dill believes, would be to drive out many illegitimate companies. (1082, 1083.)

Mr. LUTYIES states that in Germany the law makes every promoter of a corporation responsible for the truth of the statements he makes in advertising. The minority of corporation stockholders are also given much greater power than in this country. Speculation by officers and other mismanagement is carefully restricted. (257.)

G. *Corporate shares without nominal value.*—Mr. STETSON, a corporation lawyer of New York, advocates a proposal made by a committee of the Bar Association of New York in 1892, although it was never acted upon by that association. This was to permit the formation of a class of business corporations, "whose capital stock may be issued as representing proportional parts of the whole capital without any nominal or money value." The interests or shares of the members would thus be represented by a statement of the proportion of the total property, and not by an arbitrary assignment of money value, which is delusive wherever capital stock has a market value either more or less than par.

One of the chief purposes of corporations in establishing a very large capital is to get a large common divisor, so that many persons may be interested in the enterprise, and the nominal value of each share is of very slight consequence. No one deals in shares with reference to par, although sometimes the facts in the case are obscured by this assignment of nominal value. (976.)

INDEX OF DIGEST.

Administration. (See <i>Superintendence</i> .)	
Advantages of combination. (See <i>Economies</i> .)	
Advertising, economies of combination in:	Page.
International Silver Company.....	210
Whisky combination.....	89
Agents of corporations, State laws and their enforcement.....	243-247
American Spirits Manufacturing Company.....	78, 85
American Steel and Wire Company.....	199-205
American Steel Hoop Company.....	192-194
American Sugar Refining Company.....	59-74
American Tin Plate Company.....	173-189
Antitrust laws:	
Existing, working of.....	226
Extension and modification, discussed.....	228
United States, interpretation and enforcement.....	233, 234
Arbuckle Brothers, competition in sugar.....	61
Barbed wire, monopoly, prices, etc.....	202
Barrels, oil, railway charges on.....	167, 168
Books, Standard Oil Company, alleged destruction of.....	100
Brands:	
Oil, copying of.....	121
Oil, several for the same grade.....	120
Silver, character and value.....	208, 211
Sugar, value of.....	67, 68
Tin plate, manufacture under special.....	181
Whisky, value of.....	75, 76
Bribery, alleged, by Standard Oil Company.....	100
Buying, saving in, by combination.....	70, 185, 210
By-products, oil.....	129, 130, 132
Canada, combinations in.....	214
Capital, aggregation, effects discussed.....	216
Limitation of, advocated.....	229
Capitalization:	
American Steel Hoop Company.....	192
American Steel and Wire Company.....	200
American Tin Plate Company.....	174
Federal Steel Company.....	194
Good will, value of.....	249
International Silver Company.....	208
Massachusetts laws regulating.....	251-253
National Shear Company.....	206
National Steel Company.....	190
Paying in of capital, regulations concerning.....	251, 252
Regulation by State discussed.....	250
Proper basis for.....	249
Shares without nominal value advocated.....	253
Standard Oil Company.....	97
Sugar combination.....	67
Whisky combinations.....	76-80
Cars, refusal of railways to furnish.....	155

	Page.
Causes of combination:	
Generally, discussed	214
American Tin Plate Company	176-184
Competition, excessive	59, 76, 81, 176, 184, 207
National Shear Company	108
Railway discriminations	95, 96, 146, 215
Standard Oil Company	46, 95, 96
Sugar trust	59
Tariff, excessive	59, 189, 214
Whisky trust	76, 81
Closing of plants by combination:	
American Steel and Wire Company	201
American Tin Plate Company	177, 178
International Silver Company	210
Standard Oil Company	124
Sugar combination	68
Whisky trust	82
Coal (see also <i>Mines and mining lands</i>):	
Cheaper in America than in England	193
Coke, cheaper in America than in Germany:	
Control of, by combinations	197, 199
Combination, universal tendency toward	214
Commercial travelers, displacement by combinations	89, 203, 210, 221
Commissions, paid to secure plants, American Tin Plate Company	174
Common law, remedy for monopoly	227
Publicity and protection of stockholders under	242, 251
Competition:	
Destructive, prohibition advocated	229
Excessive, cause of combination	59, 176, 177, 184, 207
Fraudulent methods alleged	119-121
Remedy for monopoly	219, 220
Watching of competitor's business	118, 119
Methods, relation to competitors, etc.—	
American Steel and Wire Company	201
International Silver Company	209, 210
Sugar combination	60-64
Tin-plate combination	177-182
Whisky combinations	82, 85, 86
Competitors:	
Buying up, Standard Oil Company	124
Whisky trust	82
Congress:	
Regulation of combinations by, discussed	232-239
Powers of, to regulate corporations	232-236
Continuous operation, economy of	68
Control. (See <i>Output, Prices, Plants</i>).	
Corn flour, character and use	212
Corn oil, character and use	212
Corporation laws:	
General features, discussed	239
Delaware, provisions and character of	241, 248, 251
New Jersey, provisions and character of	240, 251, 253
Compliance with	81, 176, 190, 195, 244-247
West Virginia, provisions and character of	241, 247, 251
Corporations:	
Advantages of corporate form	217
Aggregation of capital by, effects discussed	216
Combinations among, prohibition	226
Congress, powers concerning	232-237
Federal incorporation laws discussed	236, 237
Foreign, powers of States and Congress	227, 232-235
Foreign, regulation of	232
Monopoly, regulation to prevent, discussed	228
States, powers regarding	226
Stockholders, protection of	242-248
Stock and transfer books, provision concerning	243-248
Taxation, existing regulations	241

	Page.
Cost of production :	
Effect of combination, generally	222
Steel hoops	193
Sugar	68
Tin plate	184
Whisky	87, 88
Wire and wire products	201, 202
Courts, effect of combinations in corrupting	224
Debt, bonded, Federal Steel Company	196
Debts, bad, lessening of by combination	204
Delaware :	
Capital of corporations, payment of	251
Corporation laws, character and working	241, 248
Taxation of corporations	242
Dippers, tin plate, relations of combination with	
Directors, powers of	195, 242
Discriminations. (See <i>Railway discriminations, Rebates, Pipe lines, Oil.</i>)	
Dismantling. (See <i>Closing of plants.</i>)	
Distillers and Cattle Feeders' Trust	76, 77
Distilling and Cattle Feeding Company	77, 78
Distilling Company of America	79-81, 86
Dividends:	
American Steel and Wire Company	201
American Tin Plate Company	176
Federal Steel Company	196
International Silver Company	209
National Shear Company	206
National Steel Company	190
Standard Oil Company	98
Whisky combinations	77, 80
Doscher refinery, competition	62
Drawbacks, duties on sugar	74
Duties. (See <i>Tariff.</i>)	
Economies of combination :	
Administration, salaries, etc.	193, 197, 203, 210
Advertising	89, 210
American Steel Hoop Company	193
American Steel and Wire Company	203
American Sugar Refining Company	68
American Tin Plate Company	184-186
Buying, saving in	70, 185, 210
By-products, utilization of	132
Closing of plants	201
Debts, bad, lessening of	204
Discussed generally	222, 223
Federal Steel Company	197, 198
Foreign trade, advantage in	193-195, 193, 205
Freights, saving in	68, 89, 131, 186, 193, 203
International Silver Company	210
Large plants	68, 88, 185
National Shear Company	206
National Steel Company	191
Processes, improvements of	68, 132
Selling, saving in	89, 186, 210
Standard Oil Company	130-136
Superintendence, superiority of	193, 198
Trade-marks, common use of	210
Transportation and location of plants	68, 89, 131, 186, 193, 203
Union of related lines	89, 198, 204
Whisky combinations	87-89
Effects of combination (see also <i>Output, Prices, Competitors, Labor</i>):	
Generally discussed	220-225
Empire Transportation Company, relation to Standard Oil Company	150
England, capitalization and promotion, regulations concerning	253
Combinations in	214

	Page.
Exportation:	
Advantages of combination	133-135, 193, 205
American Steel Hoop Company	193
American Steel and Wire Company	205
Federal Steel Company	199
Germany, favored by Government	204
Petroleum, value of	134
Standard Oil Company	133-135
Standard Oil Company, competition in	121, 122
Steel products	193, 199, 205
Whisky	92, 93
Federal Steel Company	194-199
Foreign corporations:	
Powers of States and Congress	227, 232-235
Regulation of	232
Fraud in competition, Standard Oil Company, alleged	119-121
Freight (see also <i>Railway discriminations</i>):	
Saving in by combination	68, 89, 131, 186, 193, 203
Glucose, products and their use	212
Glucose Sugar Refining Company	212, 213
Good will, value and capitalization of	67, 68, 175, 249
Great Britain:	
Capitalization and promotion, regulation of	253
Combinations in	214
Illinois antitrust law	247
Individual enterprise, effect of combinations on	221
International Silver Company	207-212
International combination in wire attempted	205
Interstate commerce:	
Congress, powers concerning	232-237
Congress, regulation by, discussed	235
States, regulation by, discussed	234, 235
Interstate commerce act:	
Railway discriminations since	158-172
Working of	234
Interstate Commerce Commission, powers of	239
Investors, protection of	250
Iron:	
Advantages of America for production of	193, 204
Combinations, control by	190, 197, 199, 203
Prices of pig iron	191, 197
Iron ore. (See <i>Mines and mining lands</i>.)	
Jobbers, relations of tin plate combination with	179, 181
Kentucky Distilleries and Warehouse Company	79, 89
Labor:	
Conditions of, tin plating establishments	186, 187
Effects of combination—	
Generally	221, 222
American Steel Hoop Company	193
American Steel and Wire Company	204
American Tin Plate Company	177, 178, 185-187
Federal Steel Company	198
International Silver Company	211
National Steel Company	191, 192
Standard Oil Company	145
Sugar combinations	69
Whisky combinations	90
Oil, crude, effect of restriction of production on	145
Organized, relation of combinations to	177, 178, 186, 191, 193, 198, 204, 211
Ownership of stock by workmen, American Tin Plate Company	187
Large plants, economy of	68, 88, 185
Laws. (See <i>Corporation laws, Legislation, Publicity, Stockholders, etc.</i>)	
Legislation:	
Antitrust	226, 228, 233, 234
Capitalization, regulation of	250
Common law, sufficiency of	227, 242, 251
Corporations, power of States over	226
Regulation of	228, 240-248

Legislation—Continued.

	Page.
Existing, effect of	226, 227
Justification of, discussed	225
National, discussed	232-239
Publicity, laws requiring, discussed	229-232
Railways, regulation	229, 238
State, recommendations, generally	228, 230
Stockholders, protection	242-248
Tariff	229, 238, 239, 253
Uniformity, desirability of	229
Legislatures, effects of combinations in corrupting	224
Logan, Emery & Weaver, suit as to railway discriminations	161
Machinery, monopoly	179, 201
Management. (See <i>Superintendence</i> .)	
Massachusetts, capitalization, regulation of	251-253
Mines and mining lands:	
American Steel and Wire Company	199
Federal Steel Company	194, 196
National Steel Company	190
Proportion controlled by combinations	203
Monopoly (see also <i>Output</i>):	
Common law as remedy	226
Competition as remedy	219, 220
Difficulty of proving intent	228
Laws prohibiting	228
Nails, wire, prices, and control of output	202
National laws:	
Discussed generally	232-239
Incorporation laws, discussed	236, 237
National Shear Company	205-207
National Steel Company	190-192
National Transit Company:	
Contracts with Pennsylvania Railroad, 1881, 1884	152, 153
Contract with Tidewater Pipe Line Company, 1883	153
Powers and business of	104, 105
New Jersey:	
Capital of corporations, payment of	251
Corporation laws, provisions of	240
Compliance with laws, discussed	81, 176, 190, 195, 243-247
Stockholders, stock books, etc., regulations concerning	243-247
Taxation of corporation	241
Oil:	
Crude—	
Canada	138
Early history of industry	136
Ohio	135, 138
Prices and effect of combination	137-142
Production	137-142
Production, restrictions of	143-145
Purchase of, by pipe lines	105
Restriction of output	143-145
Russian	133, 134, 138
Speculation in	136
Drilling of wells, cost of, wages, etc.	139
Independent companies, history and character of	107, 110
Attempts of Standard to control	110, 111
Effects on producers and refiners	112
Combination with Standard, proposition for	111
Lands, leasing of	138
Control of, by Standard	139
Output, control by combination	122, 123
Prices	125-129
Refined, production of, world's	133, 134
Refining, cost of	129, 130
Standard Oil combination	95-173
Outage on tank-car shipments	169

	Page.
Output, control of, by combinations:	
American Steel and Wire Company.....	201
American Tin Plate Company.....	177
Federal Steel Company.....	197
International Silver Company.....	209
Iron and Steel Companies.....	203
National Shear Company.....	206
National Steel Company.....	190, 191
Standard Oil Company—	
Refined oil.....	122, 123
Crude oil.....	139
Sugar combination.....	60
Whisky combinations.....	81, 85
Partnerships, character and working discussed.....	218-220
Patents, exclusive right, removal discussed.....	137
Control by American Steel and Wire Company.....	203
Petroleum. (See Oil.)	
Pipe lines:	
Absorption by Standard.....	100-102
Charges and cost of transportation.....	106, 153
Crude oil, purchase by.....	101, 105, 140
Discriminations by.....	106
History, early.....	100
Independent, history of.....	110
Control by Standard, attempted.....	107
Opposition of Standard to.....	108
Opposition of railways to.....	103
Railways, agreements with.....	152-154, 164
Standard lines, efficiency of.....	105
Effect of monopoly.....	105
Favored by railways.....	154, 164
Volume of business.....	105
Pipe-line law, free, opposition of Standard to.....	102
Plants (see also Output):	
Large, advantage of.....	68, 88, 185
Specialization of.....	185, 193
Value of. (See Capitalization.)	
Politics, effect of combinations.....	189, 224
Pools:	
Railway, discussed.....	238
Stock, International Silver Company.....	208
Whisky, early.....	76
Press, relation of, to Standard Oil Company.....	172, 173
Prices:	
Effect of change in, on dealers and consumers—	
Tin plate.....	184
Whisky.....	87
Effect of combinations—	
Generally.....	122, 123
American Steel Hoop Company.....	192
American Steel and Wire Company.....	202
American Tin Plate Company.....	182-184
Glucose Sugar Refining Company.....	213
International Silver Company.....	209
National Shear Company.....	206
Standard Oil Company, crude oil.....	140-142
refined oil.....	125-129
Sugar combination.....	63
Whisky combination.....	81-86
Export trade, policy in fixing.....	193, 205
Iron and steel.....	191, 197
Monopolistic power to raise.....	63, 86, 128, 129, 202
Oil, refined, 1865-1899.....	127, 128
Policy of combinations.....	63, 86, 202
Quasi-public corporations, regulation advocated.....	229
Raw materials, effect of combination on producers.....	220
Rebate system, described.....	225

Prices—Continued.

	Page.
Special cuts in—	
Standard oil	112-117, 122
Whisky trust.....	82
Steel products.....	182, 192, 197, 202
Tin plate	182-184
Processes, improvement by combination:	
Federal Steel Company	198
Standard Oil Company.....	132
Sugar combination	68
Whisky combination	88
Producers' Oil Company:	
History and character	107
Stock of, bought by Standard	110
Producers and Refiners' Oil Company.....	107-110
Profits:	
American Tin Plate Company.....	176
National Steel Company.....	190
Standard Oil Company.....	98, 139
Whisky combinations.....	77
Promoters, profits of:	
American Steel and Wire Company.....	200
American Tin Plate Company.....	175
Distilling Company of America.....	81
Federal Steel Company.....	195, 196
National Steel Company.....	190
Promotion, regulations concerning.....	250-253
Properties, value of. (See <i>Capitalization</i> .)	
Prosecutions. (See <i>Suits</i> .)	
Protection. (See <i>Tariff</i> .)	
Publicity:	
Legislation requiring, discussed.....	230-232
New Jersey, requirements concerning, and their enforcement.....	243-247
Quality of product:	
Effect of combination, oil	135
Tin plate.....	184, 189
Quasi-public corporations:	
Capital, regulation of.....	252
Charges, regulation of.....	229
Public ownership of.....	230
Railways:	
Capitalization, regulation in case of consolidation.....	253
Combinations among	238
Combinations, relations to	216
Government ownership.....	239
Interstate Commerce Commission, powers of	239
Opposition of, to independent pipe lines.....	103, 152
Pooling contracts, discussed.....	238
Rates, State control of.....	229
Railway discriminations:	
Baltimore and Ohio receivers' letter	159
Existing regulations, working of	237
Logan, Emery & Weaver case.....	161
Standard Oil Company—	
Before interstate-commerce act	145-158
Buying of lubricating oils	171, 172
Canadian roads	163, 164
Exclusive shipments of Standard's oil	171
Long and short haul.....	164
Pipe lines, agreement with.....	152-155
Rates changed at dictation of Standard	170, 171
Rates, through, on oil refused.....	162, 163
Refusal to furnish cars.....	155
Since Interstate Commerce Act.....	154-172
Existence denied.....	159, 160
Shipping points of combination favored.....	161
Tank and barrel shipments.....	167

Railway discriminations—Continued.	
Standard Oil Company—Continued.	Page.
Terminal facilities turned over to Standard.....	171
Underbidding of tank cars.....	164-167
Whiting, Ind., lower rates from.....	162
Steel and Wire Company, receipt of, denied.....	203
Sugar combination, receipt of, denied.....	68
Testimony of railway officers as to, untrustworthy.....	160, 161
Tin-plate combination, receipt of, denied.....	186
United States Pipe Line Company, favored.....	160
Raw material, effects of combinations on producers.....	220
Rebates, pipe line.....	106
Rebates to dealers—	
System described.....	225
Standard Oil Company.....	117, 118
Sugar trust.....	64
Whisky trust.....	83, 84
Rebates, railway (see also <i>Railway discriminations</i>):	
South Improvement Company, contract for.....	146, 149
Standard Oil Company, amount of, 1877-1879.....	151
On competitors' shipments.....	146, 157, 158
Rectifying of whisky.....	75
Remedies. (See <i>Anti-trust laws, Corporation laws, Legislation.</i>)	
Reports, corporation.....	230-232, 243-248
Reports of work of plants:	
American Steel Hoop Company.....	193
American Tin Plate Company.....	185
Rice, George:	
Negotiations with Standard Oil Company.....	155, 156
Railway discriminations against.....	155-158
Rogers Brothers, trade-marks.....	211
Salaries of officers, International Silver Company.....	209
Selling, saving in, by combination:	
American Steel and Wire Company.....	203
Commercial travelers, displacement of.....	221
International Silver Company.....	210
Tin-plate combination.....	186
Whisky combinations.....	89
Shipment, immediate, of crude oil.....	107
Shears, combination in, effects, etc.....	205-207
Shut-in movements, crude oil production.....	143-145
Silverware, combination in, prices, etc.....	209, 210
Specialization. (See <i>Plants, specialization of.</i>)	
Speculation:	
Effect of combinations, generally.....	224
Federal Steel Company.....	197
International Silver Company.....	208
Oil, crude, effect of.....	186
Whisky combinations.....	77
South Improvement Company.....	147-149
Spirits. (See <i>Whisky.</i>)	
Spirits Distributing Company.....	78
Standard Distilling and Distributing Company.....	78, 79, 85
Standard Oil combination (see also <i>Oil</i>).....	95-173
Steel:	
Control of, American Tin Plate Company.....	181
Exportation of.....	193, 199, 204
Output, control of.....	203
Prices of.....	182, 183, 191, 192, 197, 202
Prices, reasons for increase.....	203
Tariff on.....	182, 193, 199, 204
Steel companies:	
Description and effects.....	190-204
Relations between.....	192, 194, 203
Stock (see also <i>Capitalization</i>):	
Bonus for loan, National Shear Company.....	206
Bonus of common.....	174, 175, 190

Stock—Continued.	Pgae.
Issues of further, only at par, Federal Steel Company.....	196
Prices of, American Tin Plate Company.....	176
International Silver Company,.....	208
Whisky combinations.....	81
Purchase of, by corporation, Federal Steel Company.....	195
Speculation in.....	77, 197, 208, 224
Transfer of, transfer books, etc.....	244-247
Trusts of.....	243, 252
Stockholders:	
Liability of.....	240
Protection of.....	242-248
American Tin Plate Company.....	176
Federal Steel Company.....	194, 195
Street railways, regulation of capital in case of consolidation.....	253
Subsidies, ship, need of.....	204
Sugar:	
Prices, refined, effect of combination.....	69
Raw, production.....	69
Tariff, effect of.....	71-74
Prices, effect of combination.....	70
Refineries, value and capitalization.....	67
Refining, cost of.....	65, 71
Tariff—	
Countervailing duties.....	74
Excessive protection, cause of combination.....	59
Refined, effect and sufficiency, discussed.....	70, 71
Sugar combination.....	59-74
Suits:	
Difficulty of enforcing laws.....	227
Logan, Emery & Weaver case.....	160
Standard Oil Company, Matthews case.....	125
Standard Oil, Ohio suits.....	99
Superintendence:	
Saving by combination—	
American Steel Hoop Company.....	193
American Steel and Wire Company.....	203
Federal Steel Company.....	197
International Silver Company.....	210
Personal, need of.....	185
Superior, by combination, economy of.....	193, 198
Supplies. (See <i>Buying</i> .)	
Syndicate of steel producers in Europe.....	205
Tank cars:	
Advantages to railways.....	168
Furnishing, by railways.....	170
Mileage on.....	168, 169
Railway discriminations in favor of.....	167
Tariff:	
Excessive, as cause of combination.....	59, 189, 207
Removal as remedy for combination.....	237
Shears.....	206
Steel billets and bars, no longer necessary on.....	192
Steel industry, still necessary in.....	193, 199, 204
Sugar, raw.....	71-74
Sugar, refined, sufficiency of, discussed.....	70
Tin plate.....	187, 188
Wire rods and wire products, effects and need of.....	204
Taxation:	
Corporations, existing regulations.....	241
National, as remedy for combinations.....	233
State, as remedy for combinations.....	229
Whisky, discussed.....	90-93
Excessive, for greatest revenue.....	90
Regulations hamper exportation.....	92, 93
Terne plate, nature of.....	174
Tidewater Pipe Line, contract with National Transit Company.....	158
Railway war against.....	152

Tin plate:	Page.
American and Welsh, quality of.....	189
Cost of manufacturing.....	176, 182, 183
Dippers, relation of combination to.....	179, 180
Jobbers, relation of combination to.....	181, 182
Labor in, conditions, wages, etc.....	187
Machinery, monopoly of.....	179
Nature of.....	173
Prices, effect of combination.....	182-184
Tariff.....	188
Trade-marks:	
Common use of, saving by.....	210
Value of, silver plate.....	208, 211
Sugar.....	68
Whisky.....	75, 76
Trade unions (see also Labor):	
Monopolistic character and effects.....	222
Transportation, saving by combination:	
American Steel Hoop Company.....	193
American Steel and Wire Company.....	203
Standard Oil Company.....	131
Sugar combination.....	39
Tin-plate combination.....	186
Whisky combinations.....	89
Trusts:	
Capitalization, evasion of laws by means of.....	252
Character and form of organization.....	218
Present existence, discussed.....	219, 220
Pure Oil Company, character of.....	107-109
Standard Oil, organization.....	96
Sugar, organization.....	67
Whisky, organization.....	76
Voting trusts:	
Character and purposes.....	243
Pure Oil Company.....	107-109
United States Pipe Line Company.....	109, 110
Underbilling of Standard Oil cars.....	164-167
United States Pipe Line Company:	
Opposition to laying of lines.....	103, 104
Organization and purposes.....	107
Stock of, bought by Standard.....	110
Voting trust.....	109, 110
Wages:	
Effect of combination on, generally.....	221
Rates and conditions—	
American Steel Hoop Company.....	113
American Steel and Wire Company.....	204
American Tin Plate Company.....	186, 187
Federal Steel Company.....	198
International Silver Company.....	211
National Shear Company.....	206
National Steel Company.....	192
Oil well drilling.....	139
Standard Oil Company.....	145
Sugar combination.....	69
Tin plate, American and Welsh.....	189
Wire industry, American and European.....	204
Wealth, effect of combination on distribution.....	224
West Virginia, corporation laws, character and working.....	241, 247
* Taxation of corporations.....	242
Whisky:	
Compounding or rectifying of.....	75, 86
Description of business.....	75
Illicit manufacture.....	91
Kentucky.....	76, 86
Rye.....	76, 86
Taxation.....	90
Combinations.....	74, 94
Wire and wire rods, prices, control of output, etc.....	202

TESTIMONY.

INDUSTRIAL COMMISSION.

TRUSTS AND INDUSTRIAL COMBINATIONS.

WASHINGTON, D. C., April 7, 1899.

TESTIMONY OF MR. F. B. THURBER,

President United States Export Association.

The commission met at 10.45 a. m., Vice-Chairman Phillips presiding. Mr. F. B. Thurber, President of the United States Export Association, appeared and testified on the subject of industrial combinations.

Mr. THURBER. Mr. Chairman and members of the Industrial Commission: In the first place I wish to thank you for hearing me to-day, because it will not be possible for me to be here next month. That was the reason I requested to be heard to-day, if possible. In order that I might be reasonably brief and not take up more of your time than necessary, I have put on paper substantially what I have to say. It may suggest some questions concerning the subject in hand. With your permission I will read it to you.

I thought that my remarks would come within that department which Mr. Jenks has been working up for you in regard to the organization of industries into trusts, etc. I might say incidentally that I met Mr. Jenks at Albany, N. Y., some weeks ago, and he told me you had employed him to work up this question of the organization of industries into trusts and its effects upon commerce and the public interest, and expressed the wish that I put together the ideas which I had expressed from time to time upon the subject. (Reading:)

THE ORGANIZATION OF INDUSTRY—ITS EFFECT UPON LABOR, CAPITAL, AND THE PUBLIC INTEREST.

For many years as a merchant, and more recently as President of the United States Export Association, I have studied the effect of aggregations of capital commonly known as "trusts" upon our commercial, industrial, and political system. I may say that when I began it was with a strong prejudice against them. I believed that they would tend to oppress the public with high prices and also that their political influence was to be feared. I had no conception that they were a natural economic development consequent on the development of the great forces which now control the world—steam, electricity, and machinery—or that there was any rational basis for their existence. But a careful study of their effect, ranging over a period of years, has materially modified my opinion.

The best horse will shy at an umbrella if it is opened in his face too suddenly, and the economic results of these great forces have been so sudden and startling that it is perhaps natural that even intelligent men should "shy" at them until, like the horse, they can smell of them and see that they are not dangerous. The "trust" is a result of these forces.

TRANSPORT BEFORE THE INDUSTRIAL COMMISSION.

COMBINATIONS AMONG RAILROADS THE FIRST TRUST.

The first prominent development of the trust organization in this country was in the consolidation of numerous lines of railroad into trunk lines, and there was a fear in the public mind (in which I shared) that these combinations and consolidations would result in exorbitant rates for transportation and to the detriment of the public interest. What the result has been is shown by the following extract from a report adopted by the National Board of Trade at its annual convention in 1896:

"The average charge for sending a ton of freight 1 mile on 13 of the most important railroads in the United States during 1865 was 3.08 cents; in 1870, 1.90 cents; in 1875, 1.36 cents; in 1880, 1.01 cents; in 1885, 0.83 cent; in 1890, 0.77 cent; in 1893, 0.76 cent; in 1894, 0.746 cent, and in 1895, 0.720 cent. Since 1865 the figures have not varied so largely, but have shown a constant tendency downward."

These railroads performed one-third of the entire transportation of 1895, and from the figures given it appears that 0.72 cent would pay for as much transportation over their lines in 1895 as could have been obtained for 3.08 cents 30 years earlier.

This reduction, amounting to three-quarters of the average rate of 1865, was exceeded by the reduction in price of but few even of those articles in the manufacture of which new inventions have worked the most radical changes. The entire transportation performed by the railroads of the United States during the 12 years ending June 30, 1894, was equivalent to moving 136,790,877,822 passengers and 807,935,882,688 tons of freight 1 mile. Had rates averaging as high as those of 1862 been collected on this traffic, the railroads would have earned \$2,629,043,459 more than they actually received.

THE STANDARD OIL TRUST.

The next most prominent aggregation of capital in the commercial world is known as the Standard Oil Company, and the effect upon the price of oil is illustrated by the following statistics, compiled by the United States Government, showing the wholesale export price for refined petroleum for the period extending from 1871 to 1898:

Prices of refined illuminating oils per gallon exported from the United States, 1871 to 1898. (The prices represent the market value of article at time of exportation.)

Year.	Cents.	Year.	Cents.	Year.	Cents.
1871.....	25.7	1881.....	10.2	1890.....	7.4
1872.....	24.9	1882.....	9.1	1891.....	7.0
1873.....	23.5	1883.....	8.8	1892.....	5.9
1874.....	17.8	1884.....	9.2	1893.....	4.9
1875.....	14.7	1885.....	8.7	1894.....	4.2
1876.....	14.0	1886.....	8.7	1895.....	4.9
1877.....	21.1	1887.....	7.8	1896.....	6.8
1878.....	14.4	1888.....	7.9	1897.....	6.3
1879.....	10.8	1889.....	7.8	1898.....	5.7
1880.....	8.6				

This great decline in the price of oil is attributable partly to the increase in production, but more largely to improvements in manufacture and transportation, which were only attainable through the aggregation of capital in this industry.

THE SUGAR TRUST.

Among the more prominent of the recent so-called trusts is that of the American Sugar Refining Company, which is a corporation formed under the laws of the State of New Jersey for the purpose of consolidating the sugar-refining interests of the country, and until recently, when additional capital flowed into this channel, it did about 85 per cent of the sugar-refining business in the United States. The effect of this is shown by the following table, giving the price of both raw and refined sugar, with the different margins during the 9 years prior to the consolidation and 9 years since.

Average price.

Year.	Centrifugals, raw, per pound.	Granulated, refined, per pound.	Difference, per pound.	Year.	Centrifugals, raw, per pound.	Granulated, refined, per pound.	Difference, per pound.
	<i>Cents.</i>	<i>Cents.</i>	<i>Cents.</i>		<i>Cents.</i>	<i>Cents.</i>	<i>Cents.</i>
1879	7.423	8.735	1.312	1888	5.749	7.007	1.258
1880	8.206	9.602	1.396	1889	6.493	7.640	1.207
1881	8.251	9.687	1.416	1890	5.451	6.171	0.720
1882	7.797	9.294	1.437	1891	3.863	4.661	0.823
1883	7.423	8.506	1.083	1892	3.311	4.346	1.035
1884	5.857	6.780	0.923	1893	3.689	4.842	1.153
1885	5.729	6.441	0.712	1894	3.235	4.119	0.884
1886	5.336	6.117	0.781	1895	3.256	4.140	0.882
1887 a	5.245	6.013	0.768	1896	3.631	4.539	0.908
Average, 9 years	6.807	7.905	1.098	Average, 9 years	4.291	5.272	0.981

a The trust was formed in 1887.

Since 1896 prices have been affected by changes in the tariff, and during the past few months by increased competition consequent upon the construction of new refineries, which have reduced margins to an absolutely unremunerative point. The figures for 1897 and 1898 are as follows:

Year.	Centrifugals, raw, per pound.	Granulated, refined, per pound.	Difference, per pound.
	<i>Cents.</i>	<i>Cents.</i>	<i>Cents.</i>
1897	3.550	4.500	0.950
1898	4.240	4.970	0.730
March 30, 1899	4.370	4.940	0.570

This reduction in price has been effected partly by increased production and largely through buying the raw material cheaper than when a large number of separate refiners were competing for the product. Large economies were also effected by closing inferior plants and enlarging and extending superior ones. The American Sugar Refining Company has bought its raw material cheap, but it has given the public the benefit of such purchases, merely retaining as its profit about one-third of a cent per pound, which, considering the nature of the business, is a reasonable one. It employs more labor and pays higher wages than was employed and paid before the organization of this industry.

EFFECTS OF THIS INDUSTRIAL REVOLUTION ON LABOR AND PROFITS.

These illustrations are but types of many in the evolution of industries, which is the result of the great forces before mentioned, and which have revolutionized the entire economic situation. That there have been instances of hardship and injustice attending this revolution can not be doubted, but it is equally certain that the total results have been beneficial to the public at large and to the interests of the laboring classes especially, who constitute the majority. At some stages of this evolution this remark was, perhaps, not true. The action of these forces was so rapid that men were thrown out of employment faster than wants were created and industries widened. Labor, however, soon followed the example of organization which capital had set, and during the last decade the organization of labor has progressed faster than that of capital, and has forced a division of a larger share of the profits of industry for labor than at any previous period of history. In other words, the profits of capital have been steadily decreasing, while those of labor, and especially of organized labor, have steadily increased. At no previous period would a dollar buy so much of the necessities and comforts of life as at present. While this is admitted by intelligent laboring men, many of them contend that opportunities for earning a dollar have constantly diminished; and they are now seeking, by the advocacy of shorter hours for labor, to make employment for a larger number of persons. I believe that this is a worthy

and beneficent aim. It is better to have a larger number of persons employed for 8 hours than a smaller number of persons 10 or 12 hours. Unrest of labor in a free country is not a dangerous phenomenon, but rather a safety valve, and one which capital can afford to encourage. At the same time it must not be forgotten that education of the masses has created new wants, and that these wants have grown faster than the means of gratifying them. The problem should be viewed from both sides, and only what is reasonable should prevail. Wherever unlimited power exists it is usually accompanied by tyranny, whether of labor or capital. There are labor trusts as well as capital trusts, and in all the annals of combination there are no greater illustrations of tyranny than the attitude of some of the labor organizations toward laborers. This, however, was the inevitable outcome of organization and of the evolution which is now going on throughout the world under the operation of the great forces that now control the world—steam, electricity, and machinery. Under the operation of these forces the world has been growing richer. All the resources of nature are being developed. Capital has increased faster than the opportunities for its profitable employment, as is evidenced by the steadily decreasing rate of interest. I used to think that combinations of capital would abrogate competition, but experience has shown that, instead of abrogating competition, it has elevated that force to a higher plane. If a combination of capital in any line temporarily exacts a liberal profit, immediately capital flows into that channel, another combination is formed, and competition ensues on a scale and operates with an intensity far beyond anything that is possible on a smaller scale, resulting in the breaking down of the combination and the decline of profits to a minimum.

TENDENCY OF PROFITS TO A MINIMUM ILLUSTRATED BY THE SUGAR AND COFFEE INDUSTRIES.

A striking illustration of this is found in the sugar and coffee industries to-day. Arbuckle Brothers had attained a commanding position as roasters and sellers of coffee, and they also sold but did not refine sugars. Because the American Sugar Refining Company would not sell to them cheaper than to other buyers of sugar, they decided to go into the sugar-refining business, whereupon leading spirits in the American Sugar Refining Company, seeing that the margin of profit in the coffee business was good, decided to go into roasting and selling coffee. The result has been that this contest of giants has reduced the profits in both industries to a minimum, if not to a positive loss, making it hard for smaller manufacturers and dealers to live, but saving millions of dollars for consumers that would otherwise have inured to manufacturers and dealers.

COMPETITION AND PUBLICITY SAFEGUARDS TO CONSUMERS AND STOCKHOLDERS.

The only trusts which have succeeded for any length of time have been those which have been conducted on a far-sighted basis of moderate margins of profit, relying upon a large turn over and the economies resulting from the command of large capital intelligently administered. The truth of this is illustrated by innumerable failures in trust organizations to control prices, recent illustrations of which are the strawboard trust, the starch trust, the wire-nail trust, and the old steel trust. There are trusts, so called, in nearly every branch of business, and there is good and bad in all, but the good so far predominates that such aggregations of capital should be encouraged, accompanied by safeguards against abuses. The only additional safeguards needed are for stockholders and investors, whose interests are often sacrificed through lack of publicity. The average investor is the chief sufferer. So far as the interest of consumers is concerned, it is amply protected now—first, by competition, as I have shown, and second, by the common law, which, if invoked, will nullify any contract in restraint of trade and subject any unreasonable combination to indictment for conspiracy. Special "trust" statutes are not necessary, although many have been enacted.

OVERCAPITALIZATION.

The evil of overcapitalization is often condemned, and no doubt it is an evil, but it hurts its authors as often as it does investors, although, perhaps, not to the same extent. It is very difficult to estimate actual values where earning power is such a large factor, and this, as is well known, varies greatly with the changing conditions of trade. At present trade is good, money is easy, and we see great activity in the formation of "trusts" with enormous capitalizations, whose

value only time can prove; but it is safe to say that there will come periods of business depression when it will not be possible to earn dividends, and these securities will find their level.

A large capitalization can not increase earning power, but it may serve to conceal the percentage of earnings on the actual cost of some properties and furnish counters with which to juggle in the stock market. In many industrial properties the "good will," which is a property created by brains, industry, time, and population, is the principal value. Unlike a railroad or gas company this can not be reproduced, and the sole measure of capitalization is its earning power. What other measure can there be to the capitalization of a newspaper or ordinary industrial company? Never before has there been so much necessity for caution and investigation on the part of investors. This is illustrated by the following from a recent circular of Messrs. Watson & Gibson, a leading firm of bankers and brokers in New York:

OPINION CONCERNING INDUSTRIAL STOCKS.

"The manufacture of securities goes on so rapidly now that 'the Street,' literally the street, is full of them, as the stock exchange can not list them as fast as they come out. There never has been such a 'curb' market before. The list is a long and growing one. Wall street has got to educate itself in a variety of industries. It used to study railroading and transportation only, paying but little attention to the methods, details, and statistics of individual industries. In the near future we must inform ourselves in a general way, at least, as to steel billets, barbed wire, freight cars, paper bags, baking powder, electric and air power cars, passenger and freight elevators, hard-rubber goods, typewriting machines, smelters, cigars, cigarettes, beet-root sugar, pumps, potteries, etc. Our horizon is widening; we are getting expansion in Wall street, and getting it all at once. Bankers and brokers are looking over these new candidates for loans and marginal accounts, and are proceeding with great caution. They are not so enthusiastic as the promoters of these various consolidations, and therein lies the safety of the situation. If bankers and brokers had joined promoters in their mad craze to overcapitalize, and had aided and abetted them in enticing the public in on easy terms of marginal purchases, the situation would by this time have become dangerous. The industrial stocks will have a checkered career. Some will be admitted into the inner circles of credit among bankers, some will stay outside in the cold, many will appeal sooner or later to speculative favor, and finally the test of time will separate the sheep from the goats. It will be difficult to find skilled managers who can successfully conduct the new combinations, and great crashes will come within a year or so that will wreck the whole market. There will be as many Cordages as Standard Oils, and probably more, but we are not yet in their shadow."

STOCK COMPANIES PROMOTE A WIDER DISTRIBUTION OF WEALTH.

The fact remains, however, that stock companies are industrial partnerships, usually composed of a large number of small partners as stockholders, and that both profits and losses are much more widely distributed under this organization of industry than under former conditions.

I will give you an example of that. There were 9 sugar-refining firms consolidated into the American Sugar Refining Company. There was an average of 8 partners to the firm, making 72 persons interested. As soon as it was put into an industrial corporation the number of stockholders began to increase until now they are numbered by the thousands.

INDIVIDUALITY NOT IMPAIRED BY TRUSTS.

The theory has been advanced that the organization of industry into "trusts" dwarfs individual effort and diminishes individual opportunity. I do not think this is true any more than the enlistment of bushwhackers in the Regular Army dwarfs effort and diminishes opportunity. The bravest, wisest, and strongest naturally become officers in the organization of industry, and those less capable become the rank and file, with opportunity for promotion based on merit. Look and opportunity, doubtless, have something to do with leadership, but the fact remains that steam, electricity, and machinery have forced the organization of industry, and it is now a contest of nations for the trade of the world. We can not all be generals or admirals in industrial organization, but we can try for it, and it is better to be a good private than to be an eminent bushwhacker.

Q. (By Representative GARDNER.) That is a matter upon which one hears comments frequently—the opportunities which exist for going into business. It is a common thing to hear men say, "I can not put my son into business. Combines, department stores, trusts, etc., absorb everything." Now, do I understand you to mean that, in the evolution of the world's industry, natural conditions have grown up in all countries which will operate without regard to particular local institutions—in other words, that the evolution is an irresistible one?—A. That is my idea; and I think there is a place for everybody in this new organization of industry, as much so as when it was entirely in the hands of individuals. A man may not be able to put his son into business in a small way on his own account, but he can find a place for him in some large institution which will enable him to have as much scope for his energies and efforts as he would have if working on his own individual account.

Q. It shifts the opportunity, but does not destroy it; that is your theory?—A. That is my theory. (Continues reading.)

The popular hostility to trusts is due principally to lack of knowledge of their economic effects, and these are gradually becoming better known. There have been just enough abuses attending them to give an excuse for sensational journalistic denunciation, and this has caused undue prejudice. A great politico-economic question like this should be considered dispassionately, and all sides of it carefully investigated before conclusions are reached. As before stated, the result of my many years of study of it has been to materially modify the views I entertained in the beginning. The editor of the United States consular reports for August, 1898, in discussing industrial centralization in Europe, says:

THE PRESENT A PERIOD OF CENTRALIZATION IN INDUSTRY.

"Our period is distinguished by its tendency to centralization, not only in the State, but likewise in industry and commerce. Large firms are competing with small shops to such an extent that the latter are disappearing one after another. The factory has displaced the workshops. Everything is being done on a large scale. Everything is becoming colossal. That is not all. We see now even the great factories, not finding themselves sufficiently strong alone, and fearing their reciprocal competition, renouncing their own autonomy and combining among themselves, and this tendency is everywhere manifest. The French *chefs d'affaires* at Berlin calls attention to their centralization in Germany; the French consul at Glasgow mentions the same phenomenon at Glasgow. These facts are significant. They certainly indicate one of the tendencies—perhaps, it might be said, one of the necessities—of our epoch. It is certain that production is passing through a serious crisis. Competition has occasioned a considerable decline in prices, and in order to retain markets certain industries have been obliged to work under unprofitable conditions. To avoid final ruin, they have agreed either to limit the production, to maintain prices, or to conclude complete consolidation. Hence the cartels, the syndicates for production, the associations. We neither approve nor blame this new procedure; we simply record it, remarking that sometimes certain laws are developed, whatever may be their consequence."

TRUSTS TEND TOWARD SOCIALISM.

Q. Perhaps this is the right place to ask whether, in your study of combinations and trusts, you have discovered, together with a tendency toward the development of monopolies in all industries, a tendency toward governmental control of such monopolies; or, in a word, is there a direct tendency to ultimate socialism of some kind, or government ownership of all things?—A. The tendency is undoubtedly in that direction. One of the most intelligent socialists in New York, in an article written for the New York "Independent," welcomed the advent of trusts as a step toward ultimate socialism.

Q. (By Representative LIVINGSTON.) Is it the purpose of trusts and combinations to bring about that result?—A. I do not think it is. I do not think they have that intention at all.

Q. (By Mr. NORTH.) Is that the effect, in your judgment?—A. I think it is a step in that direction. That is the tendency, but the end is a long way off.

Q. (By Mr. FARQUHAR.) Do you think that these combinations tend to the destruction of individualism, as we regard it?—A. No; I do not think they destroy individual character, but they may destroy individual occupation.

Q. Do they destroy individual opportunities?—A. No.

Q. How can there be concentration without, at the same time, the destruction of opportunities?—A. It is just like organizing a militia or an army. I touched upon that, I think, a few moments ago.

Q. (By Representative LIVINGSTON.) What you say would be true if all individuals were taken into the organizations; but if the great masses are left out, what is the effect?—A. Judging from the extent of concentration at the present time, I think it must become general. It is certainly proceeding so fast we can hardly keep track of it.

Q. (By Mr. FARQUHAR.) Is it not a fact that the reason given by the unemployed for their condition is that they are shut out from employment? Is not that the particular explanation, both in Europe and America?—A. Oh, yes; I think it is the reason usually given. (Continues reading.)

INDUSTRIAL CONDITIONS IN GREAT BRITAIN.

The London "Contemporary Review" for March, 1899, contains an article on the tendency toward industrial centralization in British industries, a recent illustration of which is the Bradford Dyers' Association, Limited, embracing twenty-two firms, with a capital of \$22,500,000, and controlling 90 per cent of the local dyeing trade. A similar fusion of interests in the Lancashire bleaching trade, with a capital of \$30,000,000, is contemplated. The fine cotton-spinning trade has begun to organize. Thirty-two firms with a capital of \$20,000,000 in stock and \$10,000,000 in debentures have been organized. In the cotton-thread trade, J. & P. Coats and four other firms consolidated with \$28,000,000 of capital and debentures, and fifteen other firms have been organized into a combination with \$18,750,000 of stock and debentures. All the large establishments engaged in making paper for newspapers have consolidated their interests. In the engineering trade, twenty-four firms have consolidated, with a subscribed capital of over \$70,000,000. Armstrong & Co. absorbed Whitworth & Co., and have a capital of \$21,000,000; and similar consolidations have taken place in metallic bedsteads, spring mattresses, cased tubes, spun mounts, rolled metal, brass wire, metal tubes, iron and brass fenders, china furniture, electrical fittings, marl for pottery ware, common building bricks, and coffin hardware.

In most of these organizations the employers and workmen are also confederated, a feature not common in this country. The employers agree to employ only union labor; the men agree to work for no firm outside of the combination, and for none which cuts prices. A minimum wage is agreed upon, and there is a sliding scale for increases.

Q. (By Representative LIVINGSTON.) What is your observation with regard to organizations of capital, are they arbitrary in their action?—A. Just as much so as organizations of labor. I think human nature is the same in both cases.

Q. You say organized labor is arbitrary in its demands, and admit the same of organized capital?—A. Yes.

Q. You do not refer to organization itself, but to the result of organization?—A. Yes. (Continues reading.) Not only is consolidation going on in manufactures, but also with distributive firms. The capitalization of incorporated stores and trading companies in the grocery, provision, oil, and drug trades during 1896-97 was \$90,000,000. One company has a capital of \$5,000,000, and one of \$12,500,000. These establishments have branches all over the country which are driving individual retailers to the wall. Lipton's Company has 72 branches in London and 181 in the provinces. One tobacco company has 100 branches. In the grocery, tobacco, chemical, and drug branches of the shop trades, the traders are grouped in local associations and federated nationally for various purposes of mutual defense. The main purpose being to prevent extensive competition.

The department store has achieved a greater development in England than in this country, and retailers complain of it as much there as here, and the Scotch retailers have been making an effort to find a remedy through tax legislation.

While within the limits of a hearing like this it is impossible to discuss exhaustively all the varying phases of so large a subject, I have endeavored to present the thoughts which have come to me in a somewhat extended observation and study of the phenomena attending the great economic revolution now in process of development, with the hope that they may suggest some points which are worthy of farther consideration, and which may aid in arriving at wise conclusions.

The following lines from some philosophical poet will be appreciated by the leading minds in the so-called "trust" organizations, who have been the mainstay in our churches and have founded most of our hospitals and universities, and.

possibly, by the proprietors of "popular" journals who make a business of denouncing and vilifying them:

"The sign is bad when folks commence
A-hidin' fault with Providence,
And balkin' 'cause the earth don't shake
At ev'ry prancin' step they take.
No man is great 'tel he can see
How less than little he would be
Ef stripped to self, and stark and bare
He hung his sign out anywhere.

"My doctern is to lay aside
Contentions and be satisfied;
Just do your best, and praise or blame
That follers that counts jest the same.
I've allus noticed grate success
Is mixed with troubles, more or less,
And it's the man who does the best
That gits more kicks than all the rest."

INDUSTRIAL CENTRALIZATION A NECESSITY.

I am not interested in trusts, except as a student of their politico-economic features, but I am satisfied that we must have this organization of industry if we would keep up with the procession in the march for the world's trade. There are 1,440,000,000 people in the world, of which we have 75,000,000, possessing a larger purchasing power than any similar number elsewhere and a larger producing power, because we command the great forces of nature and of brain power embodied in machinery to a greater extent than any other nation.

WE MUST EXTEND OUR FOREIGN MARKETS.

With a consuming power of 75,000,000 we have a producing power of 150,000,000. Our problem is to keep our labor and capital continuously and remuneratively employed by preserving our home market and reaching out for a place to dump our surplus among the other 1,365,000,000, each of whom has some wants.

Q. You say our object should be to keep our home markets. Suppose we produce more than we can consume, what then?—A. We then sell it abroad for any price we can get.

Q. Does that hurt anybody?—A. I do not think it does.

Q. Does it not hurt the producer? I want to know your exact opinion on that. Suppose we produce more wheat than we can consume, and throw it on the market anywhere; is the price raised or lowered?—A. Undoubtedly, if we produce too much, i. e., if we produce in excess of the consumptive demand the world over, the price is reduced, because the price of our wheat is made in Liverpool.

Q. If we should limit production at home, would that enable us to extend our markets abroad?—A. My answer to that is, that we should endeavor to preserve our home markets so far as possible and to extend our foreign markets at the same time, in order to relieve the home markets of our surplus. If we produce a surplus, whether of natural or manufactured products, that surplus presses down on the market and reduces prices to an unremunerative point, and in manufactures causes the closing of factories and the discharge of laborers. The great problem is to keep our labor and capital both employed.

Q. In preserving our home markets are we not competing with foreigners and prejudicing them against us? Do we not suffer on that account?—A. Foreign buyers purchase from us when they can do so to better advantage than elsewhere. While trade follows the flag to some extent, it follows the price list to a much greater extent, and we must do all that we can to extend our markets so that our factories can run continuously. As the producing capacity of our factories is greater than the consuming capacity of the United States, we must look abroad for our markets, else our factories can not run and furnish employment.

Q. Do I understand you to say this, that, as we are an overproducing country, not only in the manufacturing line but in the agricultural line, it should be the policy of this country to extend its markets?—A. Yes.

FOREIGN MARKETS TO BE EXTENDED BY BUILDING UP AN AMERICAN MERCHANT MARINE.

Q. Now, how can that be done and at the same time keep up our home markets?—A. Give us an American merchant marine; let our own ships distribute our own goods. A merchant does not hire a competing merchant's wagons to

distribute his goods, and every steamship company works for its own country just as a railroad works for its terminal points. I blew \$75,000 into the Brazil Steamship Line, because I thought it was a shame that an American merchant should have to send his letters to Brazil by way of Liverpool; and I lost every cent of it, because the policy of our Government at that time was to pay only sea postage, which, on a new route, is nothing. That policy applied on land would stop two-thirds of the mail routes of the United States. We had \$96,000 as a mail pay or subsidy from the Brazilian Government, and our Government gave \$3,200. It did not pay the boat hire in landing the mails at the nine points touched at.

Q. Then you think it necessary, in order to extend our trade and benefit our producers, that we have American bottoms?—A. I do.

PRODUCTS ON WHICH PRICES ARE FIXED IN FOREIGN COUNTRIES.

Q. (By Representative GARDNER.) On what products or manufactures of the United States are the prices fixed in any other country? For instance, it is said that Liverpool fixes the price of our wheat; is that true of any other American product or manufacture?—A. It is true of our agricultural products generally, I think, except perhaps cotton, of which we are the chief producers. It is true of most natural products that are produced in all parts of the world, but it is not true to any great extent of our manufactures. We make thousands of articles in this country so much more useful for the purposes of mankind than what is now being used elsewhere, that if we only bring them to the attention of consumers in all parts of the world they will buy them. The peasant who has been plowing with a crooked stick or reaping with a sickle, the implements employed by him and his forefathers for hundreds of years, is entirely satisfied until he sees a moldboard plow or a modern harvester.

Q. (By Representative LIVINGSTON.) If our agricultural products are larger and their prices are fixed abroad, and the prices of our manufactures are not, will you tell me what advantage the manufacturer has in controlling prices that the agriculturist has not, thus enabling the foreigner to fix the prices of the one and not of the other?—A. I will explain that to you. Take, for instance, a moldboard plow—

Q. Take raw cotton and manufactured cotton?—A. I am explaining the difference between a manufactured article, where fashion comes in, or some use, some patent, or something that gives the manufacturer the control of the price, and an agricultural product. I contend that \$1,000,000 of manufactures exported are of more value in actual profit to the country than \$5,000,000 of natural products. As a rule, \$1,000,000 of manufactured products will pay as much profit as \$5,000,000 of natural products, because the margin of profit is fixed by the manufacturer to a great extent, owing to the peculiarities of his goods, the wants of fashion, and all that, which have a very important bearing. (Continues reading.)

SPECIAL EFFORT SHOULD BE MADE TO SPREAD A KNOWLEDGE OF OUR PRODUCTS ABROAD.

There are natural wants and educational wants. The former are principally those of the stomach, and in supplying these we have to compete with the fertile lands and cheap labor of the whole world. The educational wants are those of fashion or convenience. This is illustrated by an incident which happened while I was on a trip around the world some years ago. On the voyage from Bombay to Suez, while going down the Red Sea with an English cotton manufacturer who had moved his plant from Manchester to Bombay, and was manufacturing cheap cotton there for the Eastern market, he told me of the great increase in the number of spindles in Bombay, and said that they would soon supply all the cheap cottons used in the East. I had just come from China, where American manufacturers were taking the market for fine cottons, because our fabrics were not loaded with clay, and I said: "Well, if India supplies the cheap goods and America the better goods, what will the Lancashire manufacturers do for a market?" "Oh," said he, "the mother country will open up Africa and make it the fashion to wear breechcloths." "Well," said I, "that is an educational want."

Mr. Chairman and gentlemen, "there is many a truth spoken in jest," and upon the educational wants depends the prosperity of our country. Paris supplies the wants of fashion in woman's dress, the educational want in that line; England, the fashions in men's apparel. We have thousands of inventions so much more convenient and useful than those now used by the people of the world that all our manufacturers have to do is to show them and they will find a market. But the

peasant who has been plowing with a crooked stick or reaping with a sickle is satisfied until he has seen a moldboard plow or a modern harvester; the student, with the olive-oil lamp or the tallow dip, until he has seen the petroleum, gas, acetylene, or electric light; the wooden-shod cloghopper or the sandal-shod Oriental, with his footwear, until he has seen that artistic and comfortable triumph of machinery, the American shoe.

The same methods which we employ in introducing goods in the United States we must employ abroad. Publicity is the great factor; and this must be reached by the printing press in the language of the various countries, by the personal representation of educated experts able to overcome the barrier of language imposed at the building of the Tower of Babel, by cutting canals and laying cables, by the upbuilding of an American commercial marine which will carry our flag and our goods on every sea, and by the establishing of international banks with a currency which will command the confidence of the great commercial countries of the world. Then will the Star of Empire, first progressing westward, shed its effulgence over the whole world. With it, in time, will come a universal coinage, a universal system of weights and measures, and a universal language; and Tennyson's dream of "the parliament of man, the federation of the world," with the English speaking race, led by the universal Yankee nation, as the evangel, will be realized. But don't let us shy at the boggy of the organization of capital, now called "trusts," which are an evolution of commerce, as natural and irresistible as the tides. Steer them! Don't try to stop them, for they are necessary to economical production and distribution. Regulate them, temper them with the organization of labor, and work out "the greatest good to the greatest number" on a basis of what is reasonable.

THE RELATIONS OF LABOR AND CAPITAL THE GREAT PROBLEM.

The adjustments of the relations of labor and capital under these new conditions is one of the great problems to be solved. Time will not permit discussing them here; but I would recommend every thoughtful man, whether he be an employer or an employee, to read a book recently published on this subject, entitled, *The Laborer and the Capitalist*, by F. O. Willey. It is a powerful argument for harmony, and a prominent clergyman recently said of it that it was capable of doing more good than any other book except the Bible. Our motto should be, "Labor and capital—allies, not enemies; justice for both."

TRUSTS REDUCE THE PRICE OF RAW MATERIALS.

Q. (By Mr. C. J. HARRIS.) Did I understand you to say that the effect of trusts is to reduce the price of raw materials?—A. Yes; as a rule they buy their raw material cheaper than the individual.

Q. In what instances did you say that had been done?—A. The American Sugar Refining Company furnishes a remarkable illustration of that. When a large number of refineries were competing for the raw sugar they naturally bid against one another and paid a much higher price than would have been paid by a smaller number of buyers. With a small number of buyers there is less competition for supplies.

Q. Am I to understand, then, that these corporations eliminate competition in the purchase of raw products and supplies?—A. Yes; they undoubtedly do, to some extent.

Q. What is their effect on the producers of raw material? Is it beneficial or otherwise?—A. It is otherwise.

Q. Then there is one large class you eliminate by trusts, do you not?—A. Yes; but, on the other hand, taking the instance of raw sugar, we find that the price in 1879 was a little over 7 cents, while in 1896 it was a little over 8½ cents. Now that undoubtedly has been to the detriment of the sugar producer—

Q. And the best producers of our country?—A. Yes, and against their interests, too, although they are in a measure free from the dictation of the refineries, because a large part of what they make is suitable for consumption without further refining.

Q. Does not the same condition of affairs exist in regard to the corn producers and the whiskey trust?—A. I do not think the whiskey business is sufficiently concentrated to have that effect; but if it were more concentrated, the effect, then, would unquestionably be the same.

Q. It certainly does in the case of the Standard Oil Company and the oil well producers, does it not? Is not the Standard's control of the industry sufficient to prevent the raw producers, the oil well men, from enjoying any competition to speak of?—A. I think that is true to a great extent, but there has been some com-

position even with the Standard Oil Company, notwithstanding it is such an all-embracing organization.

Q. Would not any capitalistic combination controlling three-fourths of the trade in an industry be able to effect the removal of competition?—A. Undoubtedly, as to the purchase of raw material.

Q. Then we come to the middle class of the country; we will say there are hundred men owning refineries in different parts of the country, living in those communities, having their homes there and their plants here and there—do not all these capitalistic concentrations, or whatever you may call them, remove all these dividends and center them in some large capitalist city like New York?—A. No, I think not. There is a striking illustration of this in the condition of the small coffee roasters in the instance that I cited in this paper where there came a contest between the American Sugar Refining Company, who went into coffee roasting and distribution, and the Arbuckles, who went into sugar refining. It made it very hard for the smaller men. As I said here, "The result has been that this contest of giants has reduced the profits in both industries to a minimum, if not to a positive loss, making it hard for smaller manufacturers and dealers to live, but saving millions of dollars for consumers that would have otherwise inured to manufacturers and dealers."

Q. Are you not looking at these trusts in the light of their money-making capacity rather than of their benefits to the community at large?—A. No, I think not. I am not interested in them pecuniarily. I have tried to look at them from an absolutely impartial point of view. I may not succeed in doing that, but the sum of my feelings is, that the trusts have greatly reduced cost of production and resulted in a benefit to the consumer. They are absolutely in the interest of the consumer, though, as far as the producer is concerned, I think they are antagonistic, because, as was brought out a little while ago, there is a less wide market for the producer.

Q. (By Mr. NORTH.) Are not the producer and consumer one and the same?—A. They are, to a certain extent; all producers are consumers to some extent; but the producers of raw sugar are scattered all over the world. When they could send here and have a dozen buyers, they could get a better price, perhaps, than they can now when there are only two or three buyers, because these two or three can get together and fix the price they will pay. The result is that the raw supplies are bought cheaper than they could be without consolidation.

THE SUGAR TRUST AND THE WHOLESALE GROCERS.

Q. (By Mr. C. J. HARRIS.) Can you, as a wholesale grocer, buy sugar of anyone but the American Sugar Refining Company?—A. Oh, yes; the American Sugar Refining Company is the largest producer; then comes, perhaps, the new refinery of the Arbuckles; and then the Doschers, Mollenhauer, and the Union Refinery. For three years past we have had three sources of supply, now we have five.

Q. Suppose you bought of some other company than the American Sugar Refining Company, would there be any effect on your business as far as they are concerned?—A. Not the slightest. There is no dictation or coercion.

Q. Can you still retain the same rebates, or commissions, or whatever you call them?—A. Yes; precisely. In this respect there has been a misapprehension on the part of the public concerning the American Sugar Refining Company. Competition in the distribution of sugar became sometime ago so intense in the grocery trade that the dealers were distributing it, not only without profit, but for less than the actual cost of doing the work; so the grocers got together—they have always been more or less associated—and asked the American Sugar Refining Company to assist them in securing a fair reward for the work they were doing. It was pointed out that it would be to the interest of the company to have the trade in a solvent, rather than an insolvent, condition and they were asked to make an arrangement, fixing the price at which the grocers should sell, and providing for a commission or rebate to them for doing the business. They hung off for a year or more, and it was only when the margin of profit was absolutely wiped out that the grocers by keeping after them finally succeeded in securing such an arrangement. Immediately some of the newspapers came out with the charge that there had been a great grocers' trust formed in the interest of the American Sugar Refining Company; whereas, the truth is, the grocers had had the hardest possible job to talk them into making the "factor system," as it is called. Even now it costs the average grocer, I think, about 4½ per cent to do business, and he does not get more than about 4 per cent in the distribution of sugar.

Q. As a matter of fact, do you not buy all your sugar from one refining company?—A. I am now out of the grocery business, but I am publishing "The

American Grocer," a newspaper, and I speak from actual knowledge when I say that all of the wholesale grocers buy as they choose from the different concerns. They are not confined to the American Sugar Refining Company. If they buy, for instance, from Dooscher, or Mollenhauer, or Arbuckle, it does not prejudice them in the eyes of the American Sugar Refining Company.

RELATION OF THE AMERICAN SUGAR REFINING COMPANY TO OTHER REFINERS.

Q. Is there any truth in the statement that Mollenhauer and these other refiners have really some connection with the American Sugar Refining Company?—A. I do not think there is the slightest. I will tell you what they all do; they just follow the system of the American Sugar Refining Company as closely as possible, and there has been enough of an outlet, in view of the demand, for the output of all, except the American Sugar Refining Company, which, however, has had sufficient outlet to keep, perhaps two-thirds of their capacity going, and they have been satisfied with that, because it was a great deal better for them to run at two-thirds of their capacity for a margin of profit than it would be to reach out and try to grab all, when they could not succeed.

Q. (By Mr. NORTH.) How is the price of sugar fixed?—A. It is fixed by the refiners. They prepare a regular schedule every day.

Q. In consultation with one another?—A. I do not know whether they have any consultation or not. I know whenever the American Sugar Refining Company puts up a schedule the other refineries will, in most cases, immediately follow suit. Sometimes they will have a little surplus stock they want to work off and will leave their price the same; or, if the American Sugar Refining Company lowers its price, sometimes the other companies will go a little lower still if they have a surplus they want to market.

Q. Notwithstanding what you say, that there are four or five sources of supply, there is still no competition in fixing the price?—A. Yes; I think there is competition to the extent that if one refiner has a surplus stock he will put down his price in order to make it move, and then the others will have to follow suit or else be left with their stocks on hand. To show you how much competition there is at the present time, I would point out that since the Arbuckles got their refinery started, the margin between raw and refined sugars has gone down from 0.95 to 0.57 of a cent.

Q. (By Mr. C. J. HARRIS.) If the Arbuckles and the American Sugar Refining Company carry out your trust principle, they will undoubtedly unite, will they not?—A. They will, if they follow their own interests.

Q. What would be the result, then, on the price of sugar?—A. Immediately you would see the margin go up from 0.57 to 0.95 again.

Q. There would really be no limit to which they could not raise it, would there?—A. Oh, yes. I used to have the idea that where a monopoly was created there would be no competition, and that excessive prices would be charged and the public oppressed; but my observation has been that whenever any combination attempts to get more than a fair, reasonable profit, new capital immediately flows into that line of production, with the result that prices go down. Take, for example, the production of starch, strawboard, and wire nails. The wire-nail manufacturers formed a combination and doubled their price right away. Within six months new factories had been created and were running, and the price was "knocked into a cocked hat." The manufacturers have never been able to get a living profit out of the business since.

METHODS OF THE AMERICAN TOBACCO COMPANY.

Q. In regard to tobacco—you are familiar with that in the grocery line—unless you handle the American Tobacco Company's product exclusively, what is the result?—A. They had a rule that they would give 10 per cent commission or rebate to people who handled their goods exclusively, and only 2½ per cent to those who did not confine themselves exclusively to their manufactures. That was equivalent to making people handle their goods exclusively.

Q. Is that legitimate, according to your ideas of trusts? Is that not in restraint of trade?—A. I think it was within their right to offer an inducement to a dealer to handle and push their goods exclusively. You see it was open to any other dealer to come in.

Q. (By Representative GARDNER.) What is the condition now?—A. I think it is the same now. That is my impression, although having been out of trade for some 8 years, I should not like to speak definitely on that; but I do know this,

TRUSTS AND INDUSTRIAL COMBINATIONS:—THURNER.

11

that they would sell to anybody and offer a premium to a person who would purchase and push their goods and not sell any competing brands, i. e., they would give 10 per cent to him and only 2½ per cent to those dealing also in other brands.

PROFITS AND CAPITAL OF THE SUGAR TRUST.

Q. (By Mr. NORTH.) Are you in position to give the Commission any more definite information than your paper contains regarding the profits of the American Sugar Refining Company?—A. Only as measured by the dividends that they have paid.

Q. Is that the full measure of their profits?—A. No; it is understood they had accumulated a large surplus which they are now using as a fighting fund in the contest with the Arbuckles.

Q. You do not know what that is?—A. No; I think nobody but the directors know.

Q. How many stock dividends have they secured?—A. I think no stock dividends.

Q. (By Mr. SMYTH.) All the dividends are public?—A. Yes; every stockholder of record, of course, participates.

Q. (By Mr. C. J. HARRIS.) What is the capitalization?—A. I think it is now \$75,000,000.

PUBLICITY IN THE BUSINESS OF TRUSTS DESIRABLE.

Q. (By Mr. NORTH.) Do you think that it would be to the public advantage to have a public statement of the security and financial condition of the Sugar Trust and other combinations of the same character?—A. Yes; I think it is a crying need. I think that these great organizations, having the privileges they do, should be put under authority.

Q. Governmental authority?—A. Yes. They are public corporations. They are created by the law, and the law should protect the public against abuses, whether of undue prices or the buncoing of stockholders. You are going to see, within a year or two, a crash in these industrials, in which the resources of thousands and thousands of people who have put their money into these securities will be wiped out; and the only remedy that I can see is such control as will require publicity.

Q. You favor that?—A. Yes.

EFFECT OF TRUSTS AND COMBINATIONS ON LEGISLATION.

Q. (By Representative LIVINGSTON.) What effect have these trusts and combinations had on legislation?—A. Well, I do not know. I am not any more competent to judge of that than any member of this Commission, because I have not given it any special study. There is no doubt about one thing, viz, that there has been a whole lot of "striking" legislation proposed in order to sandbag these trusts, and that whenever they are attacked in that way they will fend off by bribery or anything of that sort. I have not, however, observed that trusts have been active in the way of getting affirmative legislation in their interests.

Q. Do they not always do so when a tax system, financial system, or anything else that affects them is planned?—A. Undoubtedly. For instance, in the formation of the tariff bill you, as well as myself, know that all these large interests employed the very best talent and ability they could to present their side of the question; and we have recently had a discussion in connection with the Canadian reciprocity negotiations in which there has been a great deal of hard talk against the lumbermen for the influence they exerted to prevent the Commission arriving at a conclusion; but I do not think it is wrong for our lumber interests to present, as fully, fairly, and forcibly as possible, the effect of the proposed arrangement on American lumber interests. Certainly the Canadians were not backward in presenting their side, and in former reciprocity treaties there has been nothing reciprocal about Canada.

Q. Are not these combinations, which are being organized and concentrated, able to affect legislation, while the consumers of their products, scattered all over the face of the earth, have no show in that legislation? Do they not in this have an advantage over the majority of the people?—A. I think that all large organizations employ the best talent, and have their cases presented more ably than small ones. But your general question, I think, is answered in the central basic fact that these organizations do reduce the prime cost to the consumer. They have done it, and

CHARACTER OF MANY ANTI-TRUST BILLS.

Q. With reference to do it, and unless there is some instance where they have been so unreasonably and have enforced unreasonable profits I can not say the reason for condemning them. They may have an adverse and striking influence on legislation, but I can not say that I have seen it. When tariff questions have been pending they have undoubtedly presented their interests to the very best of their ability, but I do not see that industries that are in trusts should have any less degree of protection than industries not in trusts.

Q. It was the effect we wanted you to come to, not the facts. We know they lobby, and pay a large amount of money for it. I asked you this question: What effect have they had on these affairs—have they gained anything or lost?—A. I have not noticed any effect against the public interest in that respect.

CHARACTER OF MANY ANTI-TRUST BILLS.

Q. (By Mr. NORTH.) Do I understand you to characterize the anti-trust legislation of the several States as "striking legislation?"—A. I say there have been, undoubtedly, a great many instances where legislative "strikes" were attempted, and where these large organizations have been obliged to fend off.

Q. I would like to have you be a little more particular about that. Do you mean to tell the Commission that you regard the anti-trust legislation of the several States as "striking legislation?"—A. I do not mean to be understood in that way in its particular sense. I do say this: I think it is the experience of every large organization that there are measures introduced for the purpose of being bought off, and that frequently that is done.

Q. Is that the case in our existing legislation, in your judgment?—A. I could not point to any specific case, and it is only a general opinion of mine. Perhaps it may not be well founded, but that is my opinion.

Q. (By Mr. FARQUHAR.) One of the most stubborn fights that has occurred in the New York legislature was against a telephone company, and, as you well recollect, the Board of Trade of New York formed a large committee at its own expense to go to Albany. Was there, so far as you know, a single tinge of the so-called legislative "striking" when that fight was made against the monopoly?—A. No; I think that was an effort of a public body to reduce rates. I can give you some specific illustrations: I was chairman of the gas consumers' organization in New York when the price of gas was very high—\$2.75 a thousand feet—and we felt that the price of gas was too high, and introduced bills to legislate it down, and finally got it down to \$1.25. Then we felt that that was a reasonable price, and stopped. But each year since then there have been bills introduced, by men whose reputation in the legislature was that they were "strikers," to reduce the price of gas further, and the people who were in this association with which I was connected have said that they thought the price of gas was reasonable, and that we ought to do what we could to throw our influence the other way. There were six bills introduced in the legislature of New York this year to reduce the price of gas, some to \$1 and some to 90 cents, and I consider that "striking legislation," from the character of some of the men who introduced it, while others were honest men seeking popularity. I know that the gas companies have been approached with the information that they could stop certain bills if they would say for it.

Q. Do you argue in your own mind that no good can come out of it in that way?—A. I am not too certain of anything.

METHODS OF REGULATING TRUSTS.

Q. (By Mr. NORTH.) You say you think it is necessary that the trusts should be regulated by law. Is it possible, in your judgment, to regulate them by law?—A. I think that you can pass laws requiring reports, which will give sufficient

information to investors to provide against abuses in the manipulation of stocks, which is the chief thing, I think, that is necessary. You will have gathered from my statement that I do not think that the so-called trust statutes which have been introduced are necessary. I think that competition and the common law are sufficient to remedy any real abuses that may be attempted, and that the legislation, both national and State, which is directed against trusts is unnecessary.

Q. But you do believe in the system of publicity and inspection?—A. Yes. See how our banks are supervised and inspected. There is a perfect system. I do not see why that should not be applied to all corporations.

Q. Do you believe that should be applied by the General Government or by the several State Governments?—A. Where the business is an interstate business, it would, perhaps, have to be done by the Federal Government.

Q. Is not every business where the product goes into more than one State an interstate business?—A. Yes, with some qualifications. You know, in the sugar-refining case, a suit was brought against E. C. Knight & Co., of Philadelphia, sugar refiners I think, under the United States trust laws. It was decided in their favor, because they were conducting a business within the State of Pennsylvania. To be sure, their product was shipped all over the United States, but I believe that case was decided on the ground that it was a State institution. I do not know that I am sufficiently familiar with that decision to have in my mind all the varying grounds on which it was decided.

Q. (By Mr. C. J. HARRIS.) I understood it was because it did not come under the interstate clause.—A. That was my understanding.

THE CAPITALIZATION OF TRUSTS.

Q. (By Mr. SMYTH.) Do you think it would be wise to limit by law the capitalization of trusts so that it should not exceed \$5,000,000, \$3,000,000, and so on?—A. I am not clear in my mind what is feasible. You see, the earning power is the thing they capitalize on. They say, how much can this concern earn? Well, it has earned so and so during the last so many years, and will, therefore, stand so much capitalization. If they can figure that it has earned 10 per cent, or is capable of earning 10 per cent, they will capitalize at that. The common stock is, as a rule, a bonus, that is, it is not considered that it represents the actual cost of the thing.

Q. (By Mr. NORTH.) Fictitious?—A. Yes. It may be founded on the earning power, however. The American Sugar Refining Company's common stock has paid 12 per cent right along, and the preferred only 8 per cent, yet I have no doubt that the preferred stock represents about all of the original cost of the plant.

Q. (By Representative GARDNER.) Do you know anything on that point? It is a very ticklish one to assume anything on. You say you have no doubt, but do you know, or have you reasons to know?—A. I have no knowledge on that point. I only know it is a common opinion in the trade that that is the case.

TAXATION OF TRUSTS AND COMBINATIONS.

Q. (By Mr. NORTH.) Would you be willing to subscribe to the proposition that all the profits of a trust or combination, in cases of a certain dividend, should be subject to public taxation?—A. I do not know why you should treat the trust organizations' business any different from others.

Q. Is it because it is quasi-public in so far as it is a monopoly or tends to a monopoly. Is it not different from that of private corporations or individuals doing business in the ordinary, old-fashioned way?—A. In commerce there is no such thing as monopoly in this day and generation. That is one idea that has been exploded. Capital is so plentiful that the moment any institution, no matter how big, begins to exact a liberal profit, immediately fresh capital flows into that channel and competition results on a scale that would not have been possible among smaller organizations.

Q. Then, do I understand you to answer my question in the negative?—A. Yes; I should say that I do not see any reason why business done by corporations should be taxed in any way different from that done by individuals.

Q. Even these quasi-public and quasi-monopolistic corporations?—A. Yes; and if you find that they are oppressive, that they are charging the public more than they should charge it and making enormous profits, that might be a subject for legislation, either through the taxing power or in any other way. But take the American Sugar Refining Company. People say: "Why, they have been paying enormous dividends on an inflated capitalization." So they do; but they do it on an average profit of a third of a cent a pound; but the business is one the machinery of which is not fitted for anything else. If you would subject it to sale—the real estate, machinery, and so on—it would only bring a song; and I think that they are entitled to a good, liberal profit when they give the public the long end of it, as they have done. They have given the public all the benefits of their advantage in buying, and have only retained their average margin right along—about a third of a cent. If they had grabbed the whole thing, why I should feel differently about it; but we must all come down to what is reasonable.

Q. (By Representative GARDNER.) If I understand you, your theory is this: that the elements of competition, viz, capital and individuals with knowledge,

skill, and so on, are practically inexhaustible, and that therefore no monopoly, charging exorbitant prices, can remain without competition for any considerable time?—A. Competition certainly will come.

Q. That is your theory?—A. Yes; and the facts go to show it.

TRUSTS AND COMBINATIONS PROMOTE THE PUBLIC WELFARE.

Q. (By Mr. C. J. HARRIS.) What is going to be the effect of trust organizations on the great middle classes of the community, the men who have formerly been owners of plants, and their sons after them, and what is going to be the effect upon the traveling salesmen?—A. Speaking in a broad way, the effect will be beneficial; although there is a constant displacing and transition in the whole situation. Individuals may be prejudiced as they were in the evolution, for instance, of our transportation system, beginning with the stagecoach and the railroads. It is the old, old story, over and over again, of constant transition and individual hardships; but in the "demnition total" of the whole thing, as Mr. Mantalini said, it is, in my estimation, for the public good, and, what is more, it positively can not be prevented. This state of things has been produced, as I have said, by the forces of steam, electricity, and machinery.

EFFECT OF TRUSTS ON THE DISTRIBUTION OF WEALTH.

Q. Suppose the Standard Oil fortunes, running anywhere from \$10,000,000 to \$200,000,000, which have been showered upon ten or a dozen men, had been divided up among two or three hundred at a million or two apiece, would not the people in general in this country have been a great deal better off, in your estimation?—A. I do not believe they would. You have to have large concentration of wealth in able hands to accomplish results.

Q. Is it not the aim of all sociological writers, who are endeavoring to improve the condition of society, to show that wealth should be as evenly divided as possible? Do not their methods consist in the division of real estate among the thousands, and money and other kinds of property in the same way?—A. You can not have equality in the distribution of wealth. It will inevitably be unequal. If all wealth were equally divided to-day, to-morrow would see a tendency toward inequality again. I saw this thought well expressed in a book by Prof. Isaac F. Russell some time ago: "Equality of wealth would not exist during the period of time required for its distribution. Before midnight some Esau would have sold his birthright for a mess of pottage or some gambler would have staked his last dollar on the throw of a die or the turn of a wheel."

Q. (By Mr. NORTH.) That is your general answer to the socialistic argument, I take it?—A. That equality is impossible.

Q. (By Representative GARDNER.) And is not that the very thing that socialism is aiming at?

Q. (By Mr. FARQUHAR.) Is it not generally said by all historians of this country that the source of our great national prosperity has been our individualistic tendencies; or, in other words, is it not their opinion that the genius of this country is against centralization?—A. No.

Q. Is it not the great freedom of the community in making its own way and its own living the standard that has made American wages?—A. I think you are speaking now in favor of my position—the freedom of opportunity.

Q. I simply would like an answer.—A. I think it is. I think that freedom of opportunity is a most desirable thing, and I think that opportunity is not abridged, as has been suggested by many students, by this new organization of industry. Opportunity appears in a little different way, but opportunity still exists.

REASONS FOR THE REDUCTION OF FREIGHT CHARGES.

Q. You spoke, in what you have read here, about railroad freight going down to 0.72 of a cent in 1895 from 3.08 cents in 1865. Do you credit all that to the controlling of freight rates by trusts and combinations?—A. No; but I credit it to the enormous mechanical improvements that were promoted and made possible by the aggregation of capital in the industry.

Q. What was the increase of railroad capitalization from 1865 to 1895; was it proportional to the decrease in freight charges?—A. No; I do not think there was that amount of increase. There has always been a lot of water, as you know, in our transportation system, but I do not think that the water had anything to do with the decline in rates; it was the mechanical possibilities that were developed by these consolidations.

Q. In other words, you would answer that it was simply the roadbed and the rolling stock and equipment that brought the lower rates? Is it not a fact that

the building of a second lock at Sault Ste. Marie reduced the freight rates on grain from Duluth to Buffalo from 11 cents to 1½ cents?—A. Yes; I think it was; that and mechanical improvements, with the increased tonnage thus made possible.

Q. The extra large tonnage, or carrying power, of all the craft that were built as soon as the great lock was completed?—A. Yes, undoubtedly.

Q. So these trusts and combinations had nothing to do with it, and the cause lay entirely outside of any centralization of capital?—A. It had nothing to do with it in that particular instance, I think, but look at the prices of transportation on the Great Lakes since the Rockefeller capital went into the whaleback transportation. Of course, those whalebacks could not have passed through the old locks, and the enlargement of the locks gave an opportunity for the further employment of this capital. The economies that have been realized in transportation on the lakes through the increased size of vessels and all that have been something enormous.

Q. Is not the development of the lake channels of trade, through river and harbor improvements and better terminal facilities for handling grain and ore and everything of that kind with the resulting competition between water and rail, the reason that rates have come down?—A. Water competition has undoubtedly had a great deal to do with it. At the same time you will admit, I think, that great mechanical improvements, such as the manufacture of Bessemer steel, and the consolidation of railroads, making possible through freights and through lines, as compared with the fragmentary lines we used to have, have had an equally great influence.

Q. Do you think a consolidated pool in the matter of railroad rates sanctioned and regulated by law would be a benefit to the producers of this country as compared with the open competition we have now?—A. I think that a pooling law under supervision of the Interstate Commerce Commission is extremely desirable.

Q. So you believe in State regulation?—A. I do, of all these public agencies.

Q. And do you believe that trusts or combinations are unsafe unless regulated by the State?—A. I think state regulation would be better for the trusts and better for the public.

INDUSTRIAL STOCKS AND SPECULATION.

Q. Another question that you have left quite open suggests itself here. In England, as you know, 10 years ago and throughout the past decade, limited companies have sprung into existence like mushrooms. Is it not a fact that, to-day, the intention of the promoters of trusts, the main part of those formed within the last 3 or 4 months, has been to get their stocks into the New York exchange in order to give them an opportunity to gamble on unknown profits and unknown capitalization?—A. I have no knowledge of that.

Q. Do you not think that Wall street will ultimately reap the benefits instead of the consumer or producer in the speculation on these stocks of the great trusts?—A. Wall street is a very interesting community by itself. It contains the gambling spirit of this country, and whether stocks go up or stocks go down, as among the really active professional stocks, it does not matter a great deal. It is simply one of them skinning another. The real evil in this overcapitalization consists in inducing outside small investors, people who are not speculators, to buy, under such favorable conditions as now exist, securities upon which, when bad times come, dividends can not be earned. Then these smaller investors are practically wiped out unless they can hold over. Indeed, he who buys on a margin is pretty sure to be wiped out.

Q. (By Representative GARDNER.) Does not that result from imprudence just the same as the wasting of money in any other direction? Would that happen if the countryman, or other man, who has a little money and knows enough to know that he does not know anything about it, and ought not to gamble, would stay out of Wall street?—A. Speculation, I suppose, is inevitable; I do not know how to regulate that.

TRUSTS AND PANICS.

Q. (By Mr. FARQUHAR.) I should like to ask whether, in your opinion, these trusts or industrial combinations are for good or evil, as you see them to-day?—A. I believe they are powerful agencies for good, but there is much that is bad which we should try to eliminate; there is "good in all, but none all good."

Q. Is there not a question lying back of this, viz, that, as a result of this overcapitalization and control of natural monopolies as well as of manufactures in general, a crisis may come upon us, such as we have had three or four times in this country?—A. Oh, we are sure to have these periods of panic and reaction, but

how far this overcapitalization, this excessive capitalization, may enhance them or make them come more frequently, I do not know.

Q. (By Mr. NORTH.) But have you not already gone on record on that point in having stated that you believe a panic to be inevitable from these things?—A. What I mean to say is, that I do not know how much a panic would be influenced by this overcapitalization, but I do believe this, that we are likely to have these periods of commercial depression, with all the resulting phenomena of idle mills, etc., more frequently in the future than we have had them in the past unless we can widen our markets and keep up activity in our industries.

Q. But did not I understand you to say before that they would be intensified by this form of industrial combination?—A. As regards panics, do you mean to say?

Q. Business crises, depressions, and prostrations.—A. I do not wish to be understood as thinking that the cause, for the reason that I am not clear that excessive capitalizations are the cause of commercial panics. The real cause is our ability to produce more than we can consume, resulting in the shutting down of our factories and the throwing of labor out of employment, and accompanied by all the phenomena of a commercial crisis which sometimes runs into panic, causing the withdrawal of money from banks, and all that.

Q. In your judgment is it advantageous to the industries of the country to be so capitalized and put upon the New York stock market that they will be subject to all the speculative tendencies which influence that market?—A. I think that excessive capitalization is unfortunate. I believe in having things as near actual values as possible, but I do not see exactly how you are going to prevent overcapitalization.

Q. That is not quite my point; I may not have made it clear. What I mean is this: Does not, in your judgment, the tendency to consolidation bring all the industries of the country affected thereby within a speculative and gambling field?—A. Yes, undoubtedly.

Q. That was the point I was after.—A. Yes, undoubtedly.

Q. That is, it is an economic disadvantage to the country in your judgment?—A. Yes, I think it is.

Q. (By Representative LIVINGSTON.) As an illustration of what you have just said, what produced the recent wonderful change in the Wall street rate of interest, from 3 per cent to 13?—A. Simply demand and supply.

Q. Is it not a fact that bankers in Wall street got frightened, that they were not willing to advance money on the kind of stocks that were being dealt in, and that this fear ran money up to 13 per cent? Was not that the cause of it?—A. I do not know that it was; it may have been. I really do not know that I am competent to answer that question.

THE REGULATION OF TRUSTS RESUMED.

Q. (By Mr. CONGER.) Am I to understand that you believe the general effect of these trusts or industrial combinations is the public good, but that you would favor their regulation by law?—A. Yes.

Q. Would you favor the enactment of a Federal law which would prohibit interstate commerce and the use of interstate commerce instruments, such as checks and drafts, to those corporations not complying with prescribed rules for filing reports or for inspection by the Government, the theory being that publicity will do more to right abuses than anti-trust laws which would annihilate the trust or combination of capital itself?—A. That is a pretty long question. I think a man would have to study on it a long while before he could give an intelligent answer to it.

Q. Take the first part of it; would you favor a Federal law that would prohibit interstate commerce or the use of interstate commerce instruments to those trusts that do not comply with a law requiring the filing of reports—in other words, that regulation which you seem to favor?—A. I do not know whether that would be a proper penalty or not. I think that you can make penalties that perhaps would not interfere with the movement of commerce and at the same time would accomplish the object of giving the necessary publicity. You can make cumulative fines, for instance, for first, second, and third offenses, and make them so heavy that it would be impossible to disregard them.

RESTRICTION OF CAPITALIZATION RESUMED.

Q. Would you favor the enactment of laws prohibiting the capitalization of corporations beyond the amount of money or actual value of property invested?—A. I would not. That brings us to the great difficulty again. Take, for instance, a newspaper that has an earning capacity of \$50,000 a year, and its whole plant is

not worth \$10,000. You would not capitalize that, if you were putting it into a corporation, on any basis of the actual value of the plant. Take almost any private business that is put into a corporation, and its actual tangible merchandise assets with its real estate, etc., is not a fair measure for its capitalization. A fair measure for its capitalization is the earning power of the property. Can it earn 10 per cent on a capital of \$100,000? If so, \$100,000 would be a fair capital for it.

Q. Would you favor a law which would prohibit the capitalization of that property for more than its present value, on your basis of figuring the value? In other words, do you think that it is right and in the interest of the public good to allow the property which is to-day worth \$100,000 to be capitalized for \$200,000 or \$250,000?—A. I think you may base your capital on your earning power. I think that excessive capitalization is an evil, but I do not see how you are going to prevent it, unless you can pass some general law, based on the earning power of the property, that the capitalization shall not exceed so much on its earning power. Perhaps it might be reached in that way, but I have not thought enough upon it to be an authority on that.

Q. Would you favor that law if it could be enforced?—A. I am in favor of any reasonable—

Q. Restriction on capitalization?—A. Restriction on overcapitalization.

TAXATION OF STOCK V. TAXATION OF INCOME.

Q. (By Representative LIVINGSTON.) If the gross income of all organizations of the kind were at first taxed liberally, would not that have a tendency to lessen such organization, make men careful about organizing capital, and do away with the evil of watered stock?—A. A liberal tax on the amount of the stock might have that effect, but I do not think one on the income would. New Jersey has become the home of most of these great organizations, because her organization tax on the big companies is much less than on the smaller ones. In New York State the organization tax is pro rata, and so New Jersey has secured all the big companies.

Q. What, then, do you think a tax should be based on—on the gross income or on the net income?—A. No; I should think that an income—

Q. You think on the stock?—A. I think this overcapitalization might be remedied if you would put the organization tax as high upon large companies as it is upon smaller; make it pro rata; that would tend to keep down capitalization.

Q. If there were a tax on the gross receipts or the net income of the capitalization of these companies, would not that help also to keep it down?—A. On the income? I do not think so; I do not think it would.

Q. I do not want to commit you to an income-tax policy.—A. What I can not see is how an income tax would affect capitalization.

Q. Would it not suppress wild schemes whose success is very improbable? You wish to tax both ways, do you not—to tax the stock and then the gross business?—A. I think a tax on income would be a wrong principle, because it would be a tax on good management, etc. But if you are seeking to remedy overcapitalization, I can see how, if you will put your organization tax so much per thousand, it would kill overcapitalization.

EXPLANATION OF VARIATION IN THE PRICE OF SUGAR.

Q. (By Mr. A. L. HARRIS.) I wish you would return to page 4 of your address just for a moment. I see that in 1881 refined granulated sugar was selling at about 9.66 cents. It then decreased to about 6.01 cents in 1887, when the trust was formed. Immediately after the formation of the trust, in 1888, 1889, and 1890, there was an increase.—A. Yes.

Q. In the price of refined sugar?—A. Yes.

Q. In 1891 it began to decrease, which, as I understand, you have said was on account of these new competing companies coming in. I would like you to explain how it is that there was a constant decrease until the time of the formation of the trust and an increase from the formation of the trust until competing companies came in.—A. Precisely; I will explain that to you. During the period from 1884 to 1887 the sugar-refining industry had gotten down to an unremunerative point. If you will look at the difference between raw and refined during those years you will see it was down to 0.71, 0.78, 0.76, and so on, whereas it had been much higher in the previous years; and you will notice that after the formation of the trust the difference ran up from 0.768 to 1.256 in 1888. Now, the sugar-refining industry had gotten down to the point where 14 refineries had failed, and it was owing to this demoralized state of the industry, making it absolutely

necessary that something be done, that the sugar trust was formed. Then, as you see, for 2 or 3 years they did exact a larger margin of profit, and the price advanced as you have pointed out. But when they got the business into working order, had improved their buying arrangements, and closed up old and inferior plants and enlarged and improved others, you will notice that not only the price goes down steadily, but also the margin between raw and refined sugars.

Q. (By Mr. FARQUHAR.) Were there not just as large profits to the American Sugar Refining Company as there were before they acquired the Philadelphia plants and some others?—A. I think there was a year or two, when they charged more than their regular average; but they soon got down to their regular average, about a third of a cent net, which they have carried all the way through until this more recent competition; and now they are down to 0.57 of a cent, out of which the entire expense of refining must be paid, and that is probably as much as 0.57 of a cent.

Q. Is that the result of the competition of these other refineries you speak of?—A. You know the Arbuckle fight, the coffee and sugar fight, is a very interesting one.

Q. (By Mr. A. L. HARRIS.) Suppose these other organizations had not come into existence, do you think their profits would have been as they have been?—A. Oh, no; they would have kept their margin right along; they would have kept their third of a cent right along.

THE WIRE-NAIL TRUST.

Q. I want to call your attention to one thing more, and that is the wire-nail trust and the wire trust. Has not the price of wire increased about 1 cent on the pound within the last year, since the trust perfected its organization?—A. My understanding of it is that wire and all iron products have increased.

Q. Even steel?—A. Steel of all kinds; but that is due to the industrial situation, I think, and not to the effect of trusts. All our mills are running day and night and can not keep up with their orders. We have always seen that, when there is an active demand, exceeding the supply, prices advance.

Q. And you think that is owing to supply and demand, the natural law of trade?—A. Yes; that is my feeling about it; but at the same time I do not say that new steel combinations have not had some influence upon it. I do not know that they have, but I do know that the supply and demand has more to do with it than anything else.

COMPARISON OF THE EFFECTS OF TRUSTS ON CONSUMERS AND THE PRODUCERS OF RAW MATERIALS.

Q. (By Representative GARDNER.) At one point of our examination here this morning we seemed to reach the conclusion that prices were reduced to the consumer and in turn forced down on the producer. It was asked if the consumer and the producer were not one and the same, and it went at that. Now I wish to ask the witness, as an expert, if he feels competent to answer as such, whether the trust or monopoly buying raw material from one class of persons, but selling to another, does not turn at that point where society is divided into two classes, the consumer and the producer, the price being reduced to the consumer and forced down on the producer? The farmer and the miner produce almost all materials that are in the fullest sense raw materials. The producer and the consumer, therefore, for the purpose of my question, are not the same, because millions of our population who are consumers are not producers in that sense. Therefore, do the operations of the trusts in combining to put down prices to the consumer and in combining to force them down on the producer have a peculiar, specially depressing effect on those two classes, viz, the farmer and the miner?

Q. (By Mr. FARQUHAR.) Why not make it "injure"?

Q. (By Representative GARDNER.) Well, call it "injure".—A. I think that where the number of buyers is reduced to so small a number that there is not competition for the raw material, it tends directly to lessen the sum which the producer of that raw material receives.

IS THE TRUST A NEW ELEMENT IN TRADE DEPRESSION?

Q. One word more in this same line. Remove the influence of the trust in that direction, and would there be, in your judgment, any other organization besides the trust, such as the wool exchange, the cotton exchange, or other board of trade

in the cities, that would exercise some like influence in depressing the price to the farmer and taking the difference for their own profit? That is, is the trust a new element of depression, or does it merely take the place of the cotton exchange, the wool exchange, and other boards of brokers?—A. It may in some industries go directly to the producer, ignoring the middleman, and the producer may get as much for his product as he did before and only the middleman be injured.

Q. You do not exactly comprehend my question. My question was meant to be this: Assuming that the trust buys directly of the producer, and at the lowest possible price, does it even then depress the price below where the woolen exchange and cotton exchange or some other board would have depressed it in the absence of the trust?

Q. (By Representative LIVINGSTON.) Are not these organizations just as bad in effect as the combines?

Q. (By Representative GARDNER.) I want to know whether the wool board and the cotton board that, we read, are fixing the prices of our wool and cotton in Liverpool are not just the same depressive agencies to the farmer that the trust is? I want to know whether the trust is an additional depressor or whether it just takes the place of a former one?—A. I do not think that a general answer can be given to that question. I think it will be necessary to take each specific industry by itself and observe its operations. Now, I am familiar, of course, with the sugar industry. There is no doubt that the producers of sugar in all parts of the world did not receive as much for their sugar after the consolidation of our sugar-refining interests as they did before; and it was due, in my opinion, to the fact that there were not so many competing buyers.

Q. The sugar trust, then, did depress prices to the producer of sugar?—A. I think so.

Q. But as to whether trusts do that for the producers of wool, cotton, and corn you are not prepared to say?—A. No; I should think you would have to take each individual industry and examine it by itself according to its condition.

THE STANDARD OIL TRUST AND PRODUCERS.

Q. (By Mr. PHILLIPS.) How would you answer the same question in regard to petroleum?—A. My impression is that the Standard Oil Company as a whole has been liberal with producers, and paid them as good prices, perhaps, as they could have obtained from a larger number of refiners. Certainly, in the organization of that industry, the result has been beneficial to consumers and to producers alike.

Q. Take, for instance, the pipe-line system through which the oil is chiefly conveyed from the wells to certain stations. The price of pipe was 50 or 60 cents a foot when the lines were built, and they charged 20 cents a barrel for piping the oil. The same sized pipe is now bought for from 12 to 15 cents, and still they are charging the same price per barrel as formerly. As a matter of fact, the oil can be piped for 5 cents a barrel. Now, do you consider that a cheapening to the producer or the consumer?—A. I should say that it was a question of the value of the service that they are rendering. Now, as compared with the freight by rail, the construction of pipe lines has effected an enormous saving; and they could not have been constructed by individuals, but only by some large aggregation of capital. I do not know whether 20 cents is a fair price or not; I have no idea about it; but I do know that the railroads felt that they were greatly injured by the construction of pipe lines, because it reduced their receipts so much.

THE EFFECT OF TRUSTS ON WAGES.

Q. (By Mr. RATCHFORD.) I wish to ask if you have any instance in mind in which a certain trade has paid its employees a certain price for their labor under the system of open competition and then, when the trade was organized as a trust, advanced the prices of its product enormously and at the same time reduced the wages of its employees?—A. I have no recollection of an instance where a trust has advanced the prices of its products and decreased the wages of labor. There may be such instances, but I have none in mind. I do know that the Standard Oil Company, the American Sugar Refining Company, and others have never had trouble with their labor. They pay good wages and get good service and everybody makes money; and at the same time the consumer gets the product at a reasonable price.

Q. (By Mr. SMYTH.) Do you think the American Sugar Refining Company has increased the rate of wages since it became a trust?—A. There is a statement, the sworn evidence of its secretary, Mr. Searles, before the Lexow committee, in which he showed that they had absolutely increased their labor, not in all departments, but as a whole, and that they were employing more men than did the

separate refineries which were consolidated. I do not think that is true in all cases, however, because where industries are spread out and running uneconomically, one of the first things that these combinations do is to reduce expenses in every possible direction. They reduce the number of their employees, if they do not their wages. They cut off their advertising expenses, diminish their selling agency expenses, etc.; so that it does throw people out of employment for the time being, undoubtedly, and forces a constant transition in employment; but the effect of all these great organizations is to widen the market and create more employment, and in the end, speaking broadly, I believe they are beneficial.

GENERAL PRINCIPLES THE SAME FOR ALL TRUSTS.

Q. (By Mr. RATCHFORD.) Is it not a fact that in your advocacy of trusts to-day you have singled out what are known as the most economical trusts—the Standard Oil Company, the American Sugar Refining Company, and our large trunk lines? Is it not a fact that these three have an economic side to them that is not true of other trusts? Or, in other words, that if there be any benefit rendered to society from any form of a trust, the three you have singled out are rendering the greatest possible benefits by the way of cheap products? Is not that the fact?—A. I think the same principles apply to those as apply to others.

Q. Apply to all of them?—A. The same principles apply to all.

Q. Do you believe that the others practice those principles as well as those you have singled out?—A. Perhaps not.

COMBINED EFFECT OF THE CENTRALIZATION OF CAPITAL AND THE ORGANIZATION OF LABOR.

Q. In your paper you have argued in favor of the centralization of capital to the end that the prices of our products may be reduced and our markets thereby extended, and at the same time you have advocated the organization of labor, and stated very emphatically that organized labor has been able to secure higher wages than had been paid heretofore. That being the case, does it not tend to counteract the cheapening of the products and to cripple our ability to gain foreign markets?—A. If it were carried to extremes perhaps it would; but there is reason in all things, and I contend that all these great mooted questions should be solved on a basis of what is reasonable and fair. It sometimes takes a great deal of investigation to find out what that is.

EFFECTS OF TRUSTS ON THE DISTRIBUTION OF WEALTH RESUMED.

Q. In your judgment, does not the centralization of capital in the hands of a few carry with it the concentration of poverty and discontent among the many? In other words, if the wealth of our country is concentrated in the hands of a few persons by reason of organization or other means, does not that deprive the masses of the people of their share of that wealth and cause poverty and discontent among them?—A. As a hypothetical question I should say that perhaps an even distribution of wealth is desirable. As regards trusts, however, they are absolutely distributors of wealth rather than concentrators. The number of small partners engaged in these trusts as stockholders far exceeds the number of partners who owned the firms, factories, or companies that were put into them. As I have stated in my paper, wealth is very much more widely distributed under the trust form of industrial organization than under the old system of individual firms, etc.; very much more. Take, as an illustration, the American Sugar Refining Company; it has thousands of stockholders now where there were formerly 27 partners.

Q. The arguments set forth and the questions asked are simply leading to this proposition: Is it or is it not beneficial to curb the powers of organizations and associations that render impossible the greatest and fullest distribution of wealth? That is the question, it seems to me.—A. As a hypothetical question, I should answer yes; but I am contending that these organizations are doing just the opposite of what your questions seem to imply that they are doing. We differ on the facts, evidently.

STATE OF NEW YORK, *County of New York*:

I swear that the statements made by me of my own knowledge in the foregoing report of my testimony before the Industrial Commission are true, and that all other statements I believe to be true.

FRANCIS B. THURBER.

Sworn and subscribed before me this 8th day of September, 1899.

[L.s.]

E. N. ROOT, *Notary Public*.

WASHINGTON, D. C., *June 16, 1899.***TESTIMONY OF P. E. DOWE, BEDFORD PARK, NEW YORK CITY.**

The commission met at 2.25 p. m., June 16, 1899, Vice-Chairman Phillips presiding. Mr. P. E. Dowe, after having first duly affirmed, testified.

Q. (By Mr. JENKS.) Will you state your name?—A. P. E. Dowe.

Q. And your address?—A. Bedford Park, New York City.

Q. What is your official position in connection with the Commercial Travelers' Association?—A. President of the Commercial Travelers' National League.

Q. What is your business?—A. Printing-press salesman.

Q. You have a statement, I believe, to present to the commission?—A. Yes; (witness reading):

THE COMMERCIAL TRAVELERS AND TRUSTS.

GENTLEMEN: I feel especially honored that you should have selected me to address you as a representative of the 350,000 commercial travelers of the United States concerning the effect, direct and indirect, of trusts upon them as a class, their influence upon the affairs of travelers from the standpoint of individuals, and as the medium for years between the buyers and manufacturers, jobbers, and importers. Among themselves they are not hesitating, as a rule, to discuss freely the burning question of the day, "trusts" and their menace to the business methods in vogue for many years.

Even those fortunate enough to retain positions (often at reduced salary) in the service of syndicates do not hesitate in safe company to condemn trusts as dangerous to personal privileges and a barrier to individual investment in the line of choice and experience. Every commercial traveler hopes to attain, both as the goal of the ambitious and progressive business man and as an equitable return for years of hard work under trying conditions, a business of his own or in connection with others.

It would be difficult for a stranger to obtain information from the travelers in the employ of trusts, but to me they all talk freely, and I can positively state that commercial travelers generally are opposed to trusts as dangerous and demoralizing, as presenting the most knotty social and the worst financial proposition that has ever been before the American people, and they consider that the next national campaign will be fought upon this issue, anticipating that previous political affiliations will be ignored, all other issues treated as of secondary importance, and a "landslide" for the party standing squarely and consistently upon an antitrust, antimonopoly platform.

DETRIMENTAL TO COMMERCIAL INTERESTS.

I quote the language of one of the brainiest commercial travelers of whom I know, a man whom the Administration has asked to honor, one who won unusual glory for bravery in the civil war, and who has shown his fearlessness in stating his position in regard to trusts. Being asked the question, "What is your opinion concerning trusts and combinations?" he answered: "That they are detrimental to our interests, and all commercial travelers agree to this. The combination of interests upon a square basis and legitimate capitalization is not the only evil; it is the falsehood of inflation, the issuing of stock far beyond the needs for even conducting a trust; that is the cankerworm gnawing at the vitals of commercial integrity; that is the greatest curse, to say nothing of the speculative craze created and the uncertain feeling prevailing in business circles. If it shall continue (the organization of trusts), there will be many traveling men dispensed with, for a while at least, until such time as legislation shall prevent and the demands of the people require a halt to be called. There is no justification in an action the effect of which is to drive out of business the middleman and the ordinary merchant or manufacturer."

Commercial travelers have built up or assisted in building up many a concern which without their labors would have gone to the wall; they have made money for their employers; of that there can be no question; yet several of these houses, which had become powerful factors in their particular lines, were sold out to speculative Shylocks out for the "pound of flesh," and capitalized at many times their intrinsic value, in connection with other properties secured in the same manner; the line of production was cornered and further competition paralyzed;

prices were usually advanced, dictatory methods adopted, and many travelers thrown out of employment and obliged to seek other channels for livelihood, with the avenues in the lines where knowledge, experience, and acquaintance should count the most, closed against them.

THE CHARACTER OF THE TRUST MOVEMENT.

The promoters of trusts, syndicates, monopolies, or combinations, as a rule, spring from Wall street, or are close to its shadow; the existing speculative mania creates inflation bubbles, which ultimately will either break from over-distention, or disappear at the touch of the people.

The organizers of trusts, animated only by selfishness, forgetting Americanism, ignoring all sentiments of patriotism, shutting their eyes to the constitutional foundation stones, the bulwark for the safety of our institutions, "equal rights for all," daring the enforcement of laws which the people believed would be adequate, but which now appear to be inoperative, conspire to victimize the public by floating trust certificates at unhealthy figures, inflation prices, which mean in time a complete collapse.

Commercial travelers, with their hard-headed business sense, would bend to the inevitable should they be driven out of occupation by fair competition. No class better appreciates the significance of the "survival of the fittest;" but to be thrown out of work, to be forced to the wall by a species of speculative conspiracy and the centralization of capital, disproving the oft-made avowals of the capitalist that capital and labor are not antagonistic, and affecting the occupation of thousands previously employed in unusually intelligent labor fails, as a fact, to sit well upon their digestive apparatus.

The only argument in favor of trusts, the one advanced by those directly interested or by their henchmen—and the intention is generally to reduce prices and benefit the consumer—I will attempt to show is fallacious from the evidence of those who have an accurate conception of the true situation, the commercial travelers. I quote the sentiments of one very able traveler: "Trusts are conceived in infamy, born of greed, and cradled in the lap of dishonesty."

RESOLUTIONS OF COMMERCIAL TRAVELERS.

Commercial travelers are against trusts, both on account of self-interest, naturally to be expected under conditions which are an outgrowth of combinations, and on account of the principles involved, the injustice to the people, the menace to democracy, the semblance to plutocracy, and the rottenness of the whole movement.

The following resolutions, placed in my hands, express the sentiments of traveling men generally:

"Resolved, That we deplore the organization of trusts, the illegitimate combination of capital, the curtailment of individual possibilities, as a menace to the prerogatives of the people and a disarrangement of the established methods of business, affecting especially the employment of commercial travelers.

"Resolved, That we condemn as un-American the combination or syndicating of incorporated or individual business concerns for the purpose of controlling products and in restraint of trade and competition."

As a matter of expediency, the resolutions offered at the convention of the delegates of the Travelers' Protective Association, held in Louisville recently, in condemnation of trusts, were laid upon the table, four or five men contending that, being employed by trusts, it would prejudice them with their employers to attend the convention of an insurance association admitting proprietors and buyers, as well as travelers (and a nonpolitical body), should it pass resolutions against trusts. The gentlemen admitted that personally they disapproved of trusts, and it was plainly apparent that the gathering represented an antitrust sentiment; they fully appreciated the fact that none could guess where lightning might strike next. The employed forgot their unemployed brothers in craft and association, the question of expediency was presented, and the resolutions were tabled.

I have heard from several thousand commercial travelers, many replying to a circular letter issued by the Commercial Travelers' National League, asking a number of questions, and the universal opinion is that, as a rule, trusts have advanced wholesale prices and in many instances have fixed retail prices; that some being retained in house positions as a matter of policy, in some cases at former pay, but usually at greatly reduced emolument. As July 1 and January 1 are the usual dates for term contracts with travelers. July 1 will find several thousand more commercial salesmen out of positions.

The traveling men believe that in a few years most of the trusts will have been broken, but that it will be impossible to completely shake off the grasp of some monopolies upon the throats of the people.

My correspondents state that buyers generally do not like the trusts, and would prefer to buy from outsiders, other conditions being equal.

THE NUMBER OF COMMERCIAL TRAVELERS IN THE COUNTRY.

The census of 1890 shows less than 60,000 commercial travelers in the United States. The census is incorrect; probably many commercial salesmen are included under the head of clerks and salesmen. I will not attempt to analyze for reasons, but will try to show why the figures are wrong; and, speaking of statistics, I will ventilate my belief that census figures can be discovered as playing some queer tricks, for many glaring inconsistencies will develop upon research, like the following, clipped from a newspaper annual, and based upon the 1890 census:

"Number of manufacturing establishments reporting, 322,638; officers, firm members, and clerks, 426,099, or one firm member or a president of a stock company and one-third of a bookkeeper to each concern."

The above statement as to the number of manufacturing concerns is in reality a modification of the full number reporting to the Census Bureau, and is modified for comparison with previous reports. Part 1, Manufacturing Industries, census of 1890, page 8, shows 355,415 manufacturing and mechanical industries reporting. Adding to these figures the number of wholesale merchants, importing and commission houses, including the wholesale dealers in wines and liquors, as given by the 1890 census, 81,086, there is a grand total of 386,501 manufacturing and wholesale concerns.

It is easy to conceive that there are 100,000 manufacturers, jobbers, importers, manufacturers' agents, etc., employing 300,000 commercial travelers in the aggregate; and to this number we could add, as travelers for business, the buyers of farm products, insurance agents and adjusters, special auditors in various lines, etc., and our estimate of 350,000 traveling men is found to be a safe and conservative approximation. There were and yet are many houses employing not less than 50 salesmen; some employing more than 200; a large number 25, and several thousand having between 6 and 20.

The Commercial Travelers' Mutual Accident Association of America, with headquarters in Utica, N. Y., admits to membership commercial travelers exclusively, and has more than 20,000 members. The officers of that organization have calculated that one out of every fifteen of the commercial travelers of the United States are members of it.

The last census shows only 9,532 commercial travelers for New York City, hardly one-third of the actual number.

The census of 1890 gives as the number of commercial travelers in the country 28,158, and of 1870, 7,262. In 1870 the hotel keepers numbered 26,394, and in 1880, 32,453. The commercial trade is considered as the most desirable by hotel men generally, the majority of hotels catering to the transient guest; in 1870, however, there were apparently 4 hotel keepers to each traveling man, and in 1880 the hotel keepers still outnumbered the travelers, according to the census exhibit.

From figures supplied me by commercial men I submit the following: That more than 35,000 salesmen have been thrown out of work through the organization of trusts, and about 25,000 reduced in salary, some being retained at a big cut in compensation in house positions, others as traveling agents—60,000 salesmen directly affected by trusts.

EFFECT OF THE ORGANIZATION OF TRUSTS ON COMMERCIAL TRAVELERS.

The estimate by that conservative newspaper, The Springfield (Mass.) Republican, that ultimately two-thirds of the commercial travelers will be thrown out of occupation if the organization of trusts continues ad libitum, and more than 50 per cent if the projected combinations are completed, is entirely reasonable.

I will now consider the effect of 35,000 commercial men out of work and 25,000 at two-thirds their previous salaries, assuming that 12,500 of the 25,000 still act as travelers. One hundred and fourteen millions of dollars represent the annual expenditures cut off by the direct influence of trusts, as follows: Sixty millions loss in salaries; \$27,000,000 for railroad tickets, sleeping cars, and excess baggage, an amount equal to the entire surplus earnings of all the railroads of the country for 1898. The loss to hotels can be safely estimated at \$28,000,000. Should one-half of all the commercial travelers be dispensed with, \$180,000,000 would hardly cover the salary loss annually; over \$75,000,000 would be the loss to railroads, and the same amount for hotels.

The dividends of all the railroads of the United States for 1898 were about \$7,500,000 more than the figures mentioned as the estimated loss to railroads, should one-half the traveling men be dispensed with. The commercial travelers would gradually drift, however, into other pursuits, and although their earning capacity would be greatly diminished, still they would manage to support their families after a fashion, and as disbursing media might represent an annual expenditure, in the aggregate, of between ninety and one hundred millions; but the loss to hotels and railroads would be the figures as given. Every hamlet throughout the land would feel the effect of the loss of revenue to hotels; many hotels would become bankrupt and general distress follow the discontinuance of one-half the commercial travelers as ambassadors of trade.

The history of this country gives examples of poor boys who became great men, beginning at splitting rails, tanning hides, driving canal horses, etc., and we all know personally some illustrations of self-made men; we have listened to the stories of father and grandsire, telling the younger generation of early struggles, and many instances have been cited where a few hundred or a few thousand dollars started them upon a career to fame and fortune. Trusts have come, however, as a curse for this generation and a barrier to individual enterprise.

What will be the prospects for our children? God Almighty alone knows. He who notes the sparrow's fall will remove the dark shadow which the greed of unscrupulous speculators has cast upon the fairest land under the canopy of Heaven. The people cry out for redress; they demand relief from the accursed thing that stalks within their midst, falsely garbed as *industrial scientific economy*. The people demand that lawmakers do their full duty; they must forget self-interest and act as the representatives of the people solely; create State and national laws that will construe the organization of trusts as conspiracies and treat the organizers as criminals. Officials should consistently perform the obligations of office in enforcing the laws already created to meet the exigencies of the situation, and not permit themselves to swerve from duty by the influences often brought into action.

Legitimate corporations should receive ample protection, but the combinations in restraint of trade and free and healthy competition should be considered as illegitimate and as antagonistic to our institutions of freedom and equal rights. To the question, "Have not the capitalists or speculators, if you please, equal privileges with other citizens of this country?" I would reply, emphatically, yes, providing they comply with the laws made for the safety and protection of all the people.

ILLUSTRATIONS OF THE ADVANCE IN PRICE OF TRUST GOODS.

I will cite a few examples of advances in the price of trust goods: Iron pipe, over 100 per cent; tinware and enameled ware, about 33 per cent; brass goods, 60 per cent; chair trust, just formed, will advance prices 30 per cent; United States Rubber Company advanced prices of rubber overshoes 14 per cent on May 1; American Tin Plate Company advanced prices something like 30 per cent; news paper, one-quarter to one-half cent a pound, a further advance in prospect; book paper, 5 to 10 per cent; an advance is expected in writing paper; in common soap, 25 cents to 50 cents a box; flint-glass bottles will be advanced 10 per cent or more; jobbers and manufacturers of clocks have advanced the wholesale prices on account of the advance of metals, 60 per cent; all metal goods have been advanced; brass pins, 25 per cent; pipes and brushes, 12½ per cent; combs, 7½ per cent; ribbons, 10 per cent; school furniture has gone up, as well as paper bags and wrapping paper.

The window-glass trust, organized May 29, with \$30,000,000 capitalization, will advance prices 100 per cent.

The umbrella trust failed four years ago; it advanced the prices while in existence, and after its breakup the return to legitimate and healthy prices caused a loss to the retailer, through the stock on hand.

There have been advances in many other lines. The object of trust promoters and organizers is to make as much money as possible through stock manipulation, and to show industrials as attractive investment securities, no matter at what cost and without consideration of the distress which increased prices cause consumers of limited income. So advanced prices are in order, or in prospect, in the trust lines. As trust capitalization represents over 50 per cent water, it is necessary to advance prices to show a profit upon the fictitious values.

The exceptions cited of reduced figures to the consumer, for sugar, coffee, and kerosene oil require but few comments from me. The fight between the Havemeyers and the Woolson Spice Company upon one side and the Arbuckles upon

the other, and the result upon the price of refined sugar and coffee, is too well known for me to discuss. The spectacle of a trust trying to drive out a monopoly by the retaliation of a sharp competition, and ultimately selling at less than cost in seeking to attain its object, is one of the peculiar situations engendered through the speculative mania that is epidemic. The sugar trust paid, in 1893, 21 per cent and, from 1894 to 1899, 12 per cent in annual dividends upon common stock and 7 per cent annually upon preferred stock, in spite of the low prices so much commented upon by the advocates of trusts. Beet sugar pays a gross profit of \$6 a ton, the beets costing \$4 and the sugar selling for \$10 a ton.

Regarding kerosene oil, the by-products in the refining of petroleum are the most valuable and render enormous profits to the Standard Oil Company. As you know, kerosene is an unavoidable constituent in coal-oil distillation; and with a limited market, owing to the increase in the electric lighting, the cheapening of gas, etc., it is sold at the best price possible to market the product. Improved processes of manufacture and the methods of handling and transporting have assisted in reducing its cost.

TREATMENT OF COMMERCIAL SALESMEN BY TRUSTS.

I will note a few examples of the way in which the commercial travelers have been treated by trade combinations: The National Enameling and Stamping Company, which depends for its raw material upon the American Tin Plate Company, has thrown a great many out of employment, and those retained have had their salaries reduced. The great tobacco combine threw out about 3,000 salesmen; the Continental Tobacco Company telegraphed the discharge of 350 in one day; the Baking Powder Company Trust¹ has dispensed with all excepting half a dozen men. I know of two salesmen discharged by the trust who were formerly in the employ of the Cleveland Baking Powder Company, one receiving a salary of \$5,000 a year the other \$4,500. Their routes, with those of other discharged salesmen, are covered by one agent at \$18 a week. The bicycle trust will throw out 600 salesmen gradually and will cut down agencies in every city. The chair trust will affect immediately more than 500 salesmen by cutting them out of the line.

One man writes: "The Union Bag and Paper Company has thrown out of employment hundreds of salesmen." Another, writing of the same trust, states: "I lost a good position. They (Union Bag and Paper Company) would like to kill all outside manufacturers, and are trying to do so by sharp competition."

The number of salesmen out of work because of the United States Rubber Company is 300. The salesmen retained have been reduced to a salary, averaging, so I am informed, \$1,300 a year. The American Tin Plate Company cut off about 90 out of every 100 salesmen. The American Steel and Rod Company, I have been told, discharged 300 commercial travelers in 1 day.

In giving these estimates I am not considering the office force thrown out through trusts. I was not invited to speak in their behalf, but I will call your attention to the fact that the American Tobacco Company discharged its office help in St. Louis at the time of removing the headquarters to New York. I know of 2 head clerks in different establishments who were discharged by concerns absorbed by the trusts after nearly 25 years' service, and hundreds of like instances can be discovered upon investigation. The sugar and coffee monopolies have thrown out 1,000 salesmen; the average reduction in salary of those retained is \$1,000 a year, 25 per cent only of the old force being retained in house positions. The Standard Oil Company employs fewer salesmen than any other concern in the mercantile world of one-half its capital and profits. It has reduced the salaries of the salesmen in its employ, with only a very few exceptions, to less than the income of the average mechanic.

The leather trust has affected nearly 25 per cent of the salesmen; the electric carriage trust has compelled several men to seek work elsewhere. The thread trust has dispensed with a number of men, and is getting rid of the remaining travelers by degrees by paying reduced salaries and dropping hints that it would be advisable for the salesmen to seek other occupations. The type-founders' trust

¹ Information regarding the Baking Powder Trust was furnished by one of the commercial travelers discharged after the combination, who said: "All go but six." He has explained since my appearance before the Industrial Commission that he meant all would go but six. On June 17 I learned that out of 140 salesmen employed by the houses absorbed in the combine, 96 had been discharged, and many more would be dispensed with.

has affected 40 men. And so on, up and down the list. The examples mentioned will serve as illustrations of the whole.

One comment more and I will close: I find that the banks are refusing to grant loans upon trust certificates as collateral, with only a very few exceptions, showing a lack of confidence in the stability of speculative prices, and doubts as to the integrity of trust stocks.

I will now try to answer such questions as are within my power.

SOURCES OF WITNESS'S INFORMATION.

Q. You have given us a good many figures along different lines. Let us consider, to begin with, the statement that you had heard from several thousand traveling men. Can you make that a little more definite? About how many thousand have you heard from?—A. For the last 6 months I have been holding conferences at various hotels in different parts of the country. I have invited traveling men, sometimes 5, 10, 20, 50, to my room. We discussed the subject of trusts. Regarding one conference held in Elmira, the papers stated that it was an organization to combat the trusts, that it was organized for the purpose of fighting them. I asked for a correction, and the local papers then mentioned the matter as a conference; when we were placed in a false light, we asked for a correction. For the purpose of securing a general expression of opinion, the national league sent out the following circular letter:

OFFICE OF P. E. DOWE,
BEDFORD PARK, NEW YORK,
May 17, 1899.

MY DEAR SIR: I have been summoned, as president of the Commercial Travelers' National League, to appear before the Industrial Commission in Washington between June 7 and 17, to give evidence regarding the effect of trusts and monopolies upon commercial travelers and commercial traveling. As I desire to have a general expression of opinions, and to be in a position to submit the ideas of the majority, rather than to advance my personal sentiments, I ask that you write me at the above address at once, answering the following questions by numbers, and giving such personal opinion as you think covers the situation. Your communication will be regarded as strictly confidential, and is intended for my personal assistance only. You have my assurance that any inside information you may give will not prejudice you nor your business connection.

1. What is your line?
2. Is there a trust now in existence in your line?
3. If so, what is its title?
4. Has it exerted any influence toward advancing or decreasing wholesale prices?
5. What effect has it upon retail prices?
6. Does it compel fixed retail prices?
7. What effect has it upon commercial travelers and commercial traveling?
8. Approximate the number of men out of work on account of it.
9. Approximate the average reduction of salary of those retained.
10. If possible, give approximately the proportion now retained in house positions.
11. How do trusts, combinations, and monopolies affect you personally?
12. Do they affect your sales?
13. Is the concern you are agent for in a trust or syndicate?
14. What is your opinion regarding trusts and combinations?
15. What is the opinion of commercial travelers generally regarding trusts, combinations, syndicates, and monopolies?
16. What is the opinion generally of the buyers you come in contact with, as to the same?

An immediate reply will greatly oblige.

Yours, fraternally,

P. E. DOWE,
President Commercial Travelers' National League.

Q. In response to that general circular letter, how many answers did you receive?—A. I can not give you more than an approximation of that; there are other ways in which I have secured information. Certain members of the league have acted as agents for me, and on account of my acquaintance with the newspaper men, a number of them, I may safely say running into hundreds, published a card asking that information be sent me, and I have been in receipt of letters at my home, at the post-office box of the league, at the headquarters of the asso-

ciation on Seventeenth street, New York, and in various ways. The aggregate is close to 6,000.

Q. Six thousand you have heard from?—A. Six thousand I have heard from in the different ways.

Q. Partly by circular letter and partly by meeting them in person in these conferences?—A. And through agents acting for me in reporting. There were 4,000 of these circulars sent out, and I was surprised at the number of returns, when, taking into consideration that it is customary for good business men not to put in writing anything that might be used against them.

Q. You infer from that that the feeling is very strong?—A. Very strong; they are almost a unit. Of the 6,000 I have heard from in various ways only 2 were in favor of trusts. One of these men neglected to sign his name to the communication, and the other gentleman is an employer and not a commercial traveler. He has been an officer of a commercial travelers' association, is a well-known politician in New York State, and is interested in the bituminous coal industry as a wholesaler. Those are the only two I know of favorable to trusts.

COMMERCIAL TRAVELERS' ASSOCIATIONS—THEIR CHARACTER AND OBJECTS.

Q. Will you be kind enough to give us some details with reference to your organization, the Commercial Travelers' League, as to what it is, what its purpose is, how organized, its membership, and so on, so that we may see what its principles and purposes are?—A. The Commercial Travelers' League was organized nearly three years ago for the purpose of doing more aggressive work than was advisable for the commercial travelers' insurance associations to undertake or for their social bodies to enter into. The object of the association was to combine the officials of the various commercial travelers' associations and the more aggressive, more positive commercial travelers of the country—those ready at all times, upon occasion, to put their shoulders to the wheel. It stands on record as having accomplished everything attempted, as having been a winner in everything undertaken.

Q. What is your membership?—A. The membership, I think, is a little less than 2,000. I have not seen the books; I have been away two months, and I can not give you the exact number. It is over 1,500—somewhere between 1,500 and 2,000.

Q. From what you say, I judge that it is your own opinion that the nature of the membership is such that it is more effective than others of much larger membership.—A. For that reason in nearly every undertaking it has been backed up morally by other associations in the country with the exception of 2. I once had the honor to represent the commercial travelers here in Washington before the Senate and House Committee on Commerce. I had credentials showing I had authority to represent 40,000 traveling men. The other associations gave me authority to speak for them—the Utica association, with 20,000 members, the Toledo association, the Springfield association, the Albany association, and a number of travelers' associations throughout the country. The list is too long to go through, but it gave me authority to represent 40,000 traveling men in organization. The two associations that were exceptions, were the association of which the gentleman of whom I have spoken as a politician, was an officer, and the Travelers' Protective Association, which preferred to fight on its own lines.

Q. You spoke a moment ago in reference to this organization expecting to take up other lines of work, in insurance, etc. Do I understand you to imply in that assertion that most traveling men's associations have insurance as one of their chief purposes?—A. Yes; either that or sociability.

Q. And it is said to have more positive influence on legislation than associations of that kind?—A. Yes.

OVERCAPITALIZATION OF INDUSTRIAL COMBINATIONS.

Q. I believe you made the statement that the stock of the industrial combinations was over 50 per cent water?—A. Yes.

Q. May I ask if you have made any careful study along that line, by taking up a good many organizations and finding what the values of their plants were?—A. I make the statement on the evidence of those I have come in contact with, those who have supplied me the information. I am merely asserting this from the information I have received from those identified with the different lines. Now, as an illustration, Leggett & Myers, I understand, were paid in cash twice the value of their plant. That comes from tobacco men, and, of course, I make the statement for what it is worth.

Q. You say they were paid in cash twice the value of the plant, the value being estimated, of course, by the man from whom you got the statement?—A. Yes.

Q. Can you think of any other specific instances that would perhaps give even higher rates paid for plants than that, part of the pay being made in stocks and bonds?—A. Only in a general way. I think the census of 1890 shows something like six billions of dollars invested in all the manufacturing and mechanical industries of the country. It has been estimated by one of the journals on economics that five billions of dollars represented the capitalization of the trusts.

Q. So that it was partly on these figures and partly—A. On the information I have received.

Q. On information you have received directly that you make the statement about capitalization?—A. Yes.

Q. The same thing applies with reference to the prices you have cited?—A. Yes. The traveling men have the prices, they know the prices absolutely.

Q. And when you get information from one that prices have gone up 50 per cent or 100 per cent, he is speaking on positive knowledge?—A. Of the goods he is selling or has sold.

METHOD OF DETERMINING THE LOSSES OF TRAVELING MEN.

Q. You have also given us figures with reference to the losses that have taken place in salaries on account of the formation of these combinations, loss in transportation and baggage, loss to hotels, etc?—A. Yes.

Q. Will you speak with some definiteness with reference to the way in which you figure out the losses; what is the basis of your figures?—A. My first effort was to get an approximate idea of the number of men who were affected by the trusts; having arrived at that, I figured on the basis of an average of \$2.50 a day for railroad expenses, 240 days of the year, which is a very safe approximation. The result is \$600 a year.

Q. You simply took a number of good concerns, and took a basis of \$600 a year loss for each traveler thrown out?—A. Yes.

Q. And with reference to the losses of hotels, and losses in transportation and baggage?—A. On the same basis. The loss to hotels equals if it does not exceed the loss to railroads.

Q. Taking the same number of men, and finding what the average is from this, the amount they are charged for excess baggage, etc., from your own experience and that of others whom you know?—A. Yes; on the salary basis I have calculated on \$1,200 a year.

Q. That, perhaps, is sufficient as regards the question of facts. You said that when one organization was formed a large number of men were thrown out of employment in St. Louis, possibly being transferred to New York?—A. Yes.

Q. When you make a statement of that kind, and speak of the men being thrown out of employment, do you take into account that perhaps new men are brought into employment in New York, when the office is transferred there?—A. That is doubtless the fact, but in much smaller numbers. I make that statement on the assertion of a man who is an expert in the tobacco business, a man who has received \$8,000 a year from one of the companies that was absorbed by the trust. A man who is capable of earning \$8,000 a year as a salesman must be a man of ability.

Q. In your estimate have you taken into account this—that probably some would be given work where others were thrown out? In making these statements as to the number of men thrown out of employment, have you deducted from the totals the number of men you thought would be brought into employment by the trust, or did you not think there would be any?—A. Of course there are a number retained. I figured on the basis of 35,000 that were thrown out absolutely, and 25,000 reduced in salary. Some were retained in inside positions, and some are still traveling at reduced salaries. Reductions have been effected all along the line, with few exceptions.

Q. Have you any information that tends to show that certain men, perhaps the more skillful and more capable, have received increases in salary?—A. No; the tendency has been to reduce them and dispense with the high-priced men. To-day if the line is in a syndicate any man can sell goods, for he can call with the list of goods and ask the dealers to fill out what they want. We will cite, for instance, the baking-powder trust. That includes the Cleveland, the Royal, the Price baking powder, and one of the cream of tartar baking powder companies. The men travel for \$18 a week, replacing men who received four or five thousand. They go around with a list and say, "How many do you want of Price's, how

many of Royal, and how many of Cleveland?" It does not require a salesman after trusts are organized; dummies will do.

Q. Have you any evidence to the effect that some of the traveling men were put into the office force at increased salaries?—A. No; I do not know anything of the kind. They may have been temporarily as a matter of policy, but it was purely policy. They may be afraid of some. There are instances where they may be afraid of the ability of some men in certain trusts. I have cited the American Thread Company as retaining men at reduced salaries, but dropping hints daily that it would be advisable to seek employment elsewhere. They advise them and assist the competent, hoping the men will get positions in other lines. Some of the other trusts have not been as generous.

THE SAVINGS RESULTING FROM TRUST ORGANIZATIONS.

Q. The statement has been made here and is frequently made by members of the organizations that great savings are made in the cost of production by dispensing with the services of middlemen, as they call them, including traveling salesmen and the wholesale dealers in many cases where they can sell directly to the retailers. Would you think there is anything wrong in that general statement, as a principle? Is it not true as a matter of fact that they do make a great saving in the cost of production?—A. Yes; they make a saving in the cost of placing particular goods, certainly.

Q. When I use the word "production" I use it with reference to getting goods into the hands of the consumer.—A. Certainly. From a basis of economy there might be something in it, but at the same time they advance prices; and the theory that the benefit would accrue to the consumers is fallacious.

Q. But suppose that they make a statement that there has been a great saving, which you yourself concede as possible, and that the prices have not gone up but have remained the same, would you say it was a benefit or evil to the people as a whole?—A. From the very basis of trusts I would consider it an evil, a decided evil, because it would not only affect the commercial travelers but others as well. I appreciate the fact that there have been advances made in the wages paid the laborers in manufacturing industries in various lines. I do not think these advances were given from the generosity of trust organizations or trust officers, but I believe they were made as a matter of policy.

Q. Explain.—A. For the fear of consequences I do not care to be very explicit in regard to the situation, but I will say that there is a general sentiment among the people of the country against trusts, against monopolies, against the un-Americanism of them; and I have letters from men of intelligence who intimate that it is driving tens of thousands into socialistic ideas. This is my personal opinion. I am not offering it as the sentiment of traveling men; I am offering it as my personal opinion, that the advances they pay labor is from fear of consequences.

Q. Do you think this throwing of the commercial travelers and others out of employment is likely to be more than a temporary matter? If this trust organization goes on will it not result, in the course of time, in these men finding employment elsewhere, perhaps some of them at lower wages? Is it, on the whole, likely to result in the permanent throwing out of a large number of men?—A. Well, it will throw out permanently some of them who are old, who have been in their special lines so long that they know only those lines; it would be difficult for them to adapt themselves to others. You take a man who has been in the nail business, and he knows nails, or a man in the rubber business, and he knows rubber; if these men try to seek positions with a dry-goods house the first question asked is, "Where have you sold goods? Have you made sales in dry goods?" and unless the man is acquainted with dry goods he is not wanted. To-day the merchants, jobbers, and manufacturers want the very best men, the most experienced men that they can get.

Q. At the present time, in discussing this general question, the trust managers themselves compare their form of organization to the invention of a new machine. They say that when the steam engine was introduced, for example, or when the railroads were introduced, a great many men were thrown out of employment and there was a great deal of suffering consequent upon these inventions, but in the long run they think that these inventions have so cheapened the cost of production that the general comfort of the community has been very greatly raised. Now, the trust men declare that, in their opinion, a trust organization is a somewhat similar means of saving labor and lessening the cost of production, so that while they grant the existence of these temporary evils, they believe that in the long run these organizations will be a benefit to the people of the whole country, and that their benefit may be comparable with the benefit to civilization of the

railroads. What would be your answer to that general argument? I have tried to represent them fairly.—A. Personally I consider that trusts are the worst, the greatest, evil that has ever confronted the American people. The opportunities for a poor man to advance no longer exist. Many of these very men, who are the backbone of the trusts, started with next to nothing, and they certainly should allow others the same opportunity and the same advantages. The standard of labor in England is one which prevents the poor man, the laborer, and the intelligent workman also from getting ahead; wealth is against them. In this country we have had an equal chance, and ability counts; and if we are approaching a time when trusts and centralization and economic principles, if you please, apply to all lines, it is going to work evil for the intelligent laborer of this country. What chances will the middleman, what chances will the salesman, what chances will the intelligent laborer, have? None whatever.

Q. Then, your reply to that general argument of the trusts is substantially this: You grant there may be a money saving, but it is at the expense of the intellect, strength, and moral character of the great mass of the working people?—A. Yes.

Q. That it tends to degrade the general level of labor?—A. Yes.

Q. Although you would grant the economic saving?—A. Yes.

THE EVILS RESULTING FROM TRUST ORGANIZATIONS.

Q. (By Representative BELL.) I should like to ask a question or two. As I understand, your objection to trusts is based upon the principle that it narrows the field of labor?—A. Yes.

Q. And that they monopolize not for the benefit primarily of the public at large, but for the monopoly itself?—A. Exactly.

Q. Now, when you throw out of employment the many thousands of persons, and allow those monopolies the production and control of the necessities of life, as I understand you, your men say it has a tendency to breed socialism in the United States?—A. Yes.

Q. Is it not a fact that to-day the general masses of the people believe that if the railroads and all of the other great natural monopolies can not be run for the benefit of the mass of the people the public should own them? Is not that the tendency?—A. I can speak for those I have come in contact with outside of traveling men. I have not discussed that question with traveling men, but I find in certain sections of the country quite a sentiment in favor of Government ownership of railroads. It is talked of, but how deep it is I can not tell you; I have frequently heard remarks on that subject.

Q. Now, as I understand, you say in your experience as a salesman that when the tin-plate trust was formed the price of tin plate went up immediately?—A. Yes.

Q. The only time it lowers the price is when the monopoly is trying to destroy all opposition?—A. Yes.

Q. Did the price of copper go up immediately after the formation of the trust?—A. Yes; the advance to date is sixty per cent.

Q. Did not the price on all iron, steel, wire, nails, and everything go up immediately after the recent trusts?—A. Yes.

Q. Then it does not have a tendency to lower prices? It would lower the cost of production, which it evidently does?—A. Yes.

Q. But at the same time it does not lower the price to the consumer; the object is to raise the price to the consumer?—A. Yes.

Q. That is your general understanding of it?—A. That is it.

GOOD PUBLIC POLICY OPPOSED TO CONTROL BY MONOPOLY.

Q. And your idea is that the public policy forbids control by any monopoly in a free country, even though it might redound to lowering the prices?—A. Yes.

Q. You would say that, to the public at large, the individualism of the citizen and the right to fair competition, and to the general employer, is worth much more than is the lowering of the price when so many of them will be deprived of the opportunity of buying goods at any price?—A. If it had that effect.

Q. Do you think it would have that effect?—A. By lowering the price?

Q. Well, for instance, they might lower the price because there is an economy in production; the question is, whether public policy will permit combining at all of that kind?—A. No.

Q. Do you believe that, as a matter of public policy, low prices or lower prices are beneficial generally? That is the argument, I understand, that all attempt to make.—A. Trusts have advanced prices, not reduced prices.

Q. They claim here before us that the syndicating of all these lines of products inures to the benefit of the consumer.—A. They say so, but I fail to find where it is.

Q. They are trying to drive out competition?—A. Yes.

Q. When they are masters of the situation will they put prices back to make a reasonable profit?—A. More than a reasonable profit when they advance the cost in some lines 100 per cent.

Q. As I understand you, practically in everything, where they are not having severe competition in the numerous trusts formed this year, the price has invariably gone up?—A. Yes; excepting in those instances where there have been reasons or methods for crushing out opposition.

Q. I say except where that is going on to-day?—A. Yes.

Q. Now, have you found this in your experience, that where the lines of production all go into a trust they select the point where they will do their chief producing and force the laborers to yield to the demands of the employer, by virtue of their power to shut down the works in one place or another without injuring the owners of the works or the trust?—A. Well, that is certainly a possibility, I have no—

Q. (Interrupting.) It is perfectly feasible, you think?—A. Yes.

Q. For them to shut down?—A. Yes.

Q. And if a man does not abide by the dictates of the employers at one place they can shut down and injure the men and community without injuring themselves. Do you not think that this is sufficient within itself to cause the legislative powers of the Government to prohibit such power being put into the hands of any portion of the people?—A. Yes. In line with that argument the American Linseed Oil Company has 35 linseed-oil mills. It would be easy enough for them to manufacture in 34, if they desired to shut down 1.

Q. If they were threatened with trouble at one place it would be the most natural thing in the world to immediately shut that down so as to make the employees submit, and they have power to do it?—A. Yes. The American Tin Plate Company controls over 240; the Federal Steel Company controls enough establishments to fill a space of several inches in the newspaper columns.

REMEDIES FOR THE EVILS OF COMBINATION.

Q. (By Senator MALLORY.) You have given this subject, so far as it affects the interests of your association, considerable thought. Have you given any consideration to the question of the remedy for this existing or anticipated evil?—A. Well, that is the hardest question to settle. We can analyze the situation and appreciate the evils, but the remedy is for the most wise lawmakers themselves to discuss.

Q. Have you thought of any? There have been certain suggestions made as to different methods of treatment, legislative or otherwise. Has any suggestion of that kind commended itself to you as feasible?—A. Well, the majority of traveling men who have communicated with me, although they have been united in regard to redress, saying that trusts must be done away with, and the conditions must be remedied, and all that; only a few have suggested remedies; one man wrote me in regard to the law of the Swiss Republic, which has existed for 400 years, and gives the people the right to withhold charters from trusts or trade combinations in restriction of trade.

Q. (By Mr. JENKS.) May I ask if that means this—that in case any combination asks for a charter, the question has to be referred to the people to vote upon?—A. You have made a special study of this question.

Q. I do not know what special law was referred to; that is why I asked the question.—A. I will see if I can find that card; I think the gentleman made reference to the law, which has been in operation in the Swiss Republic for 400 years; that is a Republic of 400 years' standing. I think he refers to the referendum law.

Q. (By Senator MALLORY.) That would involve, of course, an entire change in the corporation laws of the United States and every State. Another method has been suggested, or a statement at least of another method has been made by somebody, both in the newspapers and here, viz, that of cutting down the tariff, of authorizing the President to do so, as in cases of reciprocity. Our Supreme Court has held that it is constitutional for the President, under the direction of Congress and under certain circumstances, to remit certain tariffs; and, in the event that these combinations become oppressive, it is also proposed that the President be authorized to remit the tariff on the articles covered by a combine if it becomes oppressive. That has been suggested; there are others.

I did not know but that you had something to say on that.—A. The traveling men are not students of legislative affairs. They have a thorough conception of what is good as affects business and are very good judges of political conditions and political situations, but this is a subject that the best lawyers have spent much thought upon, and it may be a little too deep for business men.

Q. It is a subject that this commission is very deeply interested in. The commission is desirous of getting all the assistance it can. I do not think it is one that is purely legal; it is one upon which we ought to have the best talent of all the business interests of the country.—A. In trying to answer your question I will submit a couple of letters; possibly it will be advisable for me to omit the names. In answer to question 14 [reading]: "The trust will cause in the near future the greatest disruption ever seen in our country; it is making extreme rich and extreme poor. The bone and sinew of our great country, the middle class, is fast disappearing. Owing to the close competition, the mechanic can not go into manufacturing on his own account with a small capital, as he could. It is not conducted with the same capital as of old. That condition, we contend, is deplorable. Many of our rich men to-day would not have succeeded had they to contend with the present condition." He winds up [reading]: "The political party that will dissolve trusts gets my best efforts and vote." He has always been an advocate of a certain party.

Q. The great difficulty is how to do it, so far as the Federal Government is concerned. How can the Federal Government reach them?—A. Here is a letter from a very intelligent man. I will omit the information in regard to the proposed trust in his business because they have not succeeded in obtaining it yet; it is spoken of as one of the prospective trusts (reading): "It is my opinion, and it is shared in largely by men with whom I come in contact in all kinds of business, that the day is near at hand when the disastrous result of the trusts will be felt everywhere. Another effect that the trusts are having is in making thousands and tens of thousands of socialists, and the time will come in the near future when all classes of business men, laborers, and mechanics, regardless of former party affiliations, will vote with the party that is against them. While I have no sympathy with socialism, believing their principles to be all wrong, I recognize their rapid increase, and if our lawmakers are wise, it is my opinion that they will stop the formation of more trusts and in some way do away with those already formed." That is the opinion of an old traveler, a very intelligent man. But the remedy—I would hesitate to suggest anything for fear it would not be the right one.

Q. Well, we have the Interstate Commerce Commission which has supervision over railroads. The only reason that Congress could establish the Interstate Commerce Commission, with the power it was intended to give it, is the fact that the railroad corporations are public corporations intended for the public weal and the public benefit. That is the only basis on which Congress could interfere. That does not exist in the case of the corporations we are considering here, private corporations.—A. It seems to me that they can only be affected by conspiracy laws and by restricting corporate powers. It is a subject I do not care to get into a discussion on.

Q. (By Senator MALLORY.) I have only troubled you because I thought it might have occurred to you to suggest something.—A. If I had been under the impression that I was to be asked that question, I should have—I came here to give facts and figures as a business man—I should have consulted some of my friends among the lawyers, and possibly should have gleaned some information from the aggregate result of their opinions and might have submitted that; but I should have hesitated even in that case, because of the importance of the question and the importance of the situation. People ask for redress, and the lawmakers will have to discover some way of giving it.

Q. (By Mr. PHILLIPS.) Have you expressed definitely the reason why so large a number of the traveling salesmen have lost their employment? What is the reason for these conditions under trusts that did not exist before?—A. The simple reason is that with competition salesmen are necessary for every house in their line; with the syndicating—with the combination—salesmen are no longer a necessity. An agent—a bookkeeper—could be sent out by the trust to collect orders, or the business could be done by mail. If it is a commodity that is a necessity, and that commodity is in the hands of one syndicate—one trust—the dealers have got to buy from that trust.

Q. (By Representative BELL.) And the trust gets a higher price for the article even after disposing of all this help?—A. Yes.

Q. And the public is injured and not benefited?—A. Yes; that is right.

THE SAVING BY COMBINATION RESUMED.

Q. (By Mr. PHILLIPS.) If the chair understood you correctly, you said that trusts really cheapened things; that manufacturing is cheaper than without trusts. Do you limit that to a large number, under one control, in various parts of the country that have gone into a combine or trust? Do you believe, in other words, that one central organization can run 40 different manufacturing establishments in 10 or 15 States as cheaply as the owners could in each of those States, provided their works were large enough to manufacture a reasonable amount of goods?—A. Why, certainly, they can produce for less money with the syndicate, by cutting off expenses; first, the salaries of traveling men, and, second, the salaries of officials. For instance, Jones, Brown & Robinson is a concern that will sell out to the American Windbag Company, and the American Windbag Company will ultimately sell out to the American Wind Syndicate, and so on; it is a wheel within a wheel. Some salesmen were disposed of by Jones, Brown & Robinson, and then there were some salesmen who represented the American Windbag Company who were dispensed with when the company went into the American Wind Syndicate. At the same time there was a dropping of officials, of Jones, Brown, and Robinson. They received a big price for their plant; probably two or three times what it was worth. It may be possible that Jones was president of the American Windbag Company or a director when they sold out to the American Wind Syndicate. Certainly it reduces expenses.

Q. There are certain industries not subject to the expenses of traveling salesmen that perhaps could not be run as cheaply as by individuals who look specifically after their own plants. I have heard it stated that the largest trust in the country is not producing as cheaply as those of much smaller capacity can produce. Their whole plants are run by employees. Their production and their manufacturing is all run from one central office, and all who manage these head affairs are employees?—A. I can understand very readily how a trust would pay a less profit than individual concerns, on the ground that much of the capital is water. If I had a plant, a business which was worth intrinsically \$100,000, and an agent of the trust would come to me and say, "Mr. Dowe, we will give you \$200,000 for your plant; we will give you \$100,000 in common stock and \$100,000 in preferred stock," and if I thought I was strong enough to buck against the trust, I would decline. They may finally think that I am a pretty good judge of my business; that I will be quite a factor in competition, and will interfere with the immediate advance of prices, and they will agree finally to give me \$200,000 in cash. Now, I have made, besides the salary of those who are identified with me in this \$100,000 plant that they bought for \$200,000, a profit on \$100,000 of 10 per cent; they will expect to make 10 per cent on \$200,000 and somebody will be defrauded. But I can readily understand how it would be difficult unless the prices were advanced to make 10 per cent on \$200,000 where we used to make it on \$100,000.

CAN TRUSTS SURVIVE FOR ANY LENGTH OF TIME?

Q. Do you believe any trust could exist for any length of time provided other people could organize and pursue the same line of industry on the same terms and conditions of transportation?—A. No, it would assist in breaking them up very rapidly. The salesmen would be willing to go into the business, if they had the capital back of them, and they certainly would have a knowledge of the business. Since I made a personal argument previously, I will make one again. I sell printing presses. Suppose the manufacturers of printing presses should go into a combination and should say, "Mr. Dowe, you know the technical points of the business, but we can not pay you \$5,000 a year; we will give you \$2,500 and a house position." Well, I might be egotistical enough to believe that I could organize a company of my own, and I would get some friends to put up money and would go to New Jersey and capitalize a million dollar company with about \$30,000 to begin with and ultimately sell some stock. Of course, my friends and others interested with me would approach other friends. The representatives, the agents of the printing-press syndicate, would receive instructions to undersell me under all circumstances. No matter what price I might make they would be told to go under it, and I would soon be wiped out of existence.

Q. If there was a law to prevent your company from underselling at any given point where you had a market for your goods, and keeping the price up at other points; if there was a law to prevent that—to prevent what might be called destructive competition—would anyone be willing to take your stock if they could get in on terms of equality? That is the proposition.—A. Yes; that is a pretty

hard proposition. I appreciate the fact that some of these officers that are thrown out—that have sold out their interest in the concern absorbed by the trust—will remain idle a certain length of time, but some of them will be energetic and progressive, and will be factors in competition with some of the very trusts they sell out to. I appreciate that, but whether they can be on a basis of equality or not, that is a question.

Q. The opinion very largely prevails among business men that the trusts will go down of their own weight; that they can not be managed as economically as smaller companies can manage their own affairs.—A. It is the belief of the traveling men that trusts are largely water and are organized primarily for speculative purposes, and that they will go down on that ground. If they were handled as honestly and economically as ordinary businesses can be handled by the owners they would last many years.

Q. (By Representative BELL.) Has not the Standard Oil Trust lasted now for over thirty years?—A. The Standard Oil Company and the South Improvement Company.

Q. (By Mr. PHILLIPS.) Do you believe that the Standard Oil Company is producing oil as cheaply, refining oil as cheaply, and marketing it as cheaply as others could do and would do if they had the same opportunity?—A. If they had the same opportunity others could produce as cheaply, but the Standard controls such a large proportion of the product that they virtually make the price for crude oil.

ATTEMPTS TO INFLUENCE WITNESS.

Q. (By Mr. KENNEDY.) Has anyone sought to influence you in regard to the testimony you might give before this commission—made any sort of threats?—A. Well, you might call them implied. It was said to me that it is dangerous for a man who depends upon selling goods for a living to take the stand that I have. I met a gentleman in New York, a lawyer, who intimated that it would be dangerous; it may have been his personal opinion and it may have been from higher authority.

Q. Has he any connection with the trusts or combinations?—A. Well, not directly.

Q. Indirectly?—A. He may have, possibly.

Q. Is he attorney for any of them?—A. No, the man is an assistant in the office of a lawyer who has had some interest in trusts, but I would not want to say that his opinion is any other than his own, that it would be dangerous for a man of no greater influence than myself to assume to oppose these gigantic affairs.

Q. Did he think that you might be crushed?—A. Yes, he said I could be crushed as easily as a caterpillar.

Q. (By Senator MALLORY.) Do you understand that by authority?—A. No; the young man stated that I might be crushed out. It was the opinion of the gentleman that I might want to find work in some other line than the printing press, and if I sought it of a trust I would more than likely be turned down.

Q. (By Mr. PHILLIPS.) The printing-press firm for which you work is not in a combine or a trust?—A. No, there is no trust in the printing-press line. There is a trust among the typefounders, the American Typefounders' Company, and the Continental Paper Company, and others. There is a trust about to be organized on writing paper, and a letter I received to-day from a gentleman who is well known as a printing-ink salesman says: "As yet they have been unable to form a trust in my business. It is the most peculiar business ever known, I think, and I do not think they will unite, for they have been making frantic efforts of late to do so. As you probably are aware, I sympathize deeply with those poor fellows who have got the wrong end of the stick."

Q. (By Representative BELL.) What effect did this trust have on paper?—A. They advanced prices from one-quarter to one-half cent a pound for newspaper, with the excuse that the war news demanded an increased quantity, but they continue to charge the advanced price.

Q. They keep up the price?—A. Yes; they have not reduced the price, and now the excuse is that they cannot pay dividends at the old price; but the first excuse was that it was owing to the quantity used for the war news.

Q. (By Mr. CONGER.) Are you acquainted with the fact that the price of newspaper is the same now as it was a year ago when the war was on?—A. Yes, it is the advanced price; the price advanced owing to the war as they explained it.

Q. The price advanced in the early part of last year, 1898, and has not gone back?—A. No; where paper was sold in carload lots, the price was 1½ of a cent. The price is now 2½ to 2½ and sometimes a fraction over.

DISCUSSION OF TRUSTS AT THE CONVENTION OF THE TRAVELERS PROTECTIVE ASSOCIATION.

Q. (By Mr. RATCHFORD.) In your paper you referred to the action of the Louisville convention on a resolution which was introduced, and justified the action of the convention in tabling it upon the ground that certain members were in the employ of trusts. Is that correct?—A. Yes.

Q. Are you aware that the newspapers of the country state that the commercial travelers at their national convention voted down a resolution against the trusts?—A. I am sorry such a statement was published, but that was an error.

Q. Was it contradicted?—It was not contradicted; it was allowed to pass. It is very difficult to get a correction after a story goes broadcast through the country. The papers will state it as an item of news, but will correct it, if insisted upon, in very small form; there were headlines given to that report in all the newspapers in favor of the trusts. It was given as a news item with the expressed surprise of moderate newspaper men that such should have been the case. I was a delegate to that convention, but I was late arriving there. I started from New Orleans to attend the convention and I missed connections twice. I got there the last day. I was given the privilege of the floor, and asked the commercial travelers' delegates to send to me all the information they could collect. After having asked for that information, the subject of the resolution came up; I was placed in a position where I had to keep my mouth shut, and take no sides, but after the convention a number of our delegates met in room No. 240 of the Louisville Hotel, and condemned the action of the body in tabling that resolution as a cowardly act.

Q. How many delegates were there in that convention?—A. I believe it is claimed there were 300.

Q. Who were the delegates employed by the trusts who favored the tabling of that resolution?—A. They were principally men from Illinois, and numbered about 5 or 6.

Q. Five or 6?—A. And some of them were employers, by the way, and not commercial travelers.

Q. Can you state whether or not there was any other influence that operated in the tabling of that resolution?—A. Nothing, except there were two resolutions, one more radical and more emphatic than the other. The less radical resolution was submitted by request of Mr. Phelan, I believe, chairman of the railroad committee of the Travelers' Protective Association, who is employed by a large Chicago firm. The first resolution, which was discussed for an hour or two, was very radical. The less radical resolution was the one submitted by request of Mr. Phelan, and he was not able to be present at the time of the discussion on this subject.

Q. Would you care to state as to what percentage of the members of your convention are opposed to trusts, in your judgment?—A. I have already made a statement that I have received 2 communications from men favoring trusts, one unsigned and the other one an employer, and not a commercial traveler.

Q. You would not care to make a broad statement?—A. How can I tell? I assume that the traveling men of the country are a unit. One can judge very clearly the sentiments of the class from the opinion of those who have communicated with me or have talked with me or my assistants, all being opposed to trusts, of course.

Q. I will put it in another way. Do you know of any organization of laboring men in the country that is more pronounced against trusts than the commercial travelers?—A. No.

Q. Or any such organization that favors them?—A. I do not, except the combinations themselves.

Q. (By Mr. KENNEDY.) This Louisville convention to which you were a delegate was not a convention of the organization of which you are president?—A. No; a number of the members of the Travelers' Protective Association are members of our association. The ex-president and the secretary of the New York division and a number of prominent officials who have been identified with that association are also identified with the one I am president of.

Q. How many traveling men's associations are there in the United States?—A. About 82 or 83 leading associations. The largest association is the Utica Commercial Travelers' Mutual Accident Association, located in Utica, with nearly 20,000 members. I think at the convention before the last one it had about 20,000.

Q. What is the membership of the one that took this action at Louisville, that you spoke of?—A. Thirteen thousand; they are not all traveling men, by the way; they have also employers and buyers and insurance men. They will take as

a member anybody who travels occasionally, and if a man travels a day a year he can be a member of that organization. It is an accident association.

Q. Was it the influence of the employers largely that brought about this action?—A. The tabling of the resolution?

Q. Yes.—A. I think it was. I would not want to say that positively, but it was a matter of self-interest, the men evidently wishing to stand in with their houses. I would like to state my position a little more clearly. If I was employed by a trust at my present salary or a greater salary, and I believed that by opposing trusts or the formation of trusts I would lose my position, I would resign as president of the Commercial Travelers' League. I would not be present before you to-day. It is a matter of policy; a man cannot interfere with his bread and butter, you know.

Q. (By Mr. PHILLIPS.) Does this league of which you are president embrace these other confederations to which you have referred? Are they all embraced in it?—A. Oh, no.

Q. Is it a sort of federation, or is it not?—A. It is not a federation; it is an association.

Q. It is a single organization?—A. It is a single organization, with the leading commercial travelers of the United States identified with it.

Q. Have you stated the number of members at the convention?—A. Yes.

Q. Was this resolution at the Louisville convention fully discussed before it was tabled?—A. There were such attempts made and an argument on parliamentary procedure. There was quite an animated discussion. The chairman assumed the floor, the vice-chairman taking the chair, and argued the question pro and con, and said that the traveling men of this country must be either for trusts or against them, one or the other; but it was urged by the gentlemen, principally from Illinois, that it would prejudice them with their employers, would place the association in a bad light, and would interfere with the securing of members, and that as a nonpolitical body they had no business to take up the question and it was tabled as a matter of expediency.

COMMERCIAL TRAVELERS' ASSOCIATIONS—CHARACTER AND OBJECTS RESUMED.

Q. (By Mr. FARQUHAR.) How many organizations of traveling men are there in the United States?—A. About 32 as near as I can tell you—about 32 leading organizations.

Q. Has your association any State organization connected with it?—A. It has its headquarters in New York. We have an office on Seventeenth street, and we hold quarterly meetings of the board of directors at the Imperial Hotel in New York, the headquarters of the league. It is an organization that has a nominal fee for membership, \$1 a year, and it is merely for the purpose, as I said before, of doing work which the other organizations can not undertake, which would hardly be policy for other organizations to enter into. It is not a large one, but it is influential. We have as members Mr. Aldrich, of Detroit, one of the best known traveling men in the country, three ex-presidents of the Travelers' Protective Association; Mr. James Lee, of St. Louis; Mr. Watterstein, of Richmond, Va.; Col. Stephen B. Corliss, of Albany; Mr. Titus, president of the Springfield association, and many men of that stamp.

Q. And these are all associated in your league?—A. It is not a federation; it is simply an association, to unite the more positive and, I will say, more capable traveling men of the country.

Q. In other words, your league is a selection of the more aggressive men of all the associations?—A. Yes; that is the idea precisely.

Q. Your general aims and objects then are, for instance, to act in matters of transportation and legislation and the general well-being of the traveling men of the country?—A. Yes.

Q. With the social features added, I presume?—A. No.

Q. None whatever?—A. None whatever.

Q. Are there any of those organizations of traveling men that have beneficial features to them?—A. Accident?

Q. Accident or—A. (Interrupting.) Most of them are either accident or life insurance organizations.

Q. Life insurance?—A. Or organized for social reasons.

Q. Can you give us any idea how many members there are altogether in the 30 organizations in the United States?—A. Well, I can only give a guess at about 67,000, which exceeds the statistics—the census of 1890—by 9,000.

Q. (By Mr. PHILLIPS.) Do any of these organizations belong to the American Federation of Labor?—A. No.

SOME MOVEMENTS WITH WHICH COMMERCIAL TRAVELERS HAVE BEEN IDENTIFIED.

Q. (By Mr. PHILLIPS.) Is there no connection or line of sympathy between the employers and yourself?—A. Well, there has been on previous questions; it remains to be seen what sympathy there will be at present. If you will permit me, I will cite a few matters that we have been identified with. The first matter which the league took up was opposition to the antiscaling law, on the ground that it interfered with personal privileges and constitutional equities, and that matter is now dead. We assisted to elect Judge Parker to the court of appeals in New York, and to that extent we interfered with political matters, but we believed the gentleman who was on the opposition ticket would hardly declare in favor of our side should he be elected, and we used our influence to assist the election of Judge Parker, and I think that his majority was over 70,000. I authorized the issue of many thousands of circular letters. There was an article—a letter written by Mr. Bond of Albany, a lifelong Republican. He came out against Judge Wallace and told his reasons—that his decisions had been favorable, as a rule, to corporations, and that we would not have any show of favorable decisions if he was elected. I had several thousands of those sent out.

Then we asked for a mileage-book law in New York State, and after several conferences with the powers that existed at the time the Krum 500-mile mileage-book law was passed. There was a hearing before Governor Black, at which time I was the principal speaker in favor of the measure. The railroad people had present a delegation of conductors. In fighting against the antiscaling law it was intimated that we were in affiliation with the brokers, and to show that that was not the case we advocated interchangeable mileage. I worked for it faithfully. Delegations appeared before the different passenger associations. Mr. Daniels, general passenger agent of the New York Central, who was against us on the antiscaling law and the Krum mileage-book law, of course in the interest of the New York Central and the West Shore, had a number of speakers before Governor Black at the time of the hearing. He has become very friendly to the traveling men, although 2 years ago he said he would never consent to interchangeable mileage. He said last November that all men could change their minds, and if the trunk line association would not consent to interchangeable mileage, the New York Central interests would. They first issued a book, good on all roads leased or connecting with the New York Central in New York State. They have increased the value of their mileage book, and it now covers over 6,000 miles of road, good in Pennsylvania on the Philadelphia and Reading and reaching western Pennsylvania by Buffalo, Rochester, and Pittsburg. Now, I am glad to say, Mr. Daniels is one of the best friends we have. We put up a good and consistent fight, and he is now giving us more concessions than any other railroad man. The matter of interchangeable mileage in New England has been in the hands of a committee in Boston, composed of delegates from the various chambers of commerce, travelers' associations, etc., constituting what is known as the interchangeable mileage committee of New England.

Q. (By Mr. FARQUHAR.) Have you any trouble now in any of the States of the Union in respect to the commercial travelers' license?—A. No; that was the first fight with which I became actively identified, from 1882 to 1884. I opposed the taxation of commercial men in the Southern States and Territories, and, partly at my suggestion, Charles R. Skinner, the present superintendent of public instruction of New York State, who was Congressman from Jefferson County, made a fight against the tax in the District of Columbia. I think that was in 1884, and it was the death knell to the taxation of the commercial men.

Q. Under the Bradwell decision?—A. Yes.

SUMMARY OF WITNESS'S POSITION ON TRUSTS.

Q. (By Mr. JENKS.) Would you say that this is a fair summary of the position you take regarding the effects of trusts: You believe that their general effects are: (1) To reduce the cost of manufacturing, (2) to increase the price to the consumer, and (3) to lower the general standard of labor by driving men out of higher-priced positions into lower-priced positions?—A. Yes.

Q. That substantially covers the ground that you take in your paper, does it not?—A. Yes.

COMMERCIAL TRAVELERS OPPOSED TO THE ANTISCALPING LAW.

Q. (By Mr. KENNEDY.) Are the traveling men generally, outside of your organization, opposed to the antiscalping law as proposed in Congress and in the different States?—A. Yes.

Q. Can you state briefly what benefits the brokerage system has given to the traveling men?—A. Well, merely a reduced cost, a reduction in expenses; that is all there is to it. If a man is obliged to pay 3 cents a mile to the railroad company for a short journey, and if he can buy a ticket for 2½ cents a mile from a broker, who buys it from a railroad company at a lower price and possibly with a commission besides, why should he not? I really believe that the brokers would not exist if it were not for some of the railroads supporting them, the weaker lines especially. If we can save something in our traveling expenses, naturally in the end it would make us more valuable to our concerns and in line for an increased salary. Now, if the railroads will grant us interchangeable mileage—that is what we have been working for so long—we will have no use for the brokers. They were the victims of the situation, and the antiscalping term as applied was a misnomer. It should have been called antieverybody. It was against the rights of the people to make a man a criminal, as the law in New York State did as it was originally proposed—to brand a man as a criminal—if he sold a railroad ticket. We contend that when we buy a railroad ticket it is our property, and we can sell it for what we see fit. It is a question which has been discussed pro and con, and I am satisfied that the lawmakers are of the same opinion as traveling men to-day. They understand it better. Of course the railroads, the large lines, put up a very positive, a very aggressive fight until they were defeated.

Testimony closed.

THE SUGAR COMBINATIONS.

NOTE.—The Sugar Refineries Company (the Sugar Trust) was organized August 6, and ready for work in November, 1887. It controlled practically all of the sugar-refining interests in the United States, excepting 2 refineries in Philadelphia and 1 in San Francisco. Its authorized capitalization was \$50,000,000. The different companies coming into the trust surrendered their stock to a board of 11 trustees, and received back trust certificates. Profits were to be divided on the trust certificates.

On the allegation that the trust was an illegal combination the people of the State of New York brought suit against the North River Sugar Refining Company, one of the members of the trust, to annul the charter of the corporation, on the ground that in surrendering its active management to the board of trustees of the trust it was acting *ULTRA VIRES*. The case was decided under the common law in favor of the State, and the decision was upheld by the court of appeals.

As a result of this decision of the courts of the State of New York the American Sugar Refining Company was organized January 10, 1891, as a single corporation, in New Jersey, to take the place of the former sugar trust. The capital of the new company was \$50,000,000, \$25,000,000 common stock and \$25,000,000 preferred stock, the latter to receive 7 per cent cumulative dividends before any was paid on the common stock.

During the years 1890 and 1891 active competition with the American Sugar Refining Company sprang up on the part particularly of 4 large refineries in Philadelphia and vicinity, the Franklin Sugar Refining Company, the E. C. Knight & Co. Refinery, the Delaware Sugar Refinery, and the Spreckles Sugar Refinery Company—large companies, which together produced about one-third of the total product of the United States. After nearly 2 years' active competition the American Sugar Refining Company purchased these companies, and a large proportion of the capital stock of a fifth, the Baltimore Sugar Refinery Company. Of \$25,000,000 of new stock which had been authorized \$23,546,000 (one-half common and one-half preferred) was issued for purchase of these companies. In the latter part of 1896 the American Sugar Refining Company bought nearly all of the minority stock of the Baltimore Sugar Refinery Company in order to avoid difficulty with the minority interest.

At the time that it was proposed to buy the Philadelphia refineries the United States filed a bill in equity to prevent the sale of these refineries to the sugar combination. The case was, however, decided against the Government on the ground that this purchase was not in restraint of interstate commerce, and that the case therefore was not properly under the Sherman law of 1890.

In 1896 Arbuckle Brothers, producers of coffee, began the erection of a sugar refinery. The American Sugar Refining Company soon afterwards bought a majority of the stock of the Woolson Spice Company, Toledo, Ohio, in order that they might enter into the coffee business. Competition between the American Sugar Refining Company and Arbuckle Brothers continues at present in both sugar and coffee. The other chief competitors of the American Sugar Refining Company are Claus Doscher, the Mollenhauer Sugar Refining Company, and the National Sugar Refining Company.

The dividends on common stock of the company since 1891, the date of the formation of the Sugar Refining Company, have been as follows: One dividend of 4 per cent was declared in that year; 1892, 10 per cent; 1893, 2½ per cent, and since 1894 13 per cent has been declared each year in quarterly dividends. On preferred stock 7 per cent has been declared yearly to date.

The stock of the sugar combination has been sold on the New York Stock Exchange since February, 1899. Sales of preferred stock of the present company began in January, 1899. The stock has fluctuated greatly from time to time, common stock having sold as low as 57½ in January, 1899, and above 100 in 1899. The prices have fluctuated so much that the stock has become one of the leading speculative stocks of the exchange.

WASHINGTON, D. C., June 10, 1899.

TESTIMONY OF MR. STEPHEN N. BUYNITSKY.

The commission met at 11 o'clock a. m. Saturday, June 10, 1899, Vice-Chairman Phillips presiding. Mr. Stephen N. Buynitsky, of Washington, D. C., assistant chief of the customs division of the Treasury Department, testified as follows:

Q. (By Mr. JENKS.) Will you be kind enough to give your full name and address?—A. Stephen N. Buynitsky. I am at present assistant chief of the customs division of the office of the Secretary of the Treasury.

Q. How long have you been in the position which you now hold?—A. I was promoted to that position in April last.

Q. For how long have you been in the customs division of the Treasury Department?—A. For twenty-three years.

Q. What has been your special work in connection with duties on sugar?—A. It has been my special duty to ascertain the rate of drawback to be paid on exports of sugar and sirups from imported raw sugars which pay duty, the ratio of duty to be paid on raw sugar used in the production of sugar and sirup exported, less 1 per cent of deduction, as provided by law.

THE TARIFF ON SUGAR.

Q. Because of your expert knowledge of the sugar tariff the commission desired you to explain what the action of the tariff is. Will you explain the tariff on sugar, telling us in the first place about the duty on different grades of raw and on refined sugars and then about the drawbacks?—A. Paragraph 209 of the tariff act of July 24, 1897, reads as follows (reading): "Sugars not above number sixteen Dutch standard in color, tank bottoms, sirups of cane juice, melada, concentrated melada, concrete and concentrated molasses, testing by the polariscope not above seventy-five degrees, ninety-five one-hundredths of one cent per pound, and for every additional degree shown by the polariscopic test, thirty-five one-thousandths of one cent per pound additional, and fractions of a degree in proportion; and on sugar above number sixteen Dutch standard in color, and on all sugar which has gone through a process of refining, one cent and ninety-five one-hundredths of one cent per pound; molasses testing above forty degrees and not above fifty-six degrees, three cents per gallon; testing fifty-six degrees and above, six cents per gallon; sugar drainings and sugar sweepings shall be subject to duty as molasses or sugar, as the case may be, according to polariscopic test: Provided, that nothing herein contained shall be so construed as to abrogate or in any manner impair or affect the provisions of the treaty of commercial reciprocity concluded between the United States and the King of the Hawaiian Islands on the thirtieth day of January, eighteen hundred and seventy-five, or the provisions of any act of Congress heretofore passed for the execution of the same." That is the whole of paragraph 209, schedule E.

Q. What would be the amount of the duty on the ordinary raw sugar used by refiners in their business? What degree of test do you ordinarily take as a basis of calculation?—A. The sugar that is most commonly used for refining purposes I understand to be 94, 95, 96, and 97. Evidently 96 is the best refining sugar. Now, the duty on that will be 0.95 for the first 75 degrees; and 0.035 multiplied by 21, from 75 to 96, in addition to the 0.95, will make 1.685.

So that the tariff upon raw sugar of 96 degrees test is 1.685 cents?—A. Yes;

AMOUNT OF REFINED SUGAR OBTAINED FROM A HUNDRED POUNDS OF RAW SUGAR.

Q. How much sugar of that grade does it regularly take to produce 100 pounds of refined sugar?—A. According to the data collected by the special commission of the Treasury Department in 1898 the average quantity of refined sugar produced from 100 pounds of sugar testing 96 was 92½ pounds.

Q. Is that the regular figure that is officially employed by the Treasury Department?—A. Yes; in the computation of the particular rates of drawback on the refined sugar imported.

Q. Have you figured out, or can you tell, us what the regular tariff would be on enough raw sugar to produce 100 pounds of refined granulated sugar?—A. I have not made any such calculation, but it is easily made from these figures here. (Witness produces paper.) Here is circular No. 183, of October 12, 1898, fixing the rates of drawback on sugar and sirup. The product of raw sugar of 96 degrees is rated here at \$1.79 cents per 100 pounds of refined; that is, sugar refined from raw cane sugar. We have 2 columns, 1 for sugar refined from raw cane sugar and another for that refined from raw beet sugar. The rate on that refined from raw cane sugar, 96 degrees, is given at \$1.79 per 100 pounds exported.

[1898. Department Circular No. 183. Division of Customs.]

DRAWBACK ON SUGAR AND SIRUP.

TREASURY DEPARTMENT, OFFICE OF THE SECRETARY,
Washington, D. C., October 12, 1898.

To officers of the customs and others concerned:

On the exportation of sugar and sirup refined wholly from raw sugar imported under the act of July 24, 1897, a drawback will be allowed equal in amount to the duty paid on the sugar used in the manufacture, less 1 per cent of such duty.

SUGAR.

1. When the exported sugar is "hard refined," commercially known as loaf, cut loaf, cube, granulated, crushed, or powdered, testing by the polariscope 99.5 degrees or above, and is refined wholly from one grade of raw cane or beet sugar, used separately, the rate of drawback thereon for each 100 pounds exported, and the corresponding charge on the record of importation, for the kind of raw sugar identified, shall be as shown in the following schedule for each degree of polarization, and for fractions of a degree in proportion:

Schedule of rates for hard refined sugars.

REFINED FROM RAW CANE SUGAR.

Polarization of raw sugar used.	Rate of drawback on each 100 pounds exported.	Charge record of importation for each 100 pounds exported.	Polarization of raw sugar used.	Rate of drawback on each 100 pounds exported.	Charge record of importation for each 100 pounds exported.
Degrees.	Dollars.	Pounds.	Degrees.	Dollars.	Pounds.
99.....	1.83	102.23	86.....	1.60	119.85
98.....	1.82	103.70	85.....	1.58	121.54
97.....	1.80	104.65	84.....	1.56	123.32
96.....	1.79	106.23	83.....	1.53	124.39
95.....	1.77	107.27	82.....	1.51	126.36
94.....	1.76	108.98	81.....	1.48	127.59
93.....	1.74	110.12	80.....	1.45	128.89
92.....	1.72	111.33	79.....	1.42	130.28
91.....	1.70	112.58	78.....	1.39	131.75
90.....	1.68	113.90	77.....	1.36	133.33
89.....	1.66	115.24	76.....	1.33	135.03
88.....	1.64	116.72	75.....	1.29	135.79
87.....	1.62	118.25			

REFINED FROM RAW BEET SUGAR.

98.....	1.82	103.71	91.....	1.72	113.91
97.....	1.80	104.66	90.....	1.70	115.26
96.....	1.79	106.24	89.....	1.69	117.37
95.....	1.78	107.88	88.....	1.67	118.87
94.....	1.76	108.98	87.....	1.65	120.44
93.....	1.75	110.76	86.....	1.63	122.10
92.....	1.74	112.63			

2. When sugar of one kind, but of different grades, is used in a "melt," the quantity of each grade so used must be shown in the drawback entry, and the drawback on hard refined shall be computed on the basis of the several percentages identified and the rate prescribed for each grade.

3. When cane and beet sugars are mixed in refining, the drawback entry must show the quantity of each kind and grade of sugar used in the manufacture, and in liquidation of entries the drawback on hard refined, for the several percentages of each kind and grade of raw sugar used, shall be determined in the same manner as if the sugars identified had been used separately.

4. When duty has been levied and paid on imported sugar under the provisions of section 5 of the tariff act, such duty, computed on the basis of the amount "charged" in the foregoing schedule for each kind and grade of raw sugar identified, shall be used in determining the rate of drawback due on hard refined sugar, in addition to the duties otherwise imposed by the said act.

5. When "soft refined" sugar is exported, the drawback thereon shall be apportioned to that on hard refined made from the same kind and grade of raw sugar, on the basis of its polarization and an assumed polarization of 100 degrees for hard refined. For determination of drawback, all refined sugars polarizing less than 99.5 degrees shall be regarded as soft refined.

6. The preliminary entry must show the marks and numbers of the shipping packages, with their average gross and net weights, and the kinds of refined sugar contained therein, describing the same, separately, by their commercial designations.

7. The drawback entry must show the quantity and polariscopic test of each kind of sugar exported, and samples shall be taken as ordered by the collector to

be submitted to the appraiser for verification of the declared test, but in no case shall the test used as the basis of allowance of drawback exceed such declared test.

8. In the sampling and testing of exported refined sugars, the same general rule shall apply as in the case of imported refined sugars. The regulation round tin sample box shall be used for preserving the samples, which, in the case of soft refined sugar, must be firmly packed full, and the cover placed thereon at once.

The sugars shall be sampled with a trier specially provided for the purpose, and the sample shall be drawn from the middle of the package. Such percentage shall be taken as in the judgment of the sampling officer may be necessary to afford a fair representation of each kind of sugar in the shipment, and all samples must be sent promptly to the appraiser for report of test.

SIRUP.

9. The drawback on sirup shall be as follows: On sirup valued at 3 cents per gallon or less, $1\frac{1}{2}$ cents per gallon; on sirup valued above 3 cents and not above 14 cents per gallon, the drawback shall equal one-half the value of the sirup; on sirup valued above 14 cents per gallon, 7 cents per gallon.

10. The values herein named are the values "in tank" at the refinery, *in condition as thrown finally from the centrifugal in the regular process of sugar manufacture*. When, after such process, the sirup has been passed through filters, or subjected to treatment, other than mixing in the vacuum pan, whereby its character and value have been enhanced, the fact must be shown in the drawback entry, and a deduction must be made therefor of 4 cents per gallon, in addition to the usual deduction from the price "free on board," to find its value as a basis for determining the rate of drawback. When the sirup is exported in condition as thrown from the centrifugal, in the sense herein explained, such fact must be declared in the drawback entry.

11. When the exported sirup has been produced by boiling wholly imported molasses for the purpose of extracting sugar therefrom, the drawback on such sirup per gallon shall equal four-fifths of the duty paid per gallon on the imported molasses used, and the remaining duty shall be applied as drawback on the sugar product, when exported, on the basis of the quantity of sugar extracted: *Provided*, That in no case shall allowance be made on a quantity of sirup in excess of 50 gallons for each 100 gallons of imported molasses identified, and that when the sugar product, or any part thereof, is exported, the total quantity of sugar produced from the imported molasses identified must be declared in the drawback entry.

12. To find the quantity to be charged on the record of importation when the exported sirup has been refined from raw sugar, divide the drawback allowed on the sirup by the duty paid per pound on the raw sugar identified.

13. Values declared in drawback entries, as herein provided, must be verified by the collector and quantities by United States weighers and gaugers prior to liquidation of entries.

W. B. HOWELL,
Assistant Secretary

Q. Will you explain again just what that is you are giving?—A. That is the rate of drawback allowed on 100 pounds of exported refined sugar obtained from raw cane sugar testing 96 degrees.

Q. Is the drawback supposed to be the full amount of the duty that is paid for bringing such sugar into the country?—A. It is the full amount of the duty paid on sugar brought into the country and used in the production of refined sugar, less the proportion of duty reserved for the sirup.

Q. Yes. Let us take up that afterwards. What is the duty upon enough sugar of 96 degrees centrifugal to manufacture 100 pounds of granulated sugar? If I understand the figures you have given, would not that be arrived at by adding to \$1.685, which you said was the duty on 100 pounds, the duty on $7\frac{1}{2}$ pounds?—A. Yes; that is, take 10,000 and divide it by 0.925 and you get figures representing the number of pounds of raw sugar used in refining.

Q. Then the duty is calculated on that? Now, can you give us those figures? I should like to find out, if possible, just what amount of raw sugar, in the opinion of the Treasury Department, is used to produce 100 pounds of refined.—A. 108.1 pounds.

Q. Then the duty upon that amount?—A. To find the duty on that number of pounds, 96 degrees, I multiply 108.1 by 1.685.

Yes?—A. 182.148.

What was it?—A. 182.148.

Q. Then, what is the duty at present upon 100 pounds of refined granulated sugar?—A. The duty upon refined sugar imported?

Q. Yes.—A. It is \$1.925.

THE DIFFERENTIAL DUTY ON REFINED SUGAR AND RATES OF DRAWBACK ON EXPORTED.

Q. What is the difference between the duty on 100 pounds of granulated sugar and upon the amount of raw sugar that it takes to manufacture that much refined? Do you get that by subtracting?—A. That difference was calculated at the time by the Senate committee at \$1.825 per 100 pounds.

Q. According to the figures you have just given, how much would it be?—A. 1.82148. Very nearly 1.825, which would be the duty on refined sugar of 100 degrees.

Q. Yes.—A. Carry that, say, from 75 to 100 at the rate prescribed of 0.035 to a degree, and it would make the duty on refined sugar testing 100, if such were imported, just 1.825.

Q. That is the difference that you make also between the present duty on refined sugar and upon a sufficient amount of raw sugar to produce that?—A. Very nearly. You see I make it 1.82148 instead of 1.825.

Q. Yes.—A. It is very near.

Q. How much then, according to your figuring, is the differential duty on refined sugar per 100 pounds or per pound at the present time?—A. 125.

Q. There is a differential duty in favor of the refined sugar.—A. Of 125.

Q. Of 125; yes.—A. It is supposed to be equal to the duty which would have been paid on the whole quantity of raw sugar necessary to produce 100 pounds of refined sugar.

Q. Will you repeat again what you have just said?—A. This differential duty is exactly equal to the duty which would have been paid on the quantity of raw sugar necessary to produce 100 pounds of refined.

Q. Yes. Did you not say that it took 108.1 pounds of 96-degree test to make 100 pounds of the refined sugar?—A. Yes.

Q. And what is the amount of the duty upon the 108.1 pounds of 96 test?—A. 182.148.

And what is the duty upon refined at present?—A. 1925.

1925. It is substantially equivalent to the other difference you make out. So you make the difference upon this amount substantially equivalent to the other?—A. Wait a moment; pardon me. It is 195. I made a mistake in saying 1925. It is 195.

Q. 195; and then what will the differential be?—A. 12.852.

Q. Does it not amount to this then that at the present time there is what we may fairly call a protective duty upon refined sugar?—A. Yes; of 12.852; and that, I understand, comes from the improved methods of refining which now yield more sugar from 96 than they obtained at the time when the schedule was enacted.

Q. This present schedule was made in 1897, was it not?—A. The schedule of rates of drawback was made in October, 1898.

Q. In October, 1898; and when was the law passed?—A. The law was passed July 24, 1897.

THE EFFECT OF IMPROVED METHODS OF PRODUCTION.

Q. So you think this differential in favor of refined sugar comes about by the improved methods of production that have been adopted since 1897?—A. Since 1896, perhaps, because the schedule of 1897 was, of course, based upon statistics collected the year before.

Q. Was the proportion of 92½ pounds of refined sugar to 100 pounds of raw sugar settled upon by the Treasury Department in 1898?—A. Yes; in 1898.

Q. What had the figures been before that time?—A. The figures before that time?

Q. Instead of 92½ pounds, it was what?—A. Instead of dividing by—

Q. (Interrupting) 92½?—A. 92½; we divided by 92.

Q. That was the only point?—A. It showed that more raw sugar was required to make 100 pounds of refined sugar than is now required.

Q. Do you think the present rate is more accurate than the former was; that is, that 92½ is more nearly accurate than 92?—A. I think both are exactly the same in accuracy. If they could produce 92 pounds then, the schedule then was accurate. If they now produce 92½, the schedule of rates of drawback is also accurate.

Q. Yes. Of course, it is expected that there will be regular improvement in

methods of production. When the law has been passed and the rate has once been fixed, it is likely, if that law stands for 10 years, to be somewhat behind the times?—A. Most likely.

Q. As the old law was. Now, is it not your opinion that before the law of 1897 was passed it would have been more nearly accurate to have the basis of reckoning 92½ instead of 92? That is, did not the change in the methods of production come before the change in the law?—A. I believe it more safe to prevent the growth of that differential within a short time by making it a little less than accurate; then in time it will become accurate. But whether it is wise legislation to provide for possible improvements in manufacture I do not know, because it would then also be wise legislation to provide for possible unfavorable circumstances.

AMOUNT OF REFINED SUGAR OBTAINED FROM A GIVEN AMOUNT OF RAW AGAIN CONSIDERED.

Q. The reason I asked you the question in this form was that you were quoted at the time the act of 1897 was under discussion as saying that, in your judgment, it would have been somewhat more accurate, according to the conditions at that time, to have assumed 93 as the product of 100 pounds of raw sugar instead of 92½?—A. I recollect having been quoted that way. Not having had any opportunity of correcting the statement at the time, I dropped the matter. But I found among my papers a memorandum drafted by me, June 29, 1897, wherein I said:

"In a statement printed in the Congressional Record of the 26th of June, 1897, reference is made to recent interviews with me, in regard to the Treasury tables of sugar drawbacks, and 13 statements are attributed to me."

As these statements are deduced from informal conversations upon the subject, none of them are accurate, and some are misleading, as shown by the following notes:

I am reported as having said:

"Nos. 2 to 5: That 8 refiners submitted statements to the committee, and that the tables were constructed by taking an average of these 8 statements."

NOTE.—I said that the basic proportion of 92 pounds refined to 100 pounds raw sugar testing 96 degrees was verified by the average of the statements.

"No. 7: That the statement containing over 94 pounds came from Cunningham, of Texas."

NOTE.—I stated that a Texas refinery, whose name I did not recollect, which reported a yield somewhere near 94 pounds, uses Louisiana sugars, which are known to give better results in refining than imported sugars.

"No. 8: That I never believed the refiners' statements and that I always estimated 93 to 93½ pounds of hard refined could be made from 100 pounds of 96-degree sugar."

NOTE.—I said that I would have preferred 93 pounds to 100, as a safer basis.

Q. When you say "as a safer basis," what do you have in mind—a safer basis for the Treasury Department?—A. Safer for the Treasury Department; safer against over allowances. [Reading.]

"No. 11: That though their (the refiners') statements were made under oath, I would not believe them."

NOTE.—I said (in reply to a remark of the interviewer) that "when refiners' statements are made under oath I have to believe them, unless I am prepared to prove perjury."

A man claiming to be a lawyer, as I do, should not say that he would not believe any man's statement under oath. When asked, if the parties are interested do you take their statements? I say, when they are under oath and I am not prepared to prove perjury, of course I have to take them.

Q. Now, before the law of 1897 was enacted, you said you would have preferred, as the safer basis, to take 93 pounds instead of 92½?—A. Yes.

Q. At the present time the Treasury is taking 92½ pounds for a basis?—A. Yes.

Q. I suppose that you would say that you would now consider it safer to take 93, or possibly 93½, on account of the improved methods of production?—A. That is, for the purpose of preventing an overallowance in some special cases; but the rates were based on averages, which is safe enough, and I myself signed the committee report in 1896 because I thought it safe enough. Personally, I might have preferred a different way of getting the result, but as a member of the committee I could have no objection to the average rate of 92, which was safe enough. It proves now it was safe enough. We have advanced only one-half pound in two years.

Q. Then, at the present time, with the changes we have made, you think that a basis of 92½ is certainly favorable enough to the refiners?—A. Yes.

And that probably no injustice would be done them now if a somewhat higher rate were taken, say 93; but, of course, one has to be sure to be fair to them. Is that your idea?—A. Yes.

Q. You think that in a great many cases no injustice would be done if you should adopt a basis as high as 93, or possibly 93½?—A. I can not tell what results might be reached by certain new combinations of degrees of raw sugar. You see the refiners use different combinations and are always experimenting upon the best results to be obtained from the various mixtures; but that is a very complicated calculation, which the Treasury Department can not make.

Q. It is, I presume, true that a great deal also depends upon the raw sugar itself, it having been found that raw sugar from different places is likely to give somewhat different results?—A. Exactly.

Q. Sometimes they may get as low as 90 pounds of refined to 100 pounds of raw, and sometimes possibly as high as 94 or 95?—A. I do not know about 95; that is a little too high; but 94 is possible with certain sugars. The Louisiana raw sugars give better results in refining than any others.

Q. So that from an especially good grade of raw sugar you may get as high as 94?—A. Yes.

Q. And this 92½ is supposed to be a fair average?—A. A fair average.

Q. Did you say that Louisiana sugars are, on the whole, the best the refiners use?—A. It is so reported.

Q. Can you give us any information with reference to the quality of sugars that come from other places. Which is the next best?—A. No; I can not give you any information on that point, because this Louisiana sugar was simply brought to my attention by Senator Caffery. In connection with my duties it has not been necessary to inquire into the different grades of sugars from different places.

Q. Do you know anything with reference to the comparative quality of the sugars that come from Cuba and the Hawaiian Islands?—A. I do not; I can not tell you.

Q. To come back to what we were speaking about a moment ago, the special point that I wish to be perfectly certain about is this, that in the present administration of the Department, according to your figuring, there is a differential duty in favor of refined sugar of 12.5?—A. I beg your pardon, 13.25; 13.25 instead of 12.5; 13½ instead of 12½.

THE DUTY ON SUGAR NOT INJURIOUS TO CONSUMERS.

Q. It is the opinion, of course, of a good many people that our sugar refiners do not need so high a duty as that. In the opinion of some, on account of the advantages that they get from combination in manufacture they need no differential duty. Have you any suggestion to make as to any law that might be passed to prevent the abuse of this differential duty in case the President or any one else should think there was an abuse?—A. The differential duty in itself can not be abused.

Q. Explain a little more fully.—A. I can not see how it could be abused.

Q. Will you tell just what you mean by that. I say that some people think that the protection that the refiners get is really injurious to the consumers of sugar and I ask you whether you have any suggestions to make.—A. No; I have not. I do not believe that it is injurious; that is not my belief. I think it is not injurious, because I find that under that very slight protection the refining interests of the United States have been growing and that the success of the refiners in their business redounds to the benefit of the public—of the sugar consumer. I am one of the greatest consumers of sugar in the United States. I use more sugar than double the per capita sugar consumption of the United States. I know very well that 20 years ago I had to pay 10, 11, and 12 cents a pound for refined sugar. Now I pay only 5 cents; I pay as much now, and have double the quantity to consume, so I do not see that a differential has done any wrong to the public.

TRUSTS OR COMBINATIONS MAY BE INJURIOUS.

But I see that a combination of the manufacturers of any article, call it trust or industrial combination, may become a menace to the welfare of the country if they abuse their power by using it in certain ways; as, for instance, if, after crushing the competition of small manufacturers by underselling their goods, they attempt to raise the market prices of the monopolized products on the one hand and on the other crush the workingmen employed by them in order to reduce the cost of production. Then they may become public enemies.

Q. Yes.—A. How to prevent or punish such a possible crime against the Commonwealth is a puzzling and troublesome question. In saying this, of course I

speak of something with which I have no official connection; we do not know anything in the Department about trusts and combinations.

Q. Of course not.—A. I speak as a citizen of the United States who reads the papers and tries to understand them. It is possible that a combination of manufacturers may become a menace to the Commonwealth, but how to prevent it and how to punish it is a puzzling question; and the newspapers, notwithstanding the great ability of our newspaper men, have not yet satisfactorily solved that problem. One way suggested is by legislation by the different States; another way is by legislation of the United States. Having had much to do with tariffs, it naturally suggested itself to my mind that tariff legislation might in some way be an instrument for preventing the abuse of combination; and in anticipation of coming before the commission I drafted a little bill, not as a perfect measure but as a suggestion, that might be of some use later. I will read it.

Q. Yes; I shall be obliged if you will read it.—A. (Reading):

A BILL.

To provide for the reduction of import duties in certain cases on articles, the manufacture of which is controlled by combination of manufacturers.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That whenever the President of the United States shall be satisfied that the manufacture of any article subject to import duty under the law then in force is monopolized, and the price thereof to the consumer is controlled by a combination of manufacturers of the same, and that such combination results in the lowering of the wages of its operatives and an inflation of the price beyond a reasonable profit over the cost of production, he shall provide by proclamation for the reduction, during a specific period, not exceeding 5 years, of the duties imposed on such article by such law to the extent of not less than 5 per centum nor more than 20 per centum thereof, and thereafter the duty which shall be collected by the United States upon the article designated in such proclamation shall be the duty so reduced.

Q. If I understand the purport of your bill, applied to the sugar combination, it would amount to this: That if, in his judgment, the President of the United States thought the sugar combination injurious to the consumers of sugar throughout the country, it would be within his discretion to reduce the tariff on refined sugar to the extent of 20 per cent for 5 years?—A. Yes.

Q. (By Senator MALLORY.) I notice that you make both of these conditions necessary, viz, an increase in the price of the article and a decrease of wages. Do you think it would be dangerous if it gave him the power to issue such proclamation on the existence of one condition, an increase of the price, for instance, or a decrease in wages. Either of them by itself is an evil. Is not an increase of the price to the public an evil of considerable importance in itself?—A. It is not an evil if it is comparatively slight. Suppose they sell sugar now at 5 cents and to-morrow find a way of producing it at a cost of 4 cents and continue to sell at 5, the consumer is not unfavorably affected.

Q. No; that is not the question.—A. Their income is greater and they derive it from a legitimate source—from an improvement in manufacture. Why should we punish them?

Q. Would that be an increase of price?—A. It would be.

Q. Would that not be simply allowing the price to remain at what it was before?—A. But it would be a price above the cost of manufacture.

Q. Oh, yes.—A. If they reduce the cost of manufacture by introducing machinery or some new methods, there is no reason why they should not reap the benefit of it so long as the public pays the same price; but if they reduce the cost of manufacture at the expense of the operatives, then the law would intervene. The public might not lose anything, but the operatives would, and in that case the law would intervene and open a free—a comparatively free—market to importation, and naturally reduce prices and bring them to terms.

Q. Well, as I understand your bill, a combination might reduce wages 90 per cent, but still the President could not issue such a proclamation unless they also increased the price. Now, if the production of sugar is in the hands of a combination, and if they are selling at 5 cents to-day and to-morrow raise the price to 7 cents all over the United States, would not that in itself be sufficient reason for the President to issue his proclamation without any reference to a reduction of wages?—A. It would, and therefore I suggest the word "or" instead.

Q. (By Mr. JENKS.) Instead of the word "and," before the words "an inflation," you would put the word "or"?—A. Yes.

Q. So it would read (reading) "and that such combination results in the lowering of the wages of its operatives, or an inflation of the price beyond a reasonable profit over the cost of production," etc.—A. Yes. This is a somewhat socialistic standpoint, but our minds can not help the influences of socialistic ideas falling in the way. We want to protect the operatives.

THE SUBJECT OF DRAWBACKS EXPLAINED.

Q. (By Mr. JENKS.) Will you explain to us the drawback on sugars and sirups exported?—A. The tables here submitted will give you the exact figures of the rates of drawback. All I can explain to you now is the general method of doing this.¹

Q. That is what we wish.—A. The committee investigating the proper rates of drawback to be allowed on sugar and sirups exported first of all ascertained the number of pounds of sugar of a certain degree necessary to produce a hundred pounds of refined sugar. At the same time they ascertained how much sirup would result from the operation of producing a hundred pounds of refined sugar from the required quantity of raw sugar of a certain degree. Having found how much raw sugar it took to make a hundred pounds of refined and the amount of sirup resulting from the operation, they took the duty on the number of pounds of raw sugar found to be necessary and apportioned it between the refined sugar and the sirup according to the quantities and the market prices. It may be reasoned in this way: If a pound of refined sugar is worth 4 cents and a gallon of sirup 6 cents, they will find what part of the value of the imported material is contained in the sugar and what part in the sirup and divide the total amount of drawback due, or duty due as drawback, between the sirup and the sugar in proportion to the values of imported material found to be contained in the product. It is a double proportion and complicated, but it is only arithmetical; and in this way they constructed these tables. Under the former tariff, the duty being ad valorem, the whole drawback was figured on the number of pounds of raw sugar used, and the number of pounds was calculated in accordance with the principle I have just explained, of distributing the duty between the sugar and the sirup in proportion to the values of the materials found therein. These tables will therefore show you that on sugar 96° test the duty of 107.47 pounds was attributed to the refined sugar. Under the present ratio, the duty being specific, the drawback has been calculated in dollars and cents, but the system of distributing the drawback between the sugar and the sirup has been the same. Now here you will find a column entitled "Charge record of importation for each 100 pounds exported." Now for each 100 pounds of refined sugar made from 96° test the charge to the record of importation is 124 pounds. That covers all the sugar used in refining and all the sugar which goes into the sirup, and the figure is very ample in order to prevent reference to importations that have been exhausted by exporting. One hundred and twenty-four pounds is a very high figure, but inasmuch as the present committee, or the latest committee on the drawbacks, found it necessary to get the average drawback on sirup, instead of so much per pound on the sugar contained in the sirup, they found it possible to make the average here. The drawback on sirup is as follows: "On sirup valued at 3 cents per gallon or less, the drawback shall be 1½ cents per gallon; on sirup valued at 3 cents and not above 14 cents per gallon, the drawback shall be one-half the value of the sirup; on sirup valued above 14 cents per gallon, the drawback shall be 7 cents per gallon." They made very elaborate calculations showing that these averages exactly meet the postulates of the system of distributing the duty between refined sugar and sirup. On reading the very elaborate report there was no doubt in my mind that it was correct.

Q. The information was, I suppose, largely gathered at the refineries?—A. Yes. They went to the refineries and examined the books and had statements made to them; the refineries opened their books to the investigation of the committee freely, and there was no secret about it.

COUNTERVAILING DUTIES EXPLAINED.

Q. Will you also explain for us the subject of countervailing duties?—A. Yes. It is one of the most delicate and difficult duties imposed upon the Secretary of the Treasury by the existing law.

¹ See Circular No. 183, p. 44.

[1898. DEPARTMENT CIRCULAR No. 199. Division of Customs.]

ADDITIONAL DUTIES ON SUGAR IMPORTED FROM, OR THE PRODUCT OF, COUNTRIES PAYING BOUNTIES ON THE EXPORT THEREOF.

TREASURY DEPARTMENT,
OFFICE OF THE SECRETARY,
Washington, D. C., December 12, 1898.

To Officers of the Customs and others concerned :

Section 5 of the act of July 24, 1897, provides as follows :

That whenever any country, dependency, or colony shall pay or bestow, directly or indirectly, any bounty or grant upon the exportation of any article or merchandise from such country, dependency, or colony, and such article or merchandise is dutiable under the provisions of this act, then upon the importation of any such article or merchandise into the United States, whether the same shall be imported directly from the country of production or otherwise, and whether such article or merchandise is imported in the same condition as when exported from the country of production or has been changed in condition by remanufacture or otherwise, there shall be levied and paid, in all such cases, in addition to the duties otherwise imposed by this act, an additional duty equal to the net amount of such bounty or grant, however the same be paid or bestowed. The net amount of all such bounties or grants shall be from time to time ascertained, determined, and declared by the Secretary of the Treasury, who shall make all needful regulations for the identification of such articles and merchandise and for the assessment and collection of such additional duties.

In pursuance of these provisions, the following amounts of bounties respectively paid or bestowed, directly or indirectly, on the export of sugars by the countries hereinafter named, are hereby declared for the assessment of additional duties on sugars imported from, or the product of, such countries or their dependencies, viz:

ARGENTINE REPUBLIC.

On sugars produced in the country since January 20, 1897, and exported with benefit of drawback, 6 centavos per kilogram.

AUSTRIA-HUNGARY.

On sugar under 93 per cent and at least 88 per cent polarization, 1.37 florins per 100 kilograms.

On sugar under 99½ per cent and at least 93 per cent polarization, 1.46 florins per 100 kilograms.

On sugar at least 99½ per cent polarization, 2.10 florins per 100 kilograms.

DENMARK.

On refined sugar produced wholly from beets grown in Denmark, 1.12 crowns per 100 kilograms.

FRANCE.

Raw sugars of the standard of 65 to 98 per cent for beet-root sugars, or of 65 to 97 per cent for French colonial sugar per 100 kilograms of refined sugar, 100 per cent, 10.82 francs.

Sugar candies calculated at their legal equivalent, per 100 kilograms, effective weight, 11.51 francs.

Refined sugars in loaf or crushed, clear, hard, and dry, per 100 kilograms, effective weight, 11.51 francs.

Raw and refined sugars in grains or crystals of a minimum standard of 98 per cent, 11.17 francs.

The output of refined sugar from raw is calculated by deducting from the polarization of the raw sugar twice the glucose, four times the ashes, and 1½ per cent for loss in refining.

GERMANY.

On raw sugar at least 90 per cent polarization, and on refined sugar under 98 per cent and at least 90 per cent, 2.50 marks per 100 kilograms.

On candy and sugar in white, hard loaves, blocks, crystals, etc., at least 99½ per cent, 8.55 marks per 100 kilograms.

8. On all other sugar at least 98 per cent, 8 marks per 100 kilograms.

THE NETHERLANDS.

On raw sugar produced in the country from beets, and testing less than 98 per cent, 2.2354 florins per 100 kilograms of hard refined (100 per cent).

On raw beet sugars testing 98 per cent or above, three-fourths of said bounty, viz, 1.7655 florins per 100 kilograms of hard refined.

On refined beet-root sugars, 0.2946 florin per 100 kilograms of hard refined (100 per cent) in addition to the above bounties.

On refined sugar from other materials than beet-root raw sugar produced in the country, 0.2946 florin per 100 kilograms of hard refined.

The output of refined sugar from raw is computed by deducting from the polarization of the raw sugar twice the glucose, four times the ashes, and 1½ per cent for loss in refining.

RUSSIA.

On sugar testing not less than 99 per cent per pood (36.113 pounds avoirdupois), 0.50 rouble. One rouble equals 51½ cents.

On sugar testing not less than 88 per cent per pood, 0.44 rouble.

On sugar testing not less than 75 per cent per pood, 0.38 rouble.

Every invoice of sugar must be accompanied by a certificate of the United States consular officer at the port of shipment to the United States, naming place and country where the merchandise was produced, and, in the case of refined sugar, naming also the country of production of the raw sugar, molasses, or sirup used in the refining.

The liquidation of entries of sugar not accompanied by such certificates shall be suspended, and the estimated duties shall include an amount sufficient to cover the additional duty to which such sugar may be apparently liable.

The conversion of the several foreign currencies mentioned above into United States money will be governed by the provisions of section 25 of the act of August 28, 1894.

The question as to the net amounts of the bounties indirectly bestowed by the Government of Belgium on exported sugars is under consideration. Pending the ascertainment and determination of said amounts, entries of sugars imported from, or the product of, that country will be subject to the provisions of circular No. 174, of October 19, 1897 (synopsis 18481).

L. J. GAGE,
Secretary.

When you consider that the countries paying export bounties on sugar have been trying for years to conceal from each other and from the world at large the ways in which such bounties are bestowed, and when you consider that the legislatures of the different countries have used their own language in legislating upon that matter, you may conceive in a slight degree, at least, what the difficulties which confronted the Secretary of the Treasury in ascertaining these facts must have been. Some of the foreign countries have recently, comparatively recently, concluded that there is no use concealing, and in addition to the concealed bounty have given straight bounties on exports. Germany, Austria-Hungary, and France have done so. The concealed bounties most levied were the result of the taxation of sugars, on the basis of production, from beet roots, which was less than the actual production. Now, for instance, if the product of 100 pounds of beets is 7 pounds, the tax will be levied on 6 pounds, and 1 pound will go free. When the sugar is exported the whole of the tax is remitted. You say, Where is your bounty? We levy a tax on 6 pounds of sugar consumed here, and remit the tax on 6 pounds. But where is the other pound? That pound was not exported; it was more profitable to the producer of sugar to sell free sugar at home at the price of the taxed sugar and to export the taxed sugar with a remission of the tax. They did that in Belgium, in France, in Germany, in Austria-Hungary, and, I am sorry to say, in my old country, Russia. I felt a little delicate about showing up that concealed bounty in Russia because my former liege and sovereign might have taken exceptions to such action, and so I washed my hands of the whole thing. I submitted the case to the Assistant Secretary, and stated to him that I

might be suspected of undue partiality toward my old country. I said, "There are the facts; you decide for yourself." He decided there was a bounty.

Q. You gave him the facts in detail?—A. Yes; he said there was a bounty, and so we proclaimed it; and there it is, and a big one, too. In Russia all sugar testing less than 99 per cent is .5 of a rouble per pood; that is, in Russian, pood. That, however, is the unit we had in Russia, equal to 106.130 pounds of sugar. Testing not less than 99 per cent, this corresponds to about 25 cents—25 cents on 6 pounds; that is a very big bounty. The official correspondence of the Secretary of State shows that the Russian Government denies the existence of any bounty. These figures were reached by the Assistant Secretary by taking the difference between the cost of production and the price for exportation. The price for exportation was, by these figures, lower than the cost of the production.

Q. Were you able to find out the cost of production there then?—A. Yes, the cost of production is generally so much per pood.

Q. How much is it per pound?—A. It was about 2 roubles, or 2½ roubles, per pood.

Q. Can you give us the cost of production in English figures?—A. I am sorry, but I can not—I can not do it; I will not undertake to figure from memory; I have a very poor memory for figures.

Q. Then you were able to find that Russia also gave an export bounty?—A. I was not.

Q. You were able to get the figures for the Department?—A. I was unable.

Q. Then the Department was able to find it?—A. Yes, the Department was able to find it, but I was not.

Q. Then these countervailing duties are simply additional duties imposed here to even or balance export bounties paid by foreign countries?—A. Yes; they place sugars imported from countries not paying bounties on the same basis as countries that pay export bounties.

Q. So as far as the question of protection on sugar is concerned, do the countervailing duties have anything to do with it?—A. They have nothing to do with it; there is really no protection in that.

Q. Have you anything further to bring out with reference to these countervailing duties?—A. I might say that the bounties we have spoken of were determined and proclaimed after a very careful and minute investigation in most cases and after conferences with the representatives of the country affected. The representatives all came to see the Secretary and pleaded their side.

TREATIES AFFECTING IMPORTATION OF SUGAR.

Q. Are there any reciprocity treaties that affect the tax on imported raw sugar?—A. I do not know of any reciprocity treaty except the Hawaiian.

Q. What are the conditions at present with reference to the importation of sugar from the Hawaiian Islands?—A. I do not know that the accession has as yet changed the conditions; we are waiting for further action by Congress.

Q. Will you tell us just what the conditions were in order that we may get it on record?—A. I thought the Hawaiian treaty was appended to this new tariff, but I see it is not. We used to have it appended to the publication.

Q. Will you state what it is, so that we can get it on record?—A. I will read you the section of the tariff act which applies to the Hawaiian treaty. I have not the provisions of the treaty.

Q. Will you read again that part of the section that you read before?—A. Yes. Paragraph 209, Schedule E, tariff act, July 24, 1897, reads as follows:

"Sugars not above number sixteen Dutch standard in color, tank bottoms, sirups of cane juice, melada, concentrated melada, concrete and concentrated molasses, testing by the polariscope not above seventy-five degrees, ninety-five one-hundredths of one cent per pound, and for every additional degree shown by the polariscopic test, thirty-five one thousandths of one cent per pound additional, and fractions of a degree in proportion; and on sugar above number sixteen Dutch standard in color, and on all sugar which has gone through a process of refining, one cent and ninety-five one-hundredths of one cent per pound; molasses testing above forty degrees and not above fifty-six degrees, three cents per gallon; testing fifty-six degrees and above, six cents per gallon; sugar drainings and sugar sweepings shall be subject to duty as molasses or sugar, as the case may be, according to polariscopic test: *Provided*, That nothing herein contained shall be so construed as to abrogate or in any manner impair or affect the provisions of the treaty of commercial reciprocity concluded between the United States and the King of the Hawaiian Islands on the thirtieth day of January,

eighteen hundred and seventy-five, or the provisions of any act of Congress heretofore passed for the execution of the same."

Q. So that provision still remains in force?—A. Yes.

AFFIDAVIT.

WASHINGTON, D. C.

I swear that the statements made by me of my own knowledge in the foregoing report of my testimony before the Industrial Commission are true, and that all other statements I believe to be true.

S. N. BUYNITSKY.

Sworn and subscribed before me this 12th day of September, 1899.

[SEAL.]

JAS. N. FITZPATRICK,
Notary Public.

WASHINGTON, D. C., June 12, 1899.

TESTIMONY OF MR. G. WALDO SMITH,

President of the Wholesale Grocers' Association of New York City.

The commission met on Monday, June 12, 1899, at 2 p. m., Vice-Chairman Phillips presiding. Mr. G. Waldo Smith, of New York City, president of the Wholesale Grocers' Association of New York City, being first duly sworn, testified as follows:

Q. (By Mr. JENKS). Will you kindly state your full name and address to the stenographers?—A. G. Waldo Smith. My present address is College Point, Long Island, N. Y.

Q. What is your business?—A. Wholesale grocer.

ORGANIZATION AND OBJECT OF THE WHOLESALE GROCERS' ASSOCIATION.

Q. You are also connected, I believe, with the Wholesale Grocers' Association?—A. Yes.

Q. In what capacity?—A. As president.

Q. You will tell us briefly what the nature of this Wholesale Grocers' Association is?—A. It was formed 11 years ago, to improve the condition of the trade in all ways possible. It is a voluntary association; not incorporated. That was the simple purpose—to improve the condition of the trade.

Q. In what different ways has it gone to work to do that?—A. First by putting a limit on some goods that were sold at cost, such as sugar, Royal baking powder, and bakers' goods—that is to say, they were sold at net cost. They were about one-third of the aggregate of the business, and bankruptcy stared us in the face. We would buy \$1,000 worth of sugar and could not get \$1,000 and 1 cent for it. We finally agreed that we would buy sugar and sell it at a quarter of a cent a pound advance. That lasted for a year and a quarter.

Q. About what time was this arrangement made?—A. About 10 years ago last October.

Q. Was this arrangement made by the officers of the Wholesale Grocers' Association?—A. No; it was made at a meeting of the whole association.

Q. Was it a formal agreement, put in writing?—A. No; I do not think it was. We agreed to it in the organization informally and passed a resolution verbally. Notice was then sent out to those who were not there, stating what we had done.

Q. Please go on.—A. We maintained that price for a year and a quarter. Then a new house came in and cut the price and reduced the profit to one-eighth of a cent a pound.

Q. What house was that?—A. Todd & Co., a very small house. That went on for 6 or 8 months, and they began to cut the price and paid no attention to that agreement, so that we were reduced to the original status of handling goods for nothing. That was the end of that arrangement. Then we passed a resolution that we would never limit the price again ourselves. We could not maintain it. The one hundredth man made the price and the 99 men had to consent.

Q. Has the Wholesale Grocers' Association had any other arrangement with reference to the sale of sugar?—A. Not as an association.

THE FACTOR SYSTEM.

Q. What have your arrangements been since?—A. Some of us then went to the refiners. There was practically only one refinery at that time—the American Sugar Refining Company.

Q. You say that there was practically only one refinery at that time?—A. Practically only one, and we asked them what they could do to help us.

Q. One moment, please. You say that there was practically only one at that time?—A. The Revere at Boston was the only other one I knew of. There was nothing in New York or Philadelphia, but since then they have been coming in. Mollenhauer came afterwards and quite a number of others.

Q. And since then have come the Arbuckles and quite a number of others?—A. Yes; they all came in afterwards.

Q. Very well. Will you please tell us what arrangements you made with the American Sugar Refining Company?—A. We asked them to adopt certain definite fixed terms of sale.

Q. You said that a number of you went to them to make that arrangement. Was it the Wholesale Grocers' Association, or did a number of you go to them as individuals?—A. Oh, we went as individuals. They came from Boston, Providence, and Newark, different ones at different times.

Q. This was, of course, done by consultation and arrangement among yourselves?—A. Yes.

Q. About what proportion of the Wholesale Grocers' Association were represented by this meeting or by this committee that asked the American Sugar Refining Company to make such an arrangement?—A. Perhaps I had better tell the story. I will get at it quicker.

Q. Very well.—A. We—that is, Mr. Thurber, who has since gone out of business, Mr. Leggett, Mr. Nichols, Mr. Seaver, of Boston, Mr. Howard Spur, of Boston, and others whose names I do not recall, and myself—went to Mr. Havemeyer and Mr. Searles and asked if some way could not be invented by which we could get a profit on sugar. We were closeted with them discussing the matter for six afternoons, and it was settled as a result of our talk that they would bill us sugar at 5½ cents and that if we maintained the price at 5½ cents, say, for 3 months, they, at the end of that time, would give us a rebate of 18½ cents a hundred. This was to be uniform to all buyers, wholesale and retail, manufacturers, and everybody. It was simply the terms by which they would sell their sugar.

Q. They would sell at the same price to everybody?—A. Yes; everyone the same.

Q. Regardless of whether or not they were represented by you?—A. No; it was no concern to us at all. It was to cover New York as far as Poughkeepsie, New England, and New Jersey.

Q. How about the grocers who were beyond these limits?—A. They came in afterwards. They saw we had a good thing and asked for the same thing.

Q. Will you go further, telling us the nature of the agreement, if there was anything further?—A. There was never any agreement. They simply said to us: "If you will prove to us that you want it, why, we may consider the matter." And we proved to them by getting all the grocers of that entire territory of New England and New York, as I have said, and a portion of New Jersey, all except three, to sign a petition that they would adopt the system.

Q. That was considerably over 90 per cent, probably about 99 per cent?—A. Ninety-five per cent was their ultimatum, and we got practically the whole. There were only 5 of them who did not sign, and they were in Europe, and no one was authorized to sign for them. It was practically unanimous.

Q. Will you please tell again clearly what the nature of the terms of sale was to be?—A. In place of granulated sugar being sold and billed at 5 cents, they would bill the sugar at 5½ and we would pay 5½, and on condition that we sold at no less than that they, at the end of 3 months, would give us a rebate amounting to 18½ cents a hundred pounds.

Q. When were you to pay for this sugar?—A. We were to pay for it in 7 days. We could get 30 days, but we could get one off for cash in 7 days.

Q. Thirty days was the time?—A. Yes.

Q. And you got one off for cash in 7 days?—A. Yes.

Q. How long did that custom or plan last?—A. It has lasted practically until the present time, although there is no enforcement of it in any way. The wholesale grocers simply buy at a certain price, and if they sell at less they get what they are paid and do not get this rebate.

Q. In case a person was not willing to abide by it, and did not maintain the price, what would be the penalty?—A. The penalty would be the loss of the rebate at that time, but for 4 or 5 years there has not been any penalty.

Q. At that time it would be the loss of this rebate of 18½ cents?—A. A hundred pounds; yes.

EFFECT OF COMPETITION AMONG THE REFINERS.

Q. At this time you say you are selling sugar under substantially the same terms?—A. Yes; but it is now purely voluntary, because, on account of the competition between the refineries, they can not enforce anything.

Q. How long has the competition between the refineries existed?—A. I should say since last August; perhaps a little later; along in September Doscher and Arbuckle came in. The Doscher concern is known as the New York Company.

Q. Since last August or September?—A. I should say about August or September.

Q. Do you recollect about what time the Doscher and Arbuckle refineries were built and put in operation?—A. About that time. I was in their offices occasionally, but I can not fix the exact date. I know it was last summer, for, living on Long Island, I was passing by their factories on the ferryboat.

Q. As soon as their refineries came into full operation did the price of sugar begin to drop?—A. The margin between 96 degrees centrifugal and granulated began to get closer.

Q. About what was the margin between 96 degrees centrifugal and granulated 2 years ago?—A. I should say about seven-eighths of a cent, although my knowledge is not definite. I do not know; I do not look at the prices close enough.

Q. Very soon after these sugars began to get on the market this margin began to lessen?—A. Yes.

Q. Do you know on which side the cut in price came first?—A. Oh, on the Arbuckle and New York.

Q. And they were followed by the American, but they started first?—A. They are usually one-sixteenth below.

Q. Below the American Sugar Refining Company?—A. Yes.

Q. What is the margin between the two?—A. My knowledge is not definite, but I should say about one-half cent, but I have no definite knowledge. I have not looked at the price in a month; perhaps not quite a month.

Q. In your own business, as a wholesale grocer, do you handle exclusively the sugar of the American Sugar Refining Company?—A. I handle the sugar of the 4 different refineries.

Q. What 4 refineries; the American, the Mollenhauer, the Doscher, and the Arbuckle?—A. We handle the sugar of all of them.

Q. You are handling now the Arbuckle and Doscher sugar, as well as the American?—A. I do not know; I have no knowledge. I am not in my store more than once in 2 or 3 days, and I do not keep track of the details.

Q. But you know that you have been handling the Doscher and Arbuckle within a month or so?—A. I can not say that.

Q. Within how long can you say?—A. Within 3 months.

Q. Then you certainly have been handling the sugar within 3 months?—A. Yes.

Q. Did you not make a distinction a moment ago between the Doscher and the Mollenhauer refineries?—A. I do not know how I made any distinction.

Q. In speaking of the competitors of the American did you not mention Mollenhauer and then withdraw his name?—A. Mollenhauer started several years ago and worked in harmony with the American Sugar Refining Company.

Q. Is he controlled by the American Sugar Refining Company?—A. He has always been working in harmony with them. They have always been in perfect harmony whether they are really one or not.

Q. You say that the prices you get from Doscher and Arbuckle are ordinarily one-sixteenth less?—A. Yes.

Q. Than the American? But the prices you get from Mollenhauer are the same?—A. Mollenhauer is practically out of the market now.

Q. Is he not running his refinery?—A. No; he was not running it the last I heard. As I have said, his prices were in harmony with the American refinery.

Q. As long as he was running he was in substantial harmony?—A. The last I heard from Mr. Post he said he was not anxious to push business when he could not make any money.

Q. Is Mr. Post one of the partners?—A. He is the salesman; he is the head of the selling department in the Mollenhauer factory. That was about 3 months ago. He told me he did not want to run his refinery, and as long as they were fighting and running in opposition he would not run it.

Q. At the present time are the only ones that can be considered as running in opposition to the American Sugar Refining Company the Doscher and the Arbuckle?—A. I said that the other is just as much in opposition, only it is not running.

Q. But I understood you to say that the prices from the Mollenhauer refinery were always in harmony with the American Sugar Refining Company?—A. Until the opposition came in; my knowledge is not definite about that. I have paid no attention to that, and had practically nothing to do with it until the commencement of this rebate system.

Q. Now, with regard to the territory outside of that covered by your association, did you say they afterwards came in under substantially the same method of doing business that you adopted?—A. Yes.

Q. How did they arrange prices for the territory further west?—A. In the same way.

Q. Did they make any difference for freight?—A. Oh, yes; there is what is called the equality book published, so that if a grocer in Watertown—I do not know where Watertown is, but we will use that name—wants to buy sugar in New York, Philadelphia, Albany, or Rochester, it will be laid down at the same price.

Q. Who determines what that price shall be?—A. The railroads, I think. Our secretary goes to the railroads and gets their freight rates.

Q. Then it is your secretary that fixes the rate book?—A. He fixes the rate; that is, the cost of transportation from Philadelphia, Boston, and New York, where these refineries are. He compares the costs of transportation and fixes the rate from each one, which is in the form of an arbitrary statement, as, the freight from a certain point to a certain point is so much.

Q. Then the wholesale grocers in Kansas City that are buying sugar from the American Sugar Refining Company pay the same as you do with the freight added?—A. I suppose so.

Q. Now, who is it that gives you the price, the American Sugar Refining Company?—A. They give us the price of their goods only.

Q. Are the rebates which they fix the same, in your judgment, barring the difference in freight, to everybody to whom they sell in the country?—A. As far as I know to everybody, to all classes of people.

Q. About what proportion of the sugar that goes into the market is furnished by the American Sugar Refining Company?—A. I have no knowledge.

THE REBATE SYSTEM.

Q. This agreement that you have with them?—A. We have no agreement, we have no agreement of any name, nature, or kind.

Q. When you have a bill of goods sent to you does not the bill contain a statement about the rebates, or is there no rebate at all now?—A. The rebate comes, but it is purely voluntary. We can sell to anybody we wish and get the rebate just as well.

Q. Is there no statement in the bill as to what the rebate will be?—A. I do not think there is, although I am not certain. I have not seen an account for several years. I know that they withdrew the affidavit 4 or 5 years ago. We had to sign an affidavit before we got the rebate, but they withdrew it 4 or 5 years ago. I remonstrated with them that it would break up our whole system.

Q. Is it, however, your experience that the withdrawal of the affidavit did not break up the system?—A. It has not, and still it has, partially. Those that do maintain it have lost lots of customers because of cutting. We have lost probably one-quarter of our sugar trade through the prices being cut by our competitors.

Q. Are you, at the present time, in the same condition as you were before this rebate system was adopted? That is, are you now selling at exact cost?—A. Oh, no, no.

Q. What rate of profit have you now?—A. Eighteen and three-fourths cents.

Q. There has been no change then?—A. Yes.

Q. No change at all since that first agreement?—A. No, except that there is always somebody who will cut prices; sometimes they will cut 2 per cent in order to get something, or make 3 per cent discount. There are various ways of cutting prices.

Q. Do the people who cut the price get the discount?—A. Certainly; there is no compulsion about the selling; it is just as they please; in fact a good many of us are in favor of opening up the whole thing.

Q. Do you think that change (the doing away with the affidavit and permitting the grocer to make his own price as he wished and still receive the rebate) was made on account of the competition of the other refineries?—A. No; it was made on account of the propensity of people to make every possible effort to get trade and to get all the business by being dishonest and selling things for less than cost. There is always one man in a hundred that will do that.

Q. You mean, then, that it was found that there were some people who would cut below the fixed price and make an affidavit that they had not?—A. No; I think it was very rigidly adhered to. I heard no complaint that amounted to anything; none that was substantiated. I think that everybody kept it honorably and faithfully.

Q. Why did they do away with the affidavit, then? What reason could they have had for withdrawing it?—A. Carelessness, I think, and the difficulty of enforcing it. They would be charged with cutting prices and our secretary would try to get the proof. It would not be satisfactory to the refiners and they would not enforce it. They got into a great deal of trouble, became careless about it, and finally let it go. They had no object in it; they had nothing to gain; it was all labor for them, and expense and trouble for nothing.

Q. The gainers were mostly the grocers?—A. Yes; we could not keep it up. I tried hard enough, I am sure.

Q. Do you deal in foreign sugars?—A. No; I do not think there is any foreign sugar imported under the new tariff bill, or if there is it is very little.

Q. I was thinking of raw sugar. Do you deal in raw or beet sugar?—A. No; I do not think any wholesale grocer deals in raw sugar.

ARRANGEMENTS FOR SELLING OTHER KINDS OF GOODS.

Q. Have you had or do you now have any similar arrangement with reference to selling other lines of products besides sugar?—A. Yes.

Q. Could you give us some other instances?—A. Babbitt's soap, Royal baking powder, and a large line that I do not now recollect.

Q. Suppose you tell us about those two. Under what conditions do you sell Babbitt's soap?—A. We buy it at \$4—I do not know what the price is—and are allowed, when we make a remittance to take off 25 cents a box if we send a statement that we have sold it at no less than \$4.

Q. You send a statement to that effect?—A. Yes. There is no affidavit. We send a simple statement; they adopted terms of sale. There is no agreement between us of any name or nature. The Royal Baking Powder Company give us, at the end of the year, 5 cents off, if we do not sell for less than we have paid.

Q. Do you have to sign a statement as to that?—A. No; I do not think we do. There is no statement we have to sign. I have never signed one. There may be, possibly, but I never saw one.

Q. Have you any forms of bills or agreements with you?—A. No.

Q. Can you furnish them to the commission?—A. Yes; I can mail you some.

Q. Will you mail us, in the first place, a statement of the forms in which you receive your bills from the sugar companies now?—A. Yes.

Q. If you can, will you send us the form you had when under the rebate system, with the affidavit form?—A. I suppose I can do that, if we have got it in the office. I do not know whether they will give it to me at the sugar refinery. I will go through the desk.

Q. Will you also furnish us the form of agreement you say you have with Babbitt's and the Royal Baking Powder Company, so that we may see how they correspond?—A. Yes.

Q. Will you be kind enough to mail those to us in a day or two?—A. Yes; within two or three days.

[Mr. Smith was unable to furnish the exact forms asked for above. He furnished the following as substitutes.]

Preamble and resolutions offered by G. Waldo Smith, president Wholesale Grocers' Association, New York and vicinity.

Whereas a very large and ever-increasing proportion of the goods handled by the wholesale grocers are manufactured articles of uniform quality and quantity in each package; and

Whereas under the laws of modern competition it is impossible to obtain a profit on such goods; and

Whereas it can not be expected, nor is it right, that either the jobber or the retailer should aid the manufacturer in placing his goods in the hands of the consumer, unless he obtain a reasonable and adequate remuneration for the service he performs; hence, the real relation between the manufacturer, the jobber, and the retailer is one that calls for careful consideration at the hands of all concerned.

The right of the manufacturer to sell directly to the consumer, or to reach the consumer through the retailer alone, can not be questioned. The only question that we can expect the manufacturer to consider is: How can he place his goods in the hands of the consumer with the least cost and trouble to himself? If he

wishes to reach and supply a million consumers, he can deal directly with, say 250,000 families, or with about 4,000 retailers, or with about 80 jobbers. To deal directly with private families is manifestly impossible for the large manufacturer. To deal directly with 4,000 retailers for each million of consumers involves an outlay for salesmen, clerks, credit clerks, lawyers, delivery wagons, etc., and an amount of detail, also losses from bad debts that few manufacturers can undertake, or, at least, except in their home city. To reach a million consumers through about 80 jobbers is a task that can easily be accomplished, and entirely within the reach of a successful manufacturer.

Some manufacturers deal directly with large retailers who discount their bills, but expect the jobbers to serve the smaller retailers who do not pay so promptly. This is manifestly unjust and unfair to the jobber.

The jobber acts as distributing agent for a large number of manufacturers, and has a plant adapted to that special work.

Under the laws that govern competition the hundredth man—and he may be a very small dealer at that—can make the price at which his 99 competitors must sell all goods of the class above enumerated. All experience proves conclusively that where no protection is afforded by the manufacturer, such goods are soon sold at about net cost, and hence involves a loss of nearly, or quite, the cost of handling them. Now, while the individual jobber may be a philanthropist, yet he certainly is not doing business for the good of the people, and, like all other men, he is in business solely and alone for the purpose of making money; and, while he may carry in stock some goods that do not pay a profit, he certainly does not push their sale, and is either endeavoring to prepare some article that will take their place, or else substitute an article that will pay a profit.

Now, the experience of the last 10 years of associated effort has proven conclusively that it is possible to adopt a plan that will not only control the hundredth man, and enable not only his 99 competitors, but he himself, also, to obtain a reasonable recompense for the service he performs.

Our experience also proves that half-way measures that hold the honorable merchant, but do not control the man who seeks to obtain an advantage over his competitors by dishonorable means, are far worse than none, and should not be tolerated for a moment.

What we want is a system that will be absolutely maintained by the manufacturer, even if it involves trouble and expense, and, perhaps, the occasional loss of a customer. We believe that such a system can be found, and we believe that the true interest of the manufacturer would be best conserved by adopting such terms of sale as could be rigidly enforced.

We further believe that all self-respecting jobbers should refuse to carry goods in stock on which a profit can not be obtained; and that where manufacturers will not do all in their power to protect the jobber from the nefarious and destructive work of the cutter, that they should be permitted to deal directly with the consumer.

Of the wisdom of the manufacturers adopting such terms of sale as will interest the jobber, there can be no doubt, if for no other reason than that the jobber distributing for many manufacturers can do it at much less cost than the manufacturer can do it for himself.

Of the question of its justice, it is only necessary to say that any system of doing business which compels anyone to perform a service for the public without a reasonable remuneration is opposed to a wise public policy and the best interests of all the people.

Of the legality of the limited price and rebate system, or the factor system, there can be no doubt, as no law ever has been or can be passed that will prevent a manufacturer adopting such terms of sale as will, in his judgment, best subserve his own interests, provided that they are uniform and work no injustice to any one class of buyers.

Therefore, in view of the foregoing, be it

Resolved, That this convention believes that a limited price and rebate system is necessary, just, and in the interest of all concerned.

Resolved, That a committee of 5 be appointed to consider all systems now in vogue and to prepare such a system as, in their judgment, will be to the interest of all concerned, and then endeavor to procure its adoption by all manufacturers whose goods we handle.

[Office of New York State Wholesale Grocers' Association, 6 Harrison street, New York.]

GENTLEMEN: At a convention of wholesale grocers, held at Niagara Falls, June 7 and 8, 1898, the undersigned were appointed a committee, with instructions to endeavor to bring about such changes in the present system of handling manu-

factured and proprietary articles as, after full investigation, might seem for the best interest of both manufacturers and jobbers.

As preliminary work, a copy of preamble and resolutions adopted at the convention, with a circular letter asking for the opinion of manufacturers and jobbers on 5 questions propounded, were sent out to all parties interested.

We have received a large number of answers from wholesale grocers, every one of which assures the committee of their approval of the movement; most of them expressing their preference for an ironclad agreement, if one could be devised, and promising their hearty cooperation in carrying out any measures that might be adopted that would improve the condition of the trade, and as far as possible put an end to the nefarious and ruinous work of the cutter.

We also received a large number of replies from manufacturers. One said that he had never tried a rebate or factor system, and hence could not give any advice. A number said they had never tried one, but earnestly desired to do so if one could be submitted that seemed workable.

Many of the largest and best known manufacturers, having business relations with the entire country, and well known to all grocers, said they were doing their business under a rebate or factor system and had been for some years; had found it satisfactory and proposed to continue it, and would gladly adopt any improved system that might be suggested.

If it were not for the fact that it would make this report too voluminous, we would like to quote from many of them, but will only give short extracts from 6 of the best known and largest manufacturers' replies.

One from Pennsylvania says: "We are satisfied that an improvement can be made upon our plan and are anxious to formulate an agreement mutually beneficial to manufacturers and dealers."

One from Indiana says: "We have always believed the rebate system to be a good thing for the manufacturers and jobbers, and we are in favor of any satisfactory system which you may devise."

One from Illinois says: "We appreciate the value of the cooperation of the wholesale grocery trade, and no effort on our part will be spared to make them a medium through which to supply the retailers with our specialty products."

One from New York says: "We hold that the master key to the situation is found in the hands of the manufacturer, and in his alone, because he acts clearly within his constitutional rights, when he chooses his customers and when he elects not to sell his product to price cutters. The legality of his act can not be successfully assailed from any quarter."

One from Pittsburg says: "We are very much pleased to see this movement. We have been advocates of the rebate system for many years."

One from Ohio says: "We beg to advise the committee through you that we are in hearty sympathy with every effort of the wholesale grocers in their attempt to devise a system which will enable them to sell our products and other staple specialties at a price that will offer them a legitimate profit, and will gladly cooperate with them in a movement in this direction to the extent of our ability."

As a result of our study of the situation, we have decided to submit as follows:

We hereby fully indorse the plan for selling sugar, known as the factor and equity system, as it was managed in the early years of the movement, when rebate checks were not sent until affidavits had been received. With this requirement restored, we doubt if the plan could be greatly improved upon.

For handling other articles, we have selected and formulated three plans, giving our first preference to No. 1, our second to No. 2, and our third to No. 3.

When at all possible, we believe that the equity system should be introduced (our secretary will explain this to those not familiar with it), and where this can not be done, the country should be divided into sections and different prices made to equalize the freight rates, as is now done by some of our largest manufacturers. We believe that either system proposed will work to the benefit of all concerned, if strictly enforced by the manufacturers, but not otherwise, and we again repeat what was said in the preamble and resolutions passed at Niagara, i. e.:

"That any halfway measures that hold the honorable merchant, but does not control the man who seeks to obtain an advantage over his competitors by dishonorable means, are far worse than none and should not be tolerated for a moment."

We respectfully ask all manufacturers to give this communication careful and thoughtful consideration, and if they have not yet adopted a rebate system to adopt one of the three submitted, or if these do not have their full approval to adopt one of their own that will accomplish the same results; and we also ask all wholesale grocers whom we represent, and in whose interest we are working, to

cooperate with us in putting an end, so far as possible, to the ruinous and destructive work of the cutter.

We recommend to all associations the passage of resolutions offering a large reward for the detection and exposure of anyone who willfully cuts the price of any limited article.

Respectfully submitted.

G. WALDO SMITH, *New York,*
W. J. SEAVER, *Boston, Mass.,*
J. F. GRINSTED, *Louisville, Ky.,*
HORACE C. BREWSTER, *Rochester, N. Y.,*
F. W. HANNAHS, *Newark, N. J.,*
Committee.

[FORM No. 1.—Contract governing sale of John Doe & Co.'s goods.]

First. We promise and agree not to sell, or cause to be sold for less than the card rates now in force, the different brands and grades of soap manufactured by John Doe & Co., directly or indirectly, either by rebates, commissions, payment of freight, allowing a greater discount for spot cash than 1 per cent, selling the said goods on longer time than thirty days, allowing anyone not solely and entirely in our employ a commission or allowance of any kind for turning orders for said goods over to us to be filled, or otherwise.

Second. Should any change be made by John Doe & Co. in the price of any of their brands, we agree to conform to the new price immediately upon receipt of the advice of the change.

Third. We further agree that when requested by John Doe & Co. we will refuse to sell at any price, loan, or exchange for other goods, goods of their manufacture to any dealer who has or has not signed an agreement similar to this who is selling or has sold their goods for less than their established card or profitable rates.

Fourth. We further agree that when a charge of violating this contract shall be made against us, and we are asked by John Doe & Co. for the name of the person who made the sale in question, we will give them the name and such other particulars as they may desire. Refusal on our part shall be conclusive evidence against us that the charge is true, and we will then pay \$50 to John Doe & Co.

Fifth. We also agree that when anyone in our employ is accused of violating this contract, and such employee shall be requested by John Doe & Co. to make an affidavit under oath or affirmation denying the accusation against him, refusal on his part to make such affidavit shall be conclusive evidence against him that the charge is true, and we will then pay \$50 to John Doe & Co.

Sixth. John Doe & Co. agree to pay the \$50 collected under the fourth and fifth clauses of this contract to the parties making or furnishing proof of any such charges.

Seventh. John Doe & Co. further agree not to furnish their goods to any firm who has sold or whose salesmen have sold goods of their brand for less than the established price until the fine of \$50 is paid, either by the house or by the salesman who made the sale.

This agreement is to take effect on and after ———, 189 .

(Sign here)

JOHN DOE & Co.

Please date, sign, and return, as no orders will have attention until this agreement has been entered into.

[FORM No. 2.—Agreement regulating the sale of goods manufactured by John Doe & Co.]

We, the undersigned, hereby promise and agree with John Doe & Co. that we will not sell, nor will we allow our employees or agents to sell, either directly or indirectly, any goods under the "Hobson" brand for less than the prices established by them for said goods, or upon other terms or conditions than herein given.

Should any change be made by John Doe & Co. in the prices of their brand of goods, we agree to conform to the new price immediately upon receipt of advice of the change.

We also agree that under no circumstances will we give longer time than thirty days, and no greater discount than 1 per cent for cash if paid within ten days after delivery of the goods.

We further expressly agree, that in the event of it being charged that a sale or sales have been made by ourselves, employees, or agents, at prices or terms that do not conform strictly with this contract, both in spirit and in fact, we will for-

feit and waive all our right to and interest in any trade discounts that may be due us, unless we can prove the charge untrue to the satisfaction of John Doe & Co.

_____, 189

(Signed)

[FORM No. 3.—Notice to jobbers.]

On and after May 1, 1898, our "Dewey" soap will be sold as follows:

A uniform price of \$4 per case will be charged to all buyers in any quantity sold. To jobbing grocers who purchase 100 case lots, and who do not sell the same for less than the purchase price, and who sign and remit affidavit at the end of each month that they have in good faith maintained the selling price, we propose to remit on the 10th of each month a sum equal to 40 cents per case for all goods bought during the previous month.

If any complaint is received that the buyer has cut the price in any way, we will withhold the rebate until satisfactory proof is furnished that the charge is not true; and if proved true to our satisfaction, we will withhold it altogether.

We reserve the right to discontinue all rebates at any time without notice, and desire to have it distinctly understood that the above proposition is in no sense an agreement on our part, but simply an effort to interest the jobbers in the sale of our goods and to see that they are paid for any service they perform for us in the distribution of our product.

_____, 189

(Signed)

CERTIFICATE.

We hereby certify that we have not, nor to the best of our knowledge and belief has any member, salesman, or any person employed by us, or connected with us, sold any soap made by John Doe & Co. at a price less than the price adopted by said John Doe & Co. as their schedule price, or accepted any diminished price, either directly or indirectly by means of device, or return rebate, commission, discount, allowance, or otherwise, nor made nor had with any person any promise, agreement, or understanding, expressed or implied, whereby such diminished price would be in fact accepted or received by us, either directly or indirectly.

Dated, _____, 189 .

AFFIDAVIT.

State of _____, county of _____

_____, being duly sworn, deposes and says that he is a member of the firm of _____, and that he has not, nor has the firm of which he is a member, sold, nor have they permitted their representatives or employees to sell, nor have they, after a full and thorough investigation of all their transactions, sold John Doe's flour to _____ below the card or contract price in force on and since the aforesaid date, either directly or indirectly, by payment of freights; by rebates, in cash or in any other manner; by drawbacks; by gift, gifts, or promise of such; by payment of commissions or brokerage, either to the purchaser or to persons not solely and regularly in the employ of his firm; nor under pretense of paying lost bets; by allowing a greater discount than 2 per cent for spot cash, or by selling John Doe's flour on longer time than sixty days; by the sale of other goods at less than the usual price, or the purchase of other goods at more than the ordinary price, having an understanding with the interested parties, express or implied, that such was done in order to sell John Doe's flour for less than the card or contract price; to sell a certain quantity at the price for that quantity and make more than one delivery of the lot, or to divide the payments so as to make it equivalent to more than one delivery of the lot; by the sale of a certain quantity of John Doe's flour at the price for that quantity with the knowledge that a division of the lot was to be made between two or more buyers, to enable each to procure the said flour for less than the contract or list price for the quantity each would receive; by having an understanding with his said firm, or with any of its employees, to bill a less quantity of goods than actually shipped, or to bill other brands of flour at a lower price than John Doe's flour, supplying said John Doe's brands in lieu of those so billed, or in any other manner. That he is not now, nor is his said firm, or any of its employees, under promise or obligation to, nor have they an understanding with any person or persons, to do any of the above acts whereby the price on sales already made would be reduced below the card price in force at this time and since the aforesaid date; and that he makes this affidavit without any mental reservations whatsoever.

Sworn to before me this _____ day of _____, in the year 189 .

[Office of New York State Wholesale Grocers' Association, 6 Harrison street, New York.]

NEW YORK, October 3, 1898.

GENTLEMEN: In a letter of recent date we stated that we had prepared a circular letter and three formulas for a limited price or factor system, and sent copies to all manufacturers of goods of the kind susceptible to being handled in that manner, with the request that they adopt one of the three systems, or some modification of them that would accomplish the same results. This marks a new era in the trade; for while for many years there has been a general and oft-expressed demand on the part of the wholesale grocers for the adoption of some system of the kind, yet no definite plan has ever been formulated and submitted, and while many manufacturers have adopted a plan of their own, yet it has usually been without concert with their customers, the wholesale grocers, and no two plans have been alike. While some have been reasonably successful, others have failed to accomplish the desired end, and some have been worse than none, as they held the honorable, covenant-keeping merchant to a fixed price, while permitting the cutter to obtain an unfair and dishonorable advantage over his competitors in trade.

The three plans submitted have the unanimous indorsement of representatives from thirty-four States, and all the numerous letters received from various sections of the country give their approval of them and express an earnest desire for their adoption by all manufacturers.

Some doubt or question has been raised as to their legality in some States. The inclosed copy of an editorial found in the Journal of Commerce and Commercial Bulletin, under date of August 26, 1898, shows conclusively that manufacturers have a right to adopt terms of sale.

You will observe that neither of the formulas has any relation whatever to an association, neither are they contracts between any two buyers.

No. 1 is the form used by Proctor & Gamble, and was prepared and used by them long before any wholesale grocers' associations were organized, and has worked admirably.

No. 2 is the form used by another large manufacturer, with some slight modifications. They are both simply contracts between buyer and seller.

No. 3 provides for no contract whatever. The seller simply agrees with himself, by himself, and for himself that if the buyer does not sell the goods for less than he pays for them (men calling themselves merchants have sometimes done so), that he will reward him for the service performed for him in helping to place his goods in the hands of the retailer. Any law that would deny this privilege to the seller would deny the right of contract, and would unquestionably be unconstitutional.

The system is not only legal, but is also fair, reasonable, and right, as we have divine authority for saying that "the laborer is worthy of his hire."

Some letters received convey the impression that the writers think that your committee can secure the adoption of one of these formulas by all manufacturers at once. This is a great mistake, as while your committee is willing and anxious to do all in their power by correspondence and by personal interviews to secure the adoption of these forms by all manufacturers, you must remember that they are men whose interests are no greater than yours, and can not be expected to give all their time working for the good of the trade in general.

If any material improvement is secured, it must be the result of persistent and continuous effort on the part of a very large number of wholesale grocers. If you and your buyers should keep copies of these papers before you, and when making purchases would urge the adoption of one of the formulas upon the manufacturers, they would soon come to see the advantage of complying with the wishes of their principal customers, and the ones upon whom they mainly depend to aid them in the distribution of their product.

Copies of all papers issued can be obtained from Mr. L. P. Lyon, 6 Harrison street, New York.

Hoping to have your earnest cooperation in this very important matter, we remain,

Yours, truly,

G. WALDO SMITH.
HORACE C. BREWSTER.
F. W. HANNAHS.
W. J. SEAVER.

[New York State Wholesale Grocers' Association. Office, 6 Harrison street, New York City.]

NEW YORK, October 27, 1898.

GENTLEMEN: In the numerous letters received from manufacturers in reference to our circular letter sent out over the signatures of a committee appointed at the convention of wholesale grocers held at Niagara Falls in June last, several have expressed doubt as to the legality of the forms submitted. This is a matter that has received careful attention at the hands of the committee, eminent counsel have been consulted, and the conclusion reached that either the factor system, now in use by some of the largest manufacturers in the country, or the limited price system, as per forms Nos. 1, 2, and 3, as per inclosed copies, are unquestionably legal and can not be successfully attacked by the laws of any State in the Union.

The inclosed clipping from the Journal of Commerce, under date of August 26, very nearly expresses the views of the committee.

You will observe that neither of the formulas has any relation whatever to an association; neither are they contracts between any two buyers.

No. 1 is the form used by Proctor & Gamble, and was prepared and used by them long before any wholesale grocers' associations were organized, and has worked admirably.

No. 2 is the form used by another large manufacturer, with some slight modifications. They are both simply contracts between buyer and seller.

No. 3 provides for no contract whatever; the seller simply agrees with himself, by himself, and for himself that if the buyer does not sell the goods for less than he pays for them (men calling themselves merchants have sometimes done so), that he will reward him for the service performed for him in helping to place his goods in the hands of the retailer. Any law that would deny this privilege to the seller would deny the right of contract, and would unquestionably be unconstitutional.

The plans submitted work automatically and do not at any place require the assistance of the courts, but depend for their working upon the penalty which the seller can enforce without the assistance of constituted authority.

The factor system is simply terms of sale adopted by the seller and accepted by the buyer.

This system was fully explained by the chairman of this committee and others to the Lexow trust investigating commission, and it was found not only that there was no law on the statute books that could reach it, but that any law that could be passed that would deny the manufacturer the right to make his own terms with the buyer would also deny the privilege of making a contract for the sale of a house or a horse.

It was claimed before the committee that the factor system was not only legal, but that it was fair, reasonable, and right, and the claim has never been questioned to the knowledge of the undersigned.

We again respectfully call your attention to the papers inclosed and to the views therein expressed, and if you have not already adopted a system, it is hoped that you will give the matter the consideration which we believe it deserves at your hands.

Yours, very truly,

G. WALDO SMITH, *Chairman.*
HORACE C. BREWSTER.
F. W. HANNAHS.
W. J. SEAVER.

Q. Are there any other manufacturers of soap with whom you have similar terms of sale?—A. Yes.

Q. (By Senator MALLORY.) In the event that this soap, that you get from Babbitt, were not sold at the price agreed upon with the manufacturer, what would the result be?—A. The fact is that not half of it is sold at that price and there is no result; they take off 25 cents just the same; it is not enforced. I have been at their office for the last 2 years, once a month, and tried to get them to enforce it but I cannot; they will not give it any consideration.

Q. (By Mr. JENKS.) Still they will give you the 25 cents off?—A. They will bill it at 25 cents more than they propose to get and we get the chance to make it.

Q. Are there any other manufacturers that make a similar agreement and insist upon it?—A. Proctor and Gamble are the original factor system men. They invented it and put it in force 10 years before there was any wholesale grocers' association, and it is the most carefully and religiously kept of any rebate system to-day.

Q. They are keeping it up rigidly?—A. Oh, yes, they are holding them up to it, and if they could find a man anywhere in the United States selling 5 cents less than the agreement, he would be fined \$50 forfeit, which would be paid to some charitable institution, while he would not be sold any more soap. That is one rebate system that is faithfully kept.

Q. Can you give us a copy of that?—A. No.

Q. Do you buy your soap from them?—A. We buy from their agent in New York. I will try to get one; I do not know whether I can or not.

Q. Do the different soap manufacturers, Proctor & Gamble, Babbitt, etc., sell under agreement with reference to this system at all?—A. No, they have no agreement; they have simply adopted these terms of sale.

Q. Well, have they adopted them in unison or has each company acted for itself?—A. Each company for itself.

Q. How is it with reference to the baking powder companies?—A. They are all consolidated; but before the consolidation, the Davis Baking Powder Company and the Cleveland Baking Powder Company gave us 10 per cent rebate. There was a statement required, I think, but not an affidavit. The Cleveland Company gave us 6 per cent rebate. Now, I think, they are all consolidated. I do not know whether the Davis is in or not. That is an alum baking powder; I do not think it is.

Q. Do you think the agreement is now uniform for most of the baking powder companies?—A. I do not know that the new corporation has adopted any system, but have been told by their agent that we would still get our 5 per cent.

Q. (By Senator MALLORY.) You say there was no agreement or understanding between the manufacturers of soap and yourselves in regard to maintaining the prices. Is it a fact that the soap was sold at different prices by wholesale grocers?—A. Yes.

Q. According to their agreement with different manufacturers?—A. No; according to their own desire to get trade. If you will allow me to explain—

Q. (Interrupting.) I should like to hear it.—A. I will take a brand of milk as an illustration. There was a brand of milk put on the market 3 or 4 years ago at \$3.50 in carload lots. We undertook to get \$3.75, which would afford us 25 cents profit, which is about 6 per cent, and less than the cost of doing the business. It was not more than a month before our salesmen came in and said, "That brand of milk is being sold at \$3.65." And in another month they came and told us it was \$3.60, and in less than 3 months that milk was being sold for just what it cost us. The only remedy was to ask the manufacturers to put a rebate on that milk; the only way to remedy that method of selling goods is to see that we are paid for the goods. I think I said that the one-hundredth man can cut a price and fix a price for the 99. The only way a manufacturer can interest us in selling his goods is by seeing that we are paid for it. If we purchase of you, and the New York man cuts, you can help us by making a fixed, definite price, with a rebate, and by giving the rebate only to those who maintain the price. Now, if that system was carefully, religiously, and honestly carried out it would enable the wholesale grocer to get a reasonable profit.

Q. And what would the advantage of the manufacturer be?—A. That we would be interested in selling his goods. Our salesmen are mostly salesmen on commission and they will not push goods in which there is no profit; they will say, "We do not like soaps that do not pay or milks that do not pay." There is no reason in our handling goods that do not pay. The only reason that we gave to the American Sugar Refining Company 8 years ago was this: The wholesale grocers of America are handling one-third to one-half their goods at net cost, and there are going to be enormous failures in the trade unless we get a profit for handling sugar. It was the general condition. These goods represented from 25 to 30 per cent of the business. We said to them, "You have got enormous accounts receivable with the wholesale grocers. If you can not put them in the way to make a profit, you are going to lose your accounts receivable; if you will help them, you will get the accounts." That was the only reason presented to Mr. Havemeyer, Mr. Searles, and Mr. Theodore Havemeyer.

NOT MUCH PROFIT FOR WHOLESALE GROCERS IN SUGAR.

Q. Does this 18½ cents a hundred afford you a fair profit?—A. No; it does not. It is a very difficult thing to decide. It is about 5 per cent. The cost of doing business is always more than that. It is 6, or 6½ to 7 per cent in New York. It is not less than 6 and is frequently over 7. My business cost me 7 last year.

Q. So that substantially the wholesale grocers are handling sugar at a loss?—It is difficult to decide whether or not it is an actual loss. They say you handle sugar at a loss. It comes in barrels and is delivered on the sidewalks. It is

easier to handle than similar goods and perhaps in that way does not actually cost more than we get. We are all glad to sell it, but certainly it is difficult to tell and no one can determine. I can not determine and I have figured on it with the biggest and best wholesale grocers in New York. I have talked that over with my clerks, "Do we make a cent on sugar or not?" I have not decided that; I can not tell; I do not believe any human being can settle that sugar question fully and determine whether or not sugar at 18½ cents is a loss. Of course it depends on the length of deliveries and the average loss on bad debts. Our loss averages one-half of 1 per cent on bad debts. You take a wholesale grocer in a town like Albany, a place with short deliveries and short trips to the depot, and he makes some money probably, but in the case of the New York jobber it is doubtful if he makes anything.

Q. You have handled sugar as a wholesale grocer for a good many years?—A. For 25 years.

Q. Do you think there was more profit in handling sugar before the American Sugar Refining Company controlled a very large part of the output?—A. No, there was not.

Q. Was there earlier?—A. Never in my life, in the 24 years I have been doing business, have I made any profit until we got that rebate. I might on soft sugars but not on the hard. Any goods that are not of uniform quality always afford a minimum of profit. Soft sugar is of an indefinite quality; one may be worth 4½ and one may be worth 4¼. But granulated is always of a fixed, definite value, and if we buy at 4 cents we can not sell it for more; everybody knows who buys it what we are making. It is just the same with a box of soap. We have handled the Royal baking powder as long as I can remember. Our limit was a \$300 purchase. We could handle a \$300 purchase and not get \$300 and 1 cent for it. I have been working with them for years and finally they gave us the rebate.

Q. But the combination in the refining business was an advantage to you as long as you held to the rebate system?—A. Unquestionably.

Q. And since that time it has been a matter of neither advantage nor disadvantage; it has been immaterial whether you had it or not?—A. Except this. There is more or less cutting going on and I have never seen a day since Arbuckle and Doscher came in that I expected there would be any system 2 weeks ahead. It is quite to my surprise that it has been kept up, and it is very honorable of the merchants who have kept up the price. There are a few that cut.

Q. Do Doscher and Arbuckle give the same price, the same terms, and rebates?—A. I have seen copies of the agreement and terms of sale and they furnish the rebates exactly the same.

WHERE WHOLESALE GROCERS MAKE PROFITS.

Q. On what lines of goods are the wholesale grocers able to make reasonable, living profits?—A. Spices, teas, and coffees. Coffees have been very much cut by the competition between Arbuckle and Havemeyer, i. e., the package coffees. In the South and West coffee is almost as bad as sugar. In New York they will not use the package coffees; they claim they are not as good. As I said before all goods that vary in quality afford a small margin of profit.

Q. Why is that?—A. Because they have not a definite, fixed price. My agent says my 18-cent coffee is better than Jones's 18-cent coffee. If the customer says your coffee and Jones's are exactly the same, we can not charge any more. If they are not the same thing, I am able to charge more. Wherever articles vary in quality there is always a reasonable margin of profit. Wherever they are absolutely uniform, we can not get a profit unless we can get the manufacturers to give us a rebate.

Q. As regards these goods that vary in quality, are not your methods of purchasing them substantially the same as where there is no variation, or pretty nearly so?—A. We purchase them where we can—in the best market and at the best prices we can make.

Q. Does not the rebate system apply to these?—A. You can not fix a rebate on anything unless there is uniformity of quality and packing. If there are just 100 cakes of soap of just the same size, of the same quality, and in the same kind of a box, then you can get a rebate. If there are different sizes or qualities of soap and different sized packages, then you can not get a rebate; it is difficult.

ORIGINAL ADVOCATE OF THE REBATE SYSTEM.

Q. (By Mr. PHILLIPS.) Perhaps you can make a statement to the commission of your own motion. If you have any information that would be of benefit to the commission we should be pleased to hear it.—A. Well, I am the original advocate, as a wholesale grocer, of the rebate system—where it is absolutely uniform

and does not involve a contract between the grocers. I believe it is honorable, legal, right, and strictly in accordance with fair dealing and the spirit of the golden rule of doing to others as we would be done by. Now, I believe that any system of doing business that compels the manufacturer, the merchant, or the transportation company to perform a public service without a reasonable and adequate compensation is opposed to a wise public policy and the best interests of all the people. It is right and reasonable that every merchant should get a reasonable remuneration for what he does and the moment he gets more than a reasonable remuneration, competition is certainly going to come in and cut down the price. The only way that a so-called trust can be maintained is by being reasonable, and if they are reasonable, all interests are served, and the greater the magnitude of the concerns the better it is for the people. I do not own a dollar's worth of stock in any so-called combination or trust, and I can not in fact hear of a great corporation or a trust.

NO SUCH THING AS A TRUST.

There is no such thing as a trust to-day. I asked 14 lawyers in 14 States if they knew of a trust, and they could not name one. I went to Albany the other day and I used the New York Central Railroad. I was making an address not long ago and I wanted to use the New York Central Railroad as a type. I went over there to find out how many owners there were of that railroad, and I found there were 12,015. I wanted to go up to Albany, and they took me up there in 2 hours and 40 minutes, and brought me back again in the same time. That road having a great combined capital of \$200,000,000 and 12,015 owners performed me a great service. The Pennsylvania Railroad, which I used to-day, did me a great service. Now, I say, that iron and all such industries can be carried on more successfully, more reasonably, and more cheaply by a great corporation. I happened to come across in the paper to-day a statement which I knew to be a fact before. George M. Warner, a delegate of the International Machinists' Union, reported yesterday that there was a great demand for machinists everywhere, and that some employers could not find enough men. That is true all over the country. Employment was never so general, so universal, as it is to-day. Of course, there are a few great corporations, but there are positions for everybody who wants them. Will you allow me to make another statement?

THE WANTS OF THE PEOPLE ARE INCREASING.

Q. (By Mr. PHILLIPS.) Yes.—A. I had a slight interest, which I sold, in an Ohio steel concern. I used to be familiar with that business. I went in there a few years ago and the first thing I noticed was the absence of men. Everything was done by electricity. Work that required 50 men to perform formerly is now done by machinery. I said to the president, "Where are all the men?" "We do not employ them any more." "What has become of them?" He replied, "I do not know; they are all employed." Employment was never so general as it is now. The fact is, the cheapness of everything has increased the wants of the people. That is the only solution I can find. Another fact: I am a Methodist, and go to the Methodist Church. I was looking down over the rail the other day and I saw that the whole congregation had \$4, \$5, \$6, and \$7 umbrellas; 40 years ago they would have had 50-cent cotton umbrellas; and I noticed that the umbrellas had silver and pearl handles, etc., and they were all poor people, too. There was not a man in that church worth more than \$20,000. That shows that the people's wants are increasing.

ONE CAUSE OF THE PANIC OF 1893.

Q. Is not the great plenty at present brought about largely by the panic of 1893? Were not the works shut down then and manufacturing stopped so that everything became scarce?—A. One of the most potent factors leading to the panic of 1893 was the fact that the transportation companies had worked for nothing. Three billion six hundred million dollars of stocks were not remunerative and the people who had been depending on dividends on them for buying houses, horses and carriages, ribbons, shoes, and all the necessities of life lost their incomes. The demands of the people were lessened in consequence of the fearful fight of the transportation companies. That was one of the most potent factors, in my judgment, leading to the hard times of 1893, the fact that the transportation companies had failed to pay dividends. The moment they began to make dividends again, the ribbons and shoes and trinkets and all those

things were wanted, building up trade and starting business, and that has made this great boom of 1899. Dividends are being made. The great trouble is that the stocks of these corporations have been put on the market at inflated prices and the public do not know what they are buying and are going to get fearfully hurt when bad times come again.

Q. Do you, then, apprehend an overproduction in the near future?—A. Not in 2 or 3 years, I should suppose, although I am not a prophet; but I do think the time will come when there will be an overproduction and these great corporations which are overcapitalized will not be able to pay dividends on their stock. That will reduce the earning capacity and the buying capacity of all the people.

Q. (By Mr. JENKS.) Do you look upon overcapitalization as a decided evil?—A. Yes; that is a very serious evil, but it would not be an evil if the original owners of the stock of the great corporation still continued to be owners, but instead of that the public comes in and buys it out, and while they may make dividends for a few years on the overcapitalization, they will get left in time.

LEGISLATIVE REMEDIES NOT APPROVED.

Q. Can you make any suggestion as to legislation that will check that tendency?—A. Mr. Lexow asked me if I did not think the price of wheat, corn, and rye should be fixed by law. I answered that until the legislature of the State of New York controlled the rain, the heat, the sunshine, the movements of the atmosphere, and the production of crops, it could not control the prices of commodities, or anything that nature produces independently. It is absolutely impossible. I think the more the legislature and the people let these things alone the better they will work out their own solution; the moment they do anything unreasonable they will be checked. The moment they crowd or overcharge anybody there will be a reaction. Look at the nail trust. A few years ago they put nails up to an unreasonable price. What was the result? A new man came in and put up factories and reduced the price. The law of supply and demand is inexorable; you can not get away from it. Let me make another statement. The antagonism of labor and capital is the most unfortunate thing for labor that can possibly be conceived of. Their interests are identical and uniform. When this building was built, the first man that received the benefit was the man that dug the cellar, and the next man to receive the benefit was the architect's clerk that drew the plan. Then for a year labor took in profit from the capitalist, and from the time the building was finished there have been caretakers here who have been benefited all the time. You take the railroads. Labor is benefited by the building of a railroad from the time it is begun all the way through and after it is finished. The railroads support millions of people; they require caretakers and operatives; everybody connected with them is benefited. The capitalist may be benefited or he may not; but the laborer is sure to be benefited. This antagonism is very unfortunate; it is dangerous and against the best interests of all the people.

Q. (By Mr. PHILLIPS.) Do you think the new industrialists have put too high a price on their manufactured materials? Does not this still apply to the tin-plate and steel combinations and the various other combinations?—A. I have no definite knowledge. I do have definite knowledge in regard to one matter, but that is all I know of. I do know of one concern that was formed on a basis of 275 per cent value, but that is the only definite knowledge I have.

RELATIONS OF LABOR AND CAPITAL.

Q. (By Mr. KENNEDY.) Do you think that labor is ever unreasonably antagonistic to capital?—I do; but all I know is from reading.

Q. You can not say anything specific about it?—A. No; all I know is from reading. I have known of cases, of my own knowledge, where strikes have been very disastrous.

Q. Is it not always where labor believes it has a grievance and is not getting its proper share of the values created that there is trouble?—A. I believe that labor is honest in its opinion and thinks it is done a great injustice; but the laborer to-day gets about two and one-half times as much in food, shelter, and clothing as he got 30 years ago.

Q. What would you say, for instance, with regard to the laborer who works 10 hours a day for a railroad company in the track work and gets from 50 cents to \$1 a day?—A. I never heard of such a thing.

Q. There is labor of that kind all over the country.—A. Not in the East, is there?

Yes; track labor does not receive more than \$1.25 in any part of the country, and it gets as low as 50 cents.—A. I did not know that; I have no definite knowledge of that subject. I know I used to hire men in my business for half I pay now, and everything was a third dearer.

COMPETITION THE REMEDY FOR THE EVILS OF COMBINATION.

Q. (By Mr. FARQUHAR.) Do you think it is possible for any combination of capital, however large and however well managed, to maintain a monopoly and keep prices up for any length of time?—A. They will bring down ruin on their own heads very quickly, the same as the nail concern did, and the same as they all have.

Q. Do you believe that there is enough capital in the United States to handle three times the amount of business the trusts have to-day and that new capital would come in if it saw an opportunity for profit?—A. New capital is always ready to come in if there is a profit.

Q. Do you believe that under present conditions there is capital ready to take a hand in production if there is any reasonable prospect of profitable investment?—A. Yes; for instance, these other sugar companies that have been bought up by Havemeyer. My argument is that millions stand ready to come in if there is any opening. My study of the sugar question is that the whole work of the American Sugar Refining Company, while they have made it pay, has been beneficial. They have reduced the price of sugar to every consumer in America. Their margin of profit is reasonable; it has never been excessive. I used to know more about it than I do now; I have not followed the margin lately, but it has never been excessive; and buying such enormous quantities they can control the market, in the interest of cheap sugar.

Q. Is the cheapening of the price of sugar due to foreign legislation? Have the advantages in respect to sugar been more the result of foreign legislation than anything else?—A. You know the tariff legislation does not let in refined sugar. Under the Wilson bill they could not compete with one-eighth of a cent margin on refined sugar, and it was difficult to make more than one-half of a cent margin. Under the new bill refined sugar is practically shut out, as I understand it.

Q. Your statement here is that you do not think there are any inordinate profits going to the American Sugar Refining Company?—A. There could not be any inordinate profits, and now they are making no profits. It is only a question now of the survival of the fittest among the refiners; the fittest will survive and the rest will go down. You will find that Mr. Havemeyer will tell you, when he gets here, that they are making no money and that nobody else is.

Q. In your business, as a wholesale grocer, have you ever found any difficulty on account of discrimination in rates on the railroads?—A. Our business is local. There used to be difficulties of that kind. We do not have much outside business. Austin, Nichols & Leggett have more than we have. I have not heard any complaint of that kind lately, and I think that has been entirely overcome. The railroad rates are so low now there is no occasion for complaint. Edward Atkinson said it used to cost \$3.50 to move a barrel of flour 1,000 miles, while now you can move it for 25 cents. If you do not believe it, take a wheelbarrow and go ahead.

Q. (By Mr. FARQUHAR.) Did you state that all of the baking powders were under the control of one concern?—A. I think all the cream-of-tartar powders are. Whether the Davis is in it (the alum baking powders) I do not know, but all the cream-of-tartar baking powders are in one concern, with \$20,000,000 capital.

Q. Have you any means of telling the commission how much that has cheapened the product to the consumer?—A. No; they have a close corporation and have done an enormous amount of advertising and have got practically a monopoly through their advertisements. If such a thing as a monopoly can exist, it is in that. It is a good deal like a patent medicine—there is a margin there. That is the result of advertising in combination. They have made people believe it was the only baking powder fit to use by extensive, persistent, and continuous advertising. That is legitimate. Others have tried it and failed.

Q. Does not the advertising of all these products lay entirely with the producers of them; that is, the wholesale grocers or the factors between the consumers and the manufacturers, pay very little for advertising now?—A. They advertise scarcely at all; the manufacturers advertise their own products and place them.

Q. They advertise the quality of their wares without designation of the parties selling them?—A. Yes; it is the same with all grocers; the retail grocers come to us.

Q. Do you think that the overcapitalization of these great corporations or combines, as they are called, will ultimately lead to the same condition as the limited companies did in England, that the general public will be caught in an era of speculation which will ultimately result in loss; that it will be stock jobbing from beginning to end?—A. That is entering upon the realm of prophecy.

Q. Well, what is your opinion as a business man?—A. I think it is the rule that we have times of inflation; and I think that in the course of time we will have a reaction from this movement in some form or another.

Q. Is it your opinion that half the companies now being organized are stock-jobbing companies, and have nothing to do with cheaper rates to the consumer?—A. I think most of them have been formed of necessity to meet competition and to reduce the cost incidentally. Most of them have made money on their stock, but still I think the object was to reduce the cost. When the American Sugar Refining Company was first formed there were 7 refineries that had offices in Wall street next to each other, and if our broker went down there to buy sugar A would perhaps undersell B at less than cost. Mr. Frazer, of Philadelphia, of Harrison & Frazer, one of the largest manufacturers, said to me 8 years ago, "Until the formation of the trust we had not sold a barrel of sugar in years that we did not lose money on. Just as soon as that was formed we followed their price, and now we are making a profit." Mr. Frazer told me that in the presence of several other wholesale grocers in Philadelphia. That is what it is going to be now; it is a question of the survival of the fittest. Somebody has got to go. Who is going I am not able to say; but it is going to be ruin. It is a fight to the bitter finish. Somebody has got to die, that is all; there is no help for it. It is very unfortunate that these refiners got into line. It is a great misfortune. This is my opinion, as I said before. I have no information of any name or nature.

COMBINATIONS DO NOT PERMANENTLY DESTROY COMPETITION.

Q. (By Senator MALLORY.) Is it your opinion that combinations of capital, or corporations, for the purpose of controlling the production of any particular article do not destroy competition?—A. They may temporarily until the fact is developed that there is a margin of profit to be got by somebody, and immediately somebody makes an investment and cuts the price.

Q. That is the point of my question. You believe that they will not destroy it permanently, but only temporarily?—A. They will not destroy it for any length of time. The only exception to that would be some article like patent medicines—some highly advertised article, of which the people will not have anything else.

Q. Do you know anything of the workings of the Standard Oil Company?—A. Nothing, except what I have read in the newspapers. I have no knowledge of any name or nature. I only know this fact, that I used to buy oil at \$1.25 a gallon and sell it at \$1.50, and that I could not get as much as I could sell. Now, I can buy 4 gallons for what I used to make on 1. Who has done that I can not say.

Q. So far as refined oil is concerned, that is very much cheaper now than before the organization known as the Standard Oil Company; but the point I want to get at is whether any combination—I will not take the Standard Oil Company as an illustration, because I may be doing them an injustice—for the purpose of controlling any particular product can be so powerful as to limit and crush out all possible competition. Your general proposition is that no matter how large a combination may be, it will not prevent competition as long as competition will pay. Now, is it possible for the combination to be so large that it can crush out all possible effort to compete with it?—A. Yes; that may be true; and it is certainly true that great aggregations of capital, that can command the very best brain power in the world, can undersell inferior aggregations of capital and inferior brain power; and that is all right. That, of course, can be done and should be done; it is legitimate and right; the best interests of the people are subserved by it; it should be understood that a reduction of 1 cent on oil is a saving and a reduction of \$2,000,000 a year to the people of the United States. I used to sell it at \$1.50.

Q. (By Mr. PHILLIPS.) You do not attribute that to the fact that it was monopolized?—A. No; the reduction is the result of handling.

Q. New discoveries?—A. New discoveries.

Q. New methods and the brains that have been brought to bear upon them?—A. Yes; largely the new methods of handling. It is the great aggregations of capital that use the force of gravity to bring it here instead of cars, and the ability that has been brought to bear upon it that has reduced the cost of transportation and distribution.

Q. (By Mr. PHILLIPS.) Will it be possible in the case of some of the new combinations that have been formed lately, such as those in the iron and steel trade and the tin-plate industry, where they have an aggregate capital of \$25,000,000 to \$50,000,000 and are generally supposed to be making very large profits at the present time, will it be possible to induce capital to come in and compete? Will it not be very difficult to get large capital to venture in and compete with such an aggregation of capital or such a combination?—A. I had a slight interest in a steel factory in Ohio, and the moment that was sold by the original owners they immediately formed another company and commenced building new factories. There is one thing I am quite familiar with. I have been in Mexico and seen them mill corn. They grind 2 hours to grind enough for supper. I have been in Egypt, and everybody in those countries grinds his own flour when he needs it. I used to live on a farm, and the best part of my life was going to the mill. I used to ride to the mill and spend a day there. I used to go in the morning and stay all day and have 10 cents for my lunch, and have a good time. That was the old way. Now, Mr. Pillsbury, with his great aggregation of capital, grinds a barrel of flour for 20 cents. I have seen them work 2 hours in Mexico, Egypt, and Asiatic countries to get flour enough to make bread for supper or a day's supply for the family. They grind the wheat by pounding it with a stone. Now the great aggregations of capital do it for almost nothing, and they are satisfied if they can get a profit of 2½ cents on each barrel of flour. That is one of the advantages in great capitalization. The New England artisan could not live if we had to transport flour at the old prices.

Q. (By Mr. RATCHFORD.) Is it your opinion that without this large capitalization those old methods would still continue?—A. No.

Q. Then why state that as an illustration?—A. No; I say we never go back; nothing ever moves backward in this world.

Q. (By Mr. KENNEDY.) Do you believe that the movement that is now going on in the industrial world will end in one combination in each particular industry, controlling that industry?—A. That is in the region of prophecy again, and I am not a prophet. I can hardly conceive it possible, except in baking powder and such things, where they are advertised and popularized in the public mind. They can not do it in iron and steel; it is too widely spread, too easily found.

Q. They can in the tin-plate industry at the present time?—A. I have no definite knowledge of that; I doubt it very much, although I have no knowledge. I heard Senator Vest say in the United States Senate a few years ago that before anybody could get any profit the people of the United States would have to pay \$50,000,000 in protection. I think he was mistaken. It has been proved so, has it not?

Q. If it were possible to attain a condition in which overcapitalization and all transportation favors given to certain industries were eliminated, what, in your opinion, would be the effect on these industrial depressions that occur periodically?—A. I do not know whether I can give you an intelligent answer. It would take a wiser man than I am to fathom that. I think, on general principles—indeed, I have a profound conviction—that these things can take care of themselves better than legislation can take care of them, and that they will work out their own success or their own destruction in their own legitimate way.

Testimony closed.

WASHINGTON, D. C., June 13, 1899.

TESTIMONY OF PROF. ERNEST MAS, NEW YORK CITY, N. Y.

The commission met at 11 a. m., June 13, 1899, Vice Chairman Phillips presiding. Prof. Ernest Mas, 106 Fulton street, New York City, N. Y., after being duly sworn, testified.

Q. (By Mr. JENKS.) Will you be kind enough to state your name and address to the commission?—A. Ernest Mas, 106 Fulton street, New York.

Q. What is your business?—A. I am consulting chemical engineer of the Glucose Sugar Refining Company, of Chicago.

Q. What is your present relation to the Glucose Sugar Refining Company?—A. I am under a 5-year contract for the exclusive use of my services as a chemist and chemical advisor.

Q. Are you under salary of this company?—A. I am under a salary, and under monthly compensation and a commission of 1 per cent on all proceeds of the by-products turned out by the Glucose Sugar Refining Company.

Q. That is, on all by-products which they turn out you are to receive 1 per cent of the proceeds?—A. That is, on all the by-products extracted from the germ of the product of the corn.

THE MANUFACTURES OF THE GLUCOSE SUGAR REFINING COMPANY AND THEIR USES.

Q. Will you explain to us briefly the nature of the manufacture of glucose sugar from corn, and state what the chief by-products are?—A. From Indian maize or corn there are a great many products and by-products. The main product is corn flour. The second product is glucose; that is what is called sugar. Glucose sugar results from the transformation of the starch in the corn by chemical process. The next product is dextrine, the next corn oil, the next corn cake, and finally a rubber substitute which is a product of the vulcanization of corn oil.

Q. Will you kindly explain the uses to which these various products are put in ordinary manufacturing and trade?—A. I have never had anything to do with the commercial part of the enterprise. My knowledge is purely scientific and technical. Corn flour, of course, is an edible, and on account of its cheapness is used for mixing with other flours—with wheat flour.

Q. So far as you know, then, corn flour is largely used to adulterate, as you might say, wheat flour?—A. We might say as a cheapening agent.

Q. As a cheapening agent for wheat flour?—A. Yes.

Q. Is this corn flour you speak of the same as flourine?—A. Flourine is a mere proprietary name for it.

Q. But it is really the same thing?—A. Identically the same thing.

Q. If you will, please continue giving us the uses of these other by-products?—A. Starch is used for laundry purposes, as a size, and for cotton mills.

Q. This starch that you secure in the manufacture of glucose sugar is substantially the same as ordinary commercial starch used for all other purposes?—A. It is commercial corn starch. The next product, which is dextrine, is used for adhesive compounding, making mucilages and also sizes. The corn oil, which is to-day the most important by-product in the manufacture of glucose, has some legitimate uses in the manufacture of soft soap, but it is most largely used for mixing with other oils, owing to its emulsifying power. It is highly prized in Norway, where it can be mixed with cod-liver oil. It has a fine flavor, which makes it desirable for mixing with olive oil.

Q. You say it is used in Norway in the manufacture of cod-liver oil?—A. They mix it with cod-liver oil.

Q. And when it is mixed with cod-liver oil it is ordinarily sold as cod-liver oil?—A. No; I presume we get part of it again here in bottles.

Q. Labeled as cod-liver oil?—A. Very likely. It is also used, owing to its peculiar flavor, as an edible oil in competition with olive, and it is exported largely as a substitute for cottonseed oil.

Q. When it is used as an edible oil, it is used to take the place of olive oil?—A. It is used for blending with olive oil.

Q. Just for blending oil?—A. And sometimes for reducing the original cost of olive oil.

Q. What is the comparative cost of corn oil as compared with the cost of pure olive oil?—A. The high grade of olive oil can not be had in this country for less than \$1 per gallon, while the highest grade of refined corn oil made under my process sells at 4 cents a pound. It is sold for 4 cents a pound, which means about 80 cents per gallon.

Q. When this is used for blending with olive oil, where is this blending process usually carried on, in this country or abroad, or both?—A. It is carried on by exporters from the old country to the United States—exporters from Italy, France, Spain, and Prussia.

Q. That is, corn oil is sent to those countries, blended there with olive oil and is returned here as olive oil?—A. No; as a blended oil.

Q. As a blended oil?—A. It is mostly a table oil without a name, Table oil, compounded oil.

Q. Does it ordinarily, in your judgment, go on the market to the retailers as a blended oil, table oil, or does it go as olive oil?—A. It goes mostly under the name of table oil. There is no pretense of selling this mixture as pure olive oil, but as it is extremely difficult to analyze a mixture of corn oil and vegetable oils, I could not tell positively, as a chemist, whether a mixture of olive, corn, and linseed oil, for instance, exists in a given proportion; it can not be determined by qualitative or quantitative analysis.

Q. You spoke of a mixture of corn oil and linseed oil; in your judgment, is that mixture a common one?—A. When I first refined oil, some 4 years ago, for

the American Glucose Company I was rather struck by the similarity of the characteristics between the poppy oil, which is worth 80 cents per gallon in Belgium, and corn oil, and it occurred to me that by a proper refining process we could produce a corn oil in the United States so similar to the poppy oil that it might naturally take its place for painting purposes, for mixing with white zinc and white lead, and I think we have succeeded in preventing the export from the old country of poppy oil, at least to a considerable extent, simply because poppy oil is worth from 80 cents to \$1 per gallon and the same class of corn oil is sold in this country for 30 cents per gallon.

Q. As far as a mixture of corn oil and linseed oil is concerned, the similarity of the two oils is such that it is an impossibility for any chemist to determine the presence of corn oil in linseed oil, and as the price of corn oil is much lower than the price of linseed oil the two oils are frequently mixed in order to reduce the cost?—A. Yes.

Q. Under those circumstances do they go on the market regularly as blended oil?—A. It will be impossible for me to tell whether the large producers of linseed oil are making use of corn oil, but I doubt it. I believe manufacturers of linseed oil are selling pure linseed oil, but before the product reaches the consumer the two are blended with a view to reducing the cost.

Q. That is, the blending is done, then, not by manufacturers of linseed oil but by large dealers?—A. And by buyers of corn oil.

Q. And by the manufacturers of paint also?—A. Perhaps, by manufacturers of paint and putty.

Q. Is corn oil as good practically for the purpose for which it is used as the linseed oil when blended in this way?—A. It has no injurious effects on the finished product; it cheapens the cost, and is a slower drying oil than linseed oil. The main application of corn oil is in the production of substitutes for Brazilian rubber (which is exported from the banks of the Amazon) by a process of vulcanization which I have suggested to the Glucose Sugar Refining Company. Vulcanized oils are produced which can be sold for about 6 or 7 cents per pound, while the rubber from Brazil is worth \$1 per pound. Vulcanized corn oil can be mixed with pure Para rubber in any proportion. The resulting mixture is much softer, less elastic than pure rubber, but almost equally acid proof. It is largely used to-day for cheapening bicycle tires, rubber boots, and in fact, almost all articles made from rubber, the difference in price being such, from 6 to 7 cents for corn rubber to \$1 for the pure rubber article, that the mixture greatly reduces the cost of the finished product.

Q. You think yourself that the product is, on the whole, not so durable or quite so good in most particulars?—A. It is not so good; it is not so resilient. The main characteristic of rubber is its resiliency or elasticity; it is not so elastic, but I presume it is almost as acid proof as vulcanized rubber is.

Q. You yourself have had a great deal of experience in connection with the manufacture of these different products by the Glucose Sugar Refining Company and other companies?—A. I first suggested the manufacture of rubber substitute to the Glucose Sugar Refining Company.

Q. That is, you were the first person that suggested that in this country?—A. I made the suggestion by letter, but I did not believe this process could be patented.

WITNESS FIRST EMPLOYED BY AMERICAN GLUCOSE COMPANY IN CONNECTION WITH THE REFINING OF CORN OIL.

Q. Will you, before explaining in detail that matter, give us a little of your experience in the manufacture of corn oil and of these other products—that is, tell us what different establishments you have worked for, what your relations with them have been, and how you came to be employed by the Glucose Sugar Refining Company?—A. Prior to the consolidation of the plants manufacturing glucose in this country I was the chemist of the American Glucose Company in Peoria.

Q. In Peoria, Ill.?—A. Illinois. The problem of refining corn oil had been under consideration for 10 years by that company.

Q. They had been before that time manufacturing simply raw oil?—A. The raw corn oil.

Q. And they had been considering the question of refining it?—A. Of refining it, and the chemical treatment of corn oil.

Q. But they had not yet succeeded in finding a process?—A. They had not succeeded in finding a process of treating corn oil chemically. The problem was submitted to me in 1895, 4 years ago.

Q. That is, the problem of finding a process of refining this oil?—A. And the utilization of corn oil, which was at the time without known industrial application, except in the manufacture of soft soaps. I went to Peoria from New York, and after a chemical examination of corn oil I undertook the solution of that problem. I went back to New York and after 1 month of investigation found out the process by which corn oil could be treated chemically, by which corn oil could be refined and rendered colorless. I returned to Peoria with my samples, which were simply laboratory samples. The president of the company at the time, Mr. William Hamlin, of Buffalo, asked me if I could produce the same results in 1,000 gallons quantity. I was satisfied that I could obtain the same results in 1,000 gallons quantity, and a refinery was erected under my plans and personal supervision. It was the understanding under my contract that, in the event of the oil not being equal to the laboratory sample, I would not receive any compensation for my services; but it was understood also that if the refinery proved a success, and if the oil could be demonstrated to be equal to the laboratory sample, I would be given 15 cents royalty per barrel. The factory was erected; it was 9 months before I could complete the refinery. At the end of 9 months the first attempt at producing 1,000 gallons was made under my own supervision and in the presence of two chemists of the company. The result was that the oil made in 1,000 gallons quantity was far better than the laboratory samples which I had brought with me from New York. An agreement was entered into by which I was to receive 15 cents per barrel royalty, and as the company at the time contracted to make 100 barrels, it meant simply—

ORGANIZATION OF THE GLUCOSE SUGAR REFINING COMPANY.

Q. (Interrupting.) One hundred barrels in what length of time?—A. A day. It meant \$15 dollars a day royalty. Two months after—it was less than 2 months—a very little time after the refinery had been proved a success and when I expected to receive my 15 cents per barrel, I was informed of the consolidation which was taking place, in fact the consolidation of all the glucose plants in the United States under the name of the Glucose Sugar Refining Company.

Q. This combination included all the plants in the United States?—A. All but one. The consolidation took place before I had received 1 penny of royalty, and, if I am well informed as to the financial aspect of the transaction, the American Glucose Company, for a nominal consideration, sold their plant in Peoria to the Illinois Trust and Savings Bank of Chicago. The Illinois Trust and Savings Bank turned around and sold the plant for another consideration, which was not a nominal one; and I found myself at the time with a contract on my hands which was worthless, from the fact that the American Glucose Company was out of existence.

Q. This plant was sold to what company?—A. The refinery which I erected in Peoria passed as a part of the assets of the new combination.

CONTRACT WITH GLUCOSE SUGAR REFINING COMPANY.

Q. That is the Glucose Sugar Refining Company?—A. Yes; the Glucose Sugar Refining Company. I had no recourse against the American Glucose Company, which was out of existence. I had no contract with the Glucose Sugar Refining Company, which was the new combination, so I found myself with a contract which I have here; yet when I thought it was proper for me to notify the combination about the existence of my contract with the American Glucose Company I was requested to go to Chicago to talk the matter over and demonstrate the value of my process. The result of that trip to Chicago was a contract with the Glucose Sugar Refining Company for 5 years. The terms of this contract with the Glucose Refining Company, which I will now call the Sugar Trust from this very moment, were, first of all, that for a period of 5 years from September 27, 1897, I was to receive an annual compensation of \$3,600 a year for my professional services, to be paid monthly in installments of \$300, but I was to act as consulting chemist of the company and counsel on all questions bearing upon the manufacture, uses, treatment, and application of corn oil.

Q. If you did not work for any other company?—A. If I did any other work for any other company it would be a violation of my contract. The contract on that point reads thus:

“Ernest Mas binds himself not to act as consulting chemist of any other company or firm or individual in the United States engaged in the manufacture or refining of corn oil, or in the manufacture of starch or glucose or proposing to engage in any such manufacture, or to enter into the employ of or render any

services to or become in any way identified with any such company or firm or individual; but said Ernest Mas shall be free to act as consulting chemist or in any other capacity for any company or firm not falling within the above prohibition and to engage in any other business than that of manufacturing or refining corn oil or the manufacture of glucose or starch."¹

In the next place, I bound myself to continue my laboratory experiments and researches in the production and refining of corn oil, and I also bound myself to give the Glucose Sugar Refining Company the exclusive use and benefit in the United States of all the results of my experiments and discoveries in that direction during the period of 5 years.

Q. Perhaps you can sum up and give us in a word or two any other special points there may be in your contract?—A. In the next clause there was this: I was to receive an annual compensation of \$3,600, and in addition to that I was to receive also 1 per cent on all the proceeds of corn oil turned out under my process. A very significant stipulation of this contract which I have faithfully carried out is that I had to waive and release all claims against the American Glucose Company which I may have had under my contracts, and the Glucose Sugar Refining Company was assuming every responsibility of the American Glucose Company. It also guaranteed me against any claims which the American Glucose Company might have against me for professional services or otherwise.

Q. Now, after this contract was made you continued your laboratory experiments, making regular reports to the Glucose Sugar Refining Company?—A. In accordance with the terms of this contract I made practically an assignment to the Sugar Trust of all my processes, and started my experiments again in New York City, and have from that time sent laboratory reports every month covering the results of my investigations during the month. I declined three propositions made to me by other concerns owing to the existence of this contract, and I received exactly on the 1st of each month, for a period of 14 months, a check of \$300 covering my monthly compensation as per contract.

Q. That sum you say you have received for 14 months?—A. For 14 months consecutively I have received \$300, covering my monthly compensation.

COMPANY DID NOT LIVE UP TO THE CONTRACT.

Q. When did that period of 14 months end?—A. I have never received a monthly statement of the oils sold. There is a clause in our contract which specifies that monthly statements shall be rendered by the Glucose Sugar Refining Company to Ernest Mas, showing the amount of prepared or refined oil sold, and payment shall be made monthly to Ernest Mas, based on the amount of said oil sold, upon the basis of 1 per cent on the amount of such sales, as per contract.

Q. That is, they lived up, for a time at any rate, to the part of the contract which stated that they were to pay you \$300 a month, but they did not render these reports on the corn oil manufactured?—A. They did not render the reports on the corn oil manufactured. I have never received a monthly statement for the oil sold, so I made a demand for monthly statements from the company, but I have not received any report yet.

Q. At what time did you make this demand for a statement?—A. Four months after our contract was made I made the first one by letter; I did not receive any reply, but received on the 1st of each month \$300 for my salary. I waited until the end of the year, thinking that, perhaps, I would then receive all the statements for the months past. So at the end of the year I made another demand for my 1 per cent commission as per contract, which I have not received as yet.

Q. That was at the end of the year 1898?—A. It was at the end of the year 1898. I received my last check on the 21st of December, 1898.

Q. Since that time you have had no further salary from them?—A. Since that time many peculiar things have happened. I did not know when I entered into a contract with the Sugar Trust what was in store for me. I thought that my attributions would be those of a chemist, when, to my great surprise, I received one day from the company, instead of my monthly statement, a very significant letter. This letter is signed by the president of the company: "I inclose some literature which we are having prepared to offset newspaper talk about the unwholesomeness of glucose, starch, etc., and would like to have you sign the petition and also to interest as many of your friends as possible in doing the same. (Signed) C. H. Matthiessen, president Glucose Sugar Refining Company."

¹ See contract at end of testimony.

WITNESS REFUSED TO SIGN TESTIMONIALS.

Q. What was the nature of this petition he wished you to sign?—A. First of all there was a copy of the bill introduced in the Senate of the United States by Mr. Mason on the subject of mixed flour. I did not at first understand what all this meant. I kept all those papers; I did not sign any testimonial, and I do not propose to sign any. I do not consider that the attributions of a chemist are to sign testimonials, but to attend to his business as a chemist.

Q. Did you think that these testimonials that you were asked to sign would give a false impression to anyone who might read them?—A. It was my impression that I could not consistently sign a testimonial which was evidently intended to counteract a legislative measure.

Q. That is, a law has been passed providing for the prevention of the adulteration of foods, and they asked you to sign a testimonial which would say practically that there either was no adulteration or that the adulteration was not injurious. Was that the nature of the testimonial?—A. It was practically to state that flourine, or whatever it is—glucose—in fact, all the by-products manufactured by that branch of the sugar trust, called the Glucose Sugar Refining Company, were all right.

Q. That all their products were of legitimate uses, or articles of food?—A. I did not think I could sign that paper, and I did not sign it.

Q. You could not conscientiously, as a chemist, sign the paper?—A. I do not wish to commit myself too far in this matter. I did not feel like signing that paper, simply because I was not satisfied, and I am not yet satisfied, that flourine is equal to wheat flour, that glucose is as good as sugar, that corn oil is as good as linseed oil, that corn cake is as good as flaxseed cake, and that the rubber substitute made from corn oil is as good as rubber.

Q. They practically asked you to sign that statement which would have declared that the products of the Glucose Sugar Refining Company were equal to the genuine products you have mentioned?—A. It was practically that. The next bill which I received was from Mr. Brosius. This was to prevent adulterations or branding or imitation of foods, beverages, candies, drugs, or condiments in the District of Columbia and Territories, H. B. 9154. I did not pay any attention to that either.

Q. For the same reason?—A. For the very same reason. The next one was from Mr. Pearce, of Missouri.

Q. That is, the bill was introduced by him; but you received these bills, I understand, from the president of the Glucose Sugar Refining Company?—A. And the request to sign the testimonial to the effect that the goods manufactured by the company were, to use the words of the president of the company, "In order to offset the newspaper talk about the unwholesomeness of our products." I have not signed these papers yet and I do not intend to sign them.

THE PATENT ON RUBBER SUBSTITUTES.

Q. Were there any other requests made by the Glucose Sugar Refining Company that you thought, as a reputable chemist, you could not accede to?—A. Here is another one; my attention was called in the month of December, 1898, to the fact that a party in Ohio, Mr. William K. Leonard, of Piqua, Ohio, had invented a process for the transformation of corn oil into rubber substitutes. I immediately notified the company that my attention had been called to that patent, but not knowing who the patentee was, I told the company that I was not prepared to make any comments as I had not seen a copy of the specifications which I had already sent to Washington for, but that I could challenge the validity of such patents at any time.

Q. That is, you had seen a notice that this patent had been applied for?—A. (Interrupting.) I had notified the company.

Q. But in your judgment there were no grounds for issuing such a patent, because the process was already known?—A. The process has been known for about 50 years in the old country, and is public property, and I did not think it could be patented at all, so I wrote to the company that I was ready as the chemist of the company to challenge the validity of that patent. I did not know who was the patentee at the time, and I do not know who the patentee is to-day, and I am very much surprised to see that a patent is granted to the sugar trust, or at least that branch of the sugar trust which is named the Glucose Sugar Refining Company.

Q. You say the patent was granted to that organization?—A. No; it was granted to Mr. William H. Leonard, of Piqua, Ohio.

Q. But you think the patent is practically controlled or owned by the Glucose Refining Company?—A. I have no information regarding what is really patented, but I see that the specifications of this patent are practically worded in the very same terms as my chemical report sent to the company 8 months before.

Q. If I understand, then, this matter which is connected with the patent is this: that you had made a special report to the company on the manufacture of a substitute for rubber from corn oil?—A. Yes, this was made on October 26, 1897.

Q. That some months after this process was patented by some person unknown to you; that when you received specifications of the patent you found that these specifications were worded almost exactly the same as your report to the company had been?—A. Almost exactly the same.

Q. That nevertheless you believed the process is one that could not properly be patented because it had been known for some 50 years?—A. That is exactly the case.

Q. You believe, then, that the president of the Glucose Sugar Refining Company, to whom your report had been made, secured this patent which you believed to be illegal?—A. I can not say that positively, but I can say this—

Q. You believed it to be so, from the fact that the specifications of the patent were substantially the same as your report to your president?—A. It looks that way.

Q. That is the point that I understood you were making?—A. It looks that way. Now, what surprises me more than anything else is this, a request from the company to me as chemist: "Please send your next laboratory report in the form of an affidavit covering your investigations as an expert in the manufacture of rubber substitutes, the date of your experiments in New York, the date of the first commercial production of the same." There are 15 or 16 inquiries which I shall not name.

Q. It amounts to this, I judge, from what you say: they ask you to make an affidavit to show this was not patentable?—A. They wrote me to make out an affidavit so as to be ready in the event of any legal action that might be resorted to by parties interested in the Leonard patents.

Q. You having had a long and thorough experience in the manufacture of rubber substitutes they wanted your next laboratory report in the form of an affidavit, in such a way that they could defend the manufacture of this rubber substitute against any suit that might be brought by this patentee?—A. I knew the Glucose Sugar Refining Company was contemplating the manufacture of rubber substitutes and wanted me, of course, as a chemist, to assist them; but I did not wish to commit myself again by signing a paper which I could not conscientiously sign because the process could not be patented, and so notified the president of the company that I was ready to go to Chicago whenever my services were needed, or to appear in case that any action should be taken by the patentee of the rubber substitute process.

EFFECT OF THE GLUCOSE SUGAR REFINING COMPANY ON PRICES.

Q. You can perhaps now tell us something with reference to the control that the Glucose Sugar Refining Company has over the market; in the first place, you said, I believe, that the company included all of the plants of the kind in the country, with the exception of one, when it was first organized?—A. Except one; 90 or 95 per cent of the production of glucose in the United States.

Q. Is that condition substantially the same at the present time? Do they still control 95 per cent of the output?—A. From 90 to 95 per cent.

Q. What has been the effect of this control of the combination upon the prices of the product?—A. Before answering that question it seems to me I ought to mention one fact, the result of my not signing those testimonials. It was simply this: I have not only failed to receive my monthly statements, but from the very day when I declined to sign those papers I have not even received my monthly check. So I find myself to-day with a 5-year contract with the Glucose Sugar Refining Company, binding me not to give my services to anyone else. I have assigned all my processes to the branch of the Sugar Trust which I call the Glucose Sugar Refining Company; I have instructed the chemist of the company how to refine corn oil, and from the 1st of January I have not received a single dollar of compensation.

PRESENT RELATIONS WITH COMPANY.

Q. (By Mr. KENNEDY.) Have you taken any legal action against the company?—A. It is my intention to do so when I see I have been waiting long enough. I intend to take such steps as soon as my legal adviser says the time has come.

Q. (By Mr. JENKS.) Then, if I understand you, the situation is about this: In your own belief you were cut off from receiving any further salary because you declined to sign some testimonials which you could not conscientiously sign? You believed you were living up to the terms of your contract fully and completely, and that signing testimonials was no part of your work as a chemist, particularly testimonials which you believed would mislead the public?—A. I could not sign conscientiously, that is it.

Q. (By Mr. KENNEDY.) Have you had any formal notification by the company of the severance of your relations?—A. The company has informed me that I could not enforce my contract. I replied to the president of the company that this contract is in force until the 27th of September, 1902, and that it is entirely out of the power of the president of the sugar trust and any man's power to cancel this contract without mutual consent.

QUESTION OF PRICES RESUMED.

Q. (By Mr. JENKS.) That gives, then, at the present time, substantially what your relation to this combination is, so far as your personal relation goes. Now, may we take up this question of prices? What has been the effect of the combination upon the prices of the products made by it?—A. When I was first engaged by the American Glucose Company the price of glucose was about 80 cents per hundred. The consolidation took place, and if I have a clear understanding of what a trust means from an industrial standpoint, it is to reduce the expense and consequently to reduce the price of the finished product. A little while after the trust was formed the price of glucose went up to \$1.60, or 100 per cent above the price prior to the combination. The price of glucose to-day, I believe, is \$1.35.

Q. Whereas before the combination was made it was about 80 cents?—A. It was about 80 cents.

Q. As regards the effects on the prices of the other products?—A. In the line of corn flour I can not tell exactly, because the applications of this product are so secret that it is impossible to get data.

Q. I understand by that statement that there is not an open market for this corn flour?—A. There is some market for corn flour so long as it is offered as corn flour, but so long as we have wheat we shall not buy corn flour, because we can not produce a quality of bread which is acceptable from corn flour.

Q. In your judgment, then, a large proportion of this corn flour manufactured by the Glucose Sugar Refining Company goes into the hands of flour manufacturers for mixing with wheat flour, and is not sold in the open market?—A. Yes; it is offered in the open market, but not as being equal to wheat flour.

Q. The reason I put my question in this form is this: You said you had been unable to determine the effect of this combination on the price of corn flour, and I inferred that if the products were sold regularly in the open market you could have discovered that easily.—A. The only thing I have been able to find out yet was through a microscopic examination of the Minneapolis flour. I have examined some samples; I have found some startling results. It is extremely difficult to trace the presence of corn flour in wheat flour. The best experts are often misled by the method of grinding. Microscopic examination shows a difference in texture which has enabled me to detect the presence of corn flour in wheat flour.

Q. So you have found corn flour mixed in wheat flour in some Minneapolis brands?—A. In the samples submitted to me from Minneapolis. The samples were sent to me without any name, and I can not mention the name of the concern that mixed corn flour with wheat.

Q. Now, can you tell us the effect of the combination upon the prices of corn oil?—A. Upon prices of corn oil the result has been about the same. Corn oil which used to sell for \$2.25 per 100 pounds is worth to-day 4 cents per pound.

Q. That is, it has gone to \$4 per 100 pounds?—A. Whether the increase in price is due to my process of refining corn oil or to some other cause I do not know. The dilemma is simply this: If the price is due to the refining process it is admissible that the refined product commands a higher figure than the crude.

Q. This price, then, of \$2.25 was for crude oil?—A. It was for crude.

CRUDE CORN OIL SOLD FOR REFINED.

Q. And the price of \$4 per hundred quoted to-day—is that for refined oil or for the crude?—A. It is for the refined. It is supposed to be for the refined, but I find out that samples are submitted to me by my former clients who have been charged 4 cents, or \$4 per hundred, and which are not samples of refined oil, but simply crude oil. I have called the attention of the company frequently to that point.

Q. Then this oil that was sold to some of your former clients for \$4 a hundred as refined oil when submitted to you for analysis was found to be crude oil?—A. Crude oil.

Q. Your inference from that is that the Glucose Sugar Refining Company at the present time is selling crude oil under the name of refined oil?—A. That is the way it looks to me.

Q. And getting refined-oil prices for it?—A. In some instances.

Q. You say you have received complaints from your former clients to this effect. About how many such complaints have come to you? Can you recall?—A. Oh, about 20.

Q. From different sections of the country?—A. From Alabama, Maryland, New York, and many other States which I do not remember.

Q. So that this custom of selling crude oil under the name of refined seems to be quite widespread in your judgment?—A. It may be that a mistake has been made, but I have called the attention of the company to the fact. That is all I can do. I have nothing to do with the commercial part of the enterprise. The only thing I could do was to call the attention of the company to the fact that people had been charged refined-oil prices for crude oil.

Q. Is it difficult for a person who is not an expert to distinguish between crude oil and refined oil?—A. The consumer of corn oil in large quantities will recognize it immediately without being an expert. It can be recognized by what is called the organoleptic test, which is a test by looking at it through a glass.

Q. Is this test one that would be applied by the ordinary consumer?—A. The large consumer would apply it. The small consumer would not.

Q. Are these complaints that come to you largely from the smaller concerns?—A. From jobbers mostly.

Q. What is the difference at the present time between the price of the crude product and the refined product, so far as the market quotations go?—A. I have endeavored to get those quotations from the company, but I have never been able to get a reply on that subject.

Q. And these prices are not quoted regularly in the trade papers?—A. The prices are fixed. I am satisfied as to that. And that is where I have found out that I had to deal with a trust. I did not know what a trust was until I found out I was dealing with the genuine article.

Q. Let us go back to the other point for a moment. What, in your judgment, is the principal difference in value between the crude oil and refined oil?—A. It is the difference between \$2.25 per hundred and \$4 per hundred.

Q. Now, if I understand you, you mean to say that the effect of this combination upon the prices consists simply in their selling crude oil under the name of refined and at the proper prices for refined?—A. The effect of the combination has been this: One hundred thousand bushels of corn are used, from which, in my opinion, 500 to 600 barrels of corn oil are recovered. This quantity of 500 or 600 barrels I shall put at 200,000 pounds per day, basing my calculation on 500 pounds to a barrel. The difference in price between \$2.25 and 4 cents gives a difference in price in favor of the new process which amounts to \$4,000 a day advance price for the company on corn oil alone.

Q. They have advanced the price enough so that it gives them an added income of \$4,000 a day on corn oil alone?—A. It was not a question of salary which induced me to join the Glucose Sugar Refining Company. It was the question, under the contract, of that 1 per cent which was the inducement offered me to join that concern. Some information has reached me to the effect that last year \$1,750,000 worth of corn oil, supposed to be refined oil, was distributed in the United States and abroad. This is what I have been able to trace. On a basis of 1 per cent, I ought to get out of that \$17,500 commission, which, with my salary of \$3,600, was shown to me by the president of the company to be a sufficient inducement to sign a contract for five years for my services—for the exclusive use of my services.

Q. Let us go back to the question of the price for a moment. Was there any market price at all for refined corn oil before the trust was formed?—A. Corn oil was a drug in the market at the time. It was absolutely impossible to sell it.

Q. It must have been sold at some price. You were manufacturing refined oil there at Peoria with the American Glucose Company at that time. Do you know what price they received?—A. For crude oil?

Q. No; for refined oil. There was a short time, if I undersand correctly—A. (Interrupting.) \$3.50.

Q. (Continuing.) After you had built a refinery before the trust was formed?—A. \$3.50 for the crude oil. For a while they were receiving \$3.50 to \$3.75.

Q. Now, the difference in price between that day and the present for the refined oil, provided that any refined oil is sold now at all, would be simply the difference

between \$2.50 and \$4; is that right?—A. Is it not in that case as it has been in another case which I have read about? It comes from the same tank. If a man insists upon getting 4-cent refined oil, he gets it; if he does not, he gets the crude and he gets charged 4 cents.

Q. The main effect, then, has been that they are selling crude oil for refined quite generally. Now, can you give us the effect of the combination upon the price of any other of their products? You have spoken of the glucose, which is double in price, and of its effect upon the price of corn oil. How about its effect upon other products?—A. It is impossible, as I have already said, to get quotations on what they term flourine unless you are an insider. As to rubber substitute, I can not sign this affidavit to the effect that the process can be patented, because, in my opinion, it can not be patented.

Q. What has the effect upon the price of rubber substitute been? Is there any increase in the price of that?—A. People do not like it; it has some drawbacks which do not appear at first. Of course, the reduction is such that it is an inducement to use rubber substitute in place of para rubber, but I am under the impression that this process is not a success.

Q. You are not able to detect in the market any difference in the price of this rubber substitute as time goes on?—A. In fact, the sugar trust controls practically the entire production of corn oil and rubber substitute in the United States.

Q. So that, in your judgment, they fix the price at whatever height they think will bring them the largest net income?—A. Yes.

VALUE OF PLANTS AND CAPITALIZATION OF GLUCOSE SUGAR REFINING COMPANY.

Q. You have spoken once or twice with reference to the price at which this corn-oil refinery, that you put up in Peoria, was sold to the Glucose Sugar Refining Company. Can you give us any information with reference to the value of the plants that are consolidated in the Glucose Sugar Refining Company as compared with their capitalization?—A. I can not give a very accurate estimate or approximation, but I believe that \$6,000,000 would be a fair price.

Q. Do you believe that the plants they have now could be reproduced for \$6,000,000?—A. Not including the real estate. The real estate constitutes most of their value. They are mostly old worn-out plants.

Q. Can you give an estimate that you think would be fair and conservative as to the value of all the plants they have, including the real estate, at the present time?—A. \$6,000,000.

Q. Including the real estate. What is their capitalization?—A. \$40,000,000.

Q. Have you taken any special pains or made any careful study of the value of these plants in order to make this estimate that you put on them of \$6,000,000?—A. I have seen them as a chemical engineer; and it is as near as I could make an estimate if I had to furnish one to another manufacturer.

Q. Do you know what dividends this company has paid upon its \$40,000,000 capitalization?—A. I understand that the company is paying 1½ per cent dividend quarterly.

Five per cent a year?—A. Yes.

On \$40,000,000 capitalization?—A. On \$40,000,000 capitalization.

Q. You spoke of having yourself built this corn-oil refinery. Can you tell us approximately or accurately how much it cost to build it?—A. Approximately, I believe I could. We put in machinery, apparatus, building, and connections, but I believe that not over \$25,000 was invested.

Q. Not over \$25,000. Do you know what price was secured for that when it went into the combination?—A. You mean for the assets?

Q. Of this one plant; yes.—A. It is a matter of public report or record, I guess, that half a million dollars was the price of it at the time.

Q. It was put in at half a million dollars?—A. That is what I read; I do not know where I have read it; I can not tell exactly where I have read it; and I will only give that as my opinion.

RELATIONS OF GLUCOSE SUGAR REFINING COMPANY TO THE SUGAR TRUST.

Q. You have spoken several times of the Glucose Sugar Refining Company as part of the Sugar Trust. What reason have you for thinking that the two are connected in any way?—A. I have simply this reason. When I entered into the contract with Mr. Mathiesen, after the experience I had before the consolidation, I wanted to know if the corporate existence of the Glucose Sugar Refining Company would last at least 5 years. That was the time of my contract. Mr. Mathiesen told me himself that Mr. E. O. Havemeyer was his uncle, and gave me a gentle hint that there was before me the opportunity of my life, of becoming

HEARINGS BEFORE THE INDUSTRIAL COMMISSION.

the chemist of the Sugar Trust. I did not understand at the time what it meant, but I understood with such a guarantee, moral guarantee, as that of Mr. H. O. Havemeyer I had nothing to fear about my 1 per cent and my salary, so I signed that contract for 5 years. But I have no tangible proof of a combine existing between the Glucose interest and the cane-sugar interest.

Q. You say you have no proof of that?—A. I have no proof of that. I infer simply from what I have been able to see during my 20 years' experience.

Q. What relations exist between the uses of glucose and the uses of cane sugar which would make it advantageous for the two to be combined? Are there any?—

A. The glucose sugar does not conflict in any way with the cane-sugar market. Glucose is worth \$1.35; sugar is worth a great deal more. I believe that the existence of the Glucose Sugar Refining Company is due entirely to that cause, which I may call the law of demand and supply, which calls for an article cheaper than pure cane sugar; and it is with the Sugar Trust as I believe it is with any other concern. When a corporation has established a name for the sale of a pure article, such as crystallized sugar, and the demands of the trade are for cheapening compounds, the mother house, if I can call it that, creates another house.

Q. A related house?—A. A related house under them, whose business is simply to supply the trade which the parent house does not care to supply. So I believe there is a combine existing between the Glucose Sugar Refining Company and the American Sugar Refining Company; there is at least an understanding.

Q. That is, there are certain uses to which glucose can be put that, if it were not for the existence of glucose, would have to be supplied by sugar, as, for example, the manufacture of cheap candies, or something of that kind?—A. I believe that when we get the new sugar-producing countries to giving us all the sugar in the raw condition, there will be no reason for the existence of any glucose concern in the United States.

Q. That is, you think that raw sugar will ultimately come from Cuba, the Philippines, etc., and be as cheap substantially as glucose is?—A. Then sirups can be made which will be free from sulphuric acid and from all the objections that glucose sugar—

Q. You think that glucose sugar is objectionable on account of the presence of sulphuric acid?—A. On account of its mineral acid reaction. The four legs upon which the Glucose Sugar Refining Company stands to-day are, glucose as a cheap substitute for sugar, corn flour as a cheap substitute for wheat flour, corn oil as a cheap substitute for linseed oil, corn-oil rubber as a cheap substitute for rubber. I do not wonder that the American Sugar Refining Company do not care to put their names on the barrels of goods manufactured by the Glucose Sugar Refining Company.

Q. (By Mr. C. J. HARRIS.) Do I understand you to say that the American Sugar Refining Company puts their name on?—A. No; I say I am not surprised that they do not. To come back to my own personal contract with the company, I have reason to say that the Sugar Trust believes that it is the understanding of our contract that I am engaged as a chemist to sign testimonials in order to offset newspaper talk, to indorse affidavits on legal points which I do not understand, and to work simply to counteract legislative measures. I shall not be a party to such schemes.

Q. (By Mr. KENNEDY.) Is there anything in that contract which could possibly be construed so that you would be called upon to perform such duties for the Glucose Sugar Refining Company?—A. If there had been such a clause I would not have signed the contract.

EXTENSIVE INTERESTS OF THE SUGAR TRUST.

Q. (By Mr. JENKS.) You will perhaps put a copy of that contract in evidence, if you have a copy here. You have explained some of the evils which come from these combinations—the increase of their prices, etc. Can you suggest any remedy?—

A. As a chemical engineer, I believe in combines which are intended for economical purposes to reduce the cost of production, but I do not believe in combines the effect of which is just the reverse. We have not reached the time that we may be afraid of the universal trust; but if that trust should ever come it will not come from the Beef Trust or the Standard Oil Trust. They manufacture a great many by-products, no doubt, but they do not manufacture one-tenth of the products manufactured by the Sugar Trust. I was at first under the impression that the Sugar Trust was simply manufacturing sugar until such a time as I found out that they were interested in almost anything and everything, from glucose, I should have said, to rubber boots. I do not believe that Mr. Rockefeller will ever have anything to offer to Mr. Havemeyer, and I do not believe that Mr. Armour will ever have anything to offer to Mr. Havemeyer; but I do believe that

the time will come when Mr. Havemeyer will be able to sell to Mr. Rockefeller enough corn oil to revolutionize the entire production of linseed oil in the United States, and to Mr. Armour all the feed stuff that he may need to run his stock yards. I have read about the proposed billion-dollar combine of brewers. I should like to ask a brewer what he would do if the Glucose Sugar Refining Company should tell him that he could not get any glucose. He could not make his beer.

Q. You mean that practically all the beer in the country at the present time is manufactured with glucose?—A. I simply wish to point out that if there is a dangerous trust—if there has ever been any danger from a trust—it is the trust which controls all the sugar, the breweries, the corn flour, the corn oil, and rubber substitute of this country.

Q. Is glucose used regularly in the manufacture of beer?—A. Glucose is used as a substitute for yeast in the manufacture of beer.

Q. Do you think that use is quite general?—A. Almost universal.

Q. Do think that the glucose used in the manufacture of beer and cheap candies is deleterious or injurious to health?—A. I am not a physician, and I can not give you an answer that would be of any weight. I have simply conducted experiments with the view of finding the action of glucose upon membranes of a vegetable nature, but not upon membranes of the stomach, because, as I say, I am not a physician. The results of my investigation, I consider, belong to the company, and I do not feel at liberty to mention that here.

Q. The same answer would apply, would it, to the question as to the nutritive power of corn flour as compared with white flour?—A. I do not question the nutritive power of corn flour.

Q. Do you think it is equal to that of white flour?—A. Opinions are divided on that question. I have read the opinion of Professor Wiley, and I have agreed to some extent with his views; but there is a fact which remains, and that is that it is utterly impossible to make an excellent mixture of white bread from corn on account of its lack—

Q. (Interrupting.) Are the processes used in the manufacture of glucose and corn oil and in refining corn oil the same processes which you yourself discovered in part?—A. Most of them.

Q. Most of them are used by the Glucose Sugar Refining Company?—A. It would be unwise to patent a process which is based upon a combined application of mechanics and chemistry.

Q. So the processes are not patented, but are kept secret for the manufacture?—A. Yes.

A REMEDY FOR THE EVILS OF COMBINATION.

Q. I asked you some time ago if you had any remedies to suggest for the evils that you think are associated with some of these combinations. Have you any?—A. I do not wish to say anything that would be detrimental to the company; but I wish to speak about trusts in general, basing my remarks on personal experience. I believe that there is a remedy. It was suggested not long ago that, providing we can find a proper definition for a trust from an industrial standpoint, from a monopolistic standpoint, goods manufactured, staple goods, or food products manufactured by foreign concerns in the same lines, be admitted free of duty. I do not agree with that view of the situation. I believe there is a better remedy than that, and that is for the United States to put an internal tax on goods manufactured by corporations controlling the trade. Take, for instance, corn oil. A great many people write me, "We want to get a carload of corn oil." I have nothing to do with the commercial part of the institution, but they can not get that corn oil and consequently the demand is greater than the available supply. There is no question, therefore, as to the Sugar Trust controlling entirely all the products and by-products derived from glucose in the United States; and, in my opinion, when a corporation has reached a point where it controls not only the trade but fixes the prices, disregards contracts, disregards patents from other people—there is one, for instance (producing paper)—it is time for the Government to step in.

Q. Do I understand you to say in this case?—A. There is a man that has a patent on corn oil.

Q. That they are using regularly?—A. They do not care anything about that. This man would be a very good witness before the commission, I guess. He is a man of very high standing and integrity—Mr. George W. Banker, of New York. I was saying that when a corporation or concern has reached such a point, it seems to me that, with my limited knowledge of economics in this country, it is high time for the United States Government to step in; and the only remedy

which I suggest would be to put an internal-revenue tax on things the use of which is not fully known and the production of which is not possible by any other concern.

Q. That is, you would put an internal-revenue tax on monopolistic products manufactured in this country?—A. Instead of free import duty from other countries.

Q. (By Senator MALLORY.) Would not the consumer have to pay that tax ultimately?—A. I can say this: There is a point where the consumer will have to pay the tax temporarily, but ultimately he would buy less corn oil. When I joined the company he paid \$2.25 per 100 pounds. It is impossible to-day to get corn oil for less than \$3.75 to \$4, which is about 75 per cent higher than it would be to pay an internal-revenue tax of 80 or 40 per cent. The consumer would pay about one-half or one-fourth the tax, about one-half or one-fourth of the increase.

Q. Do you think that there would be an advantage?—A. It seems to me that all products the use of which is not perfectly clear, such as flourine, corn oil, and rubber goods, should not be controlled by one corporation, but by the Government. It is my study of the question and my personal experience that has led me to this.

Q. You think they should be under inspection by the Government, and that if an internal-revenue tax were levied on them they would be brought under the inspection of the Government; is that the idea?—A. And further than that, it is giving too much power to one man here to give him the right to dictate to any man in the country what he should do and what he should not do.

COMBINATIONS AND THE TARIFF.

Q. (By Representative BELL.) You spoke of the remedy of taking the tariff off an article that is syndicated. Would it be any benefit in a case like petroleum or coal oil, where you have practically no competition? The tariff would not help a syndicate like the oil syndicate, would it?—A. I do not quite grasp the question.

Q. You were speaking of the proposed remedy of taking the tariff from anything that is formed into a trust. Now, suppose it were iron, or steel, or petroleum, or rubber, that we can now beat the world on, would that be the remedy at all?—A. There is a distinction between those two—between the two classes of products—and that distinction is this: Take the Standard Oil Company, for instance; any man can discover an unlimited quantity of oil to-morrow and be in a position to compete to a great extent with the Standard Oil Company, but no man can organize an institution that will be able in 24 hours to compete with the Sugar Trust, because it does not require the discovery of a mineral product to be enabled to compete. It is a question of years and years of organization. The best American institution, as far as organization is concerned, I once thought to be the Standard Oil Company. I think I know better to-day. I do not believe there is a single barrel of corn oil shipped from Chicago to Russia which is not traced from the moment it leaves the factory until it reaches the consumer.

Q. You do not ship to Russia, do you?—A. We ship to Russia because there they do not know how to make corn oil to-day. They do not know how to make glucose. The United States has a monopoly and controls corn oil. For this reason the remedy, based upon the suppression of the import duty, would not be a remedy at all.

Q. Would it be a remedy for iron, or steel, or rubber?—A. That may be another case. Being an expert only in this line, I can not express an opinion on any other.

Q. We are shipping iron and steel right into London at the present time?—A. I can not express an opinion upon iron and steel. My 20 years' experience has been in corn oil, glucose, and sugar.

Q. It seems to me if you had your internal tax on the products of the trust they would simply put it on the consumer?—A. The internal tax would certainly not be 100 per cent unless it was deemed advisable by the Government to put it so high. I spoke simply of products the use of which is not perfectly clear, such as the products of the Glucose Sugar Refining Company.

Q. You do not doubt at all, do you, but what the Standard Oil Company is a trust?—A. I do not consider the Standard Oil Company a trust; that is a pretty wild expression of opinion. I recognize a distinction between a trust and an absolute monopoly. I believe we may consider that the Standard Oil Company has an absolute monopoly of petroleum.

Q. What would you do with an absolute monopoly like that? What remedy would you propose?—A. I have suggested a remedy in the case of which I am speaking. I said I would not feel justified in expressing an opinion on some other question.

Q. You say you believe in combination. You do not believe in combinations

like that?—A. I do not believe in combinations like that. I believe, as a chemical engineer, in simplifying; and it seems to me the immediate result of a combine is to simplify. There are certainly good points in combines which should be taken into consideration. If the aim of combines is to reduce the cost of production, I am certainly in favor of them; but when the evident purpose is to monopolize trade, to control and regulate the consumption, the question is simply this: To find out first of all a proper definition of a trust—I come again to the original question—and then the Government should step in, it seems to me. I have nothing to suggest except an internal-revenue tax on goods the use of which is not perfectly clear.

EFFECT OF COMBINATIONS ON WAGE-EARNERS.

Q. May not all the great manufacturing institutions shut down plants and leave the men without employment and do no injury at all to the owner of the individual plant?—A. I have been studying the industrial aspect of the question, but I have not given any time to the labor aspect.

Q. Would any of your remedies cover a case of mills closed by a combination whose owners still received profit from the combination?—A. I repeat again that I can only suggest, as a result of my personal experience, a remedy in such a case as the Glucose Sugar Refining Company. It is to be expected that, by simplifying and by combining, a great many people will be thrown out of employment. That is to be expected. Traveling salesmen may be thrown out of employment by the fact of combining the interests of the Glucose Sugar Refining Company.

Q. Is not that just the way you lost your place?—A. The way I lost my place? I have not lost my place, for the simple reason that the Glucose Sugar Refining Company is one of my clients to the extent that they have tied me up by contract for 5 years. I have agreed for a certain consideration not to engage my services with any other corporation in the United States until the 27th day of September, 1903.

Q. But if your company had not gone into the trust is it not your idea that you would have had amicable arrangements with them up to this time?—A. If the company had not formed a trust I should not care anything about what they did, because I could find employment to-morrow with another corporation. The aspect of the question is entirely different. I can not go to-morrow to another concern, because there is no other concern in the United States.

Q. And it absolutely blacklists you, does it not?—A. And consequently whether I carry out the terms of my contract or not I am no better off.

Q. But you have no opportunity whatever now of getting employment in your line of business in the United States on account of this trust?—A. Unless there is another corporation being formed, willing to engage my services and take their chances, knowing that there is a contract existing with the trust. I could not to-day, without violating my contract, join any other company, and further than that there is no other company; so the situation created by the labor aspect of the question, which is the result of simplifying in the case of traveling salesmen, is an entirely different question from the one I have considered.

Q. Does not the private syndicating of these institutions result in making labor absolutely powerless?—A. Yes; there are remedies which the labor organizations can use.

Q. How would the organization remedy it in the town of Pueblo? I notice that in the town of Pueblo they have about 2,500 men working as smelters. The law provides that they shall only work 8 hours after the 15th of June. Now, the smeltermen and the friends of the smelters say to these laborers, "We are indifferent; we are in a trust; it makes no difference to us whether we shut down in Pueblo or not." If they do shut down in Pueblo, they can go on running the smelters at Denver, at Salt Lake City, and at Omaha the same as in Pueblo, and make the same profit as though their smelters were running there, but the laborers are without employment.—A. Now, you have reached a point where there is some similarity between your case and the case I have in view. I have found out that the Sugar Trust is conducting its business under methods which it is absolutely impossible for anyone to understand. You were saying that if they should leave one corporation, or one concern of the trust, they would simply have to go to another.

RELATIONS OF WITNESS TO GLUCOSE SUGAR REFINING COMPANY RESUMED.

Q. And does not that blacklist them? Suppose a man strikes in one branch of the Sugar Trust, or take your case, you are now at outs, as it were, with one branch of the Sugar Trust; will not that blacklist you in every one in the United States?—A. Well, I am inclined to think it may, simply because the last time I

went to Chicago there were Professor Horton, Dr. Fuelling, Professor Humphrey, and Dr. Arno Behr, all of them chemists of the highest rank, and Mr. Thomas Gaunt, general superintendent of the company, under a 5 years' contract like myself, with a salary of \$25,000 a year.

Q. (By Mr. JENKS.) These other chemists also were in the employ of the company?—A. They formed a part of the chemical staff of the Sugar Trust, that branch of the Sugar Trust which is the Glucose Sugar Refining Company, every one of them.

Q. How is it to-day?—A. Dr. Arno Behr is in California, and I do not know what he is doing. Professor Humphrey is somewhere in New York looking for a position. I do not know where Professor Horton is; and I am here. Now, it seems to me that there is a constant process of assimilation and elimination; the assimilation of knowledge whenever there is an opportunity to get it and a process of elimination when the knowledge has been imparted. That is exactly my case, and there is no remedy there.

Q. (By Representative BELL.) Now, could not your company refuse or fail to run a particular institution that you were superintending and supply the demand from other companies and leave yours out?—A. There is no other company.

Q. I thought there were numerous glucose companies?—A. My contract is made with the trust.

Q. Suppose the combination would not manufacture that particular article? I am talking about your ideas and your remedy.—A. There is no remedy in this case. I believe that I have as much right to look into the books of the Glucose Sugar Refining Company as the president of the company has under the terms of my contract.

Q. (By Mr. JENKS.) At what time did you say it was that you were employed by the American Glucose Company in Peoria?—A. I have the contract here.

Q. It is the date we are after.—A. Three years prior to this time. I had been 2 years with the Peoria concern prior to joining this institution. I have not here a copy of the contract with the Peoria people. I thought I had it with me.

Q. It would be sometime, then, you think, in the year 1895?—A. I believe it was 1895. I was at that time under contract with a great many private concerns, corporations, I know.

Q. Can you tell me what time this combination was effected by which the American Glucose Company went out of existence?—A. It was 2 months, perhaps, before I joined the trust.

Q. About what time was that?—A. It was in July or August, 1897.

Q. Probably in July or August, 1897, that the Glucose Sugar Refining Company was formed?—A. Yes.

Q. Then your contract with them is dated—A. A month or two after, 2 months after, I guess.

Q. There had been negotiations pending before that time?—A. That was simply on account of differences between the two.

Testimony closed.

NOTE.

Following is a copy of the contract between Mr. Mas and the Glucose Sugar Refining Company, referred to by him on page 76 of his testimony:

This agreement, made at Chicago, Illinois, this 27th day of September, A. D. 1897, by and between Ernest Mas, consulting chemist and chemical engineer, of Brooklyn, New York, party of the first part, and the Glucose Sugar Refining Company, of Chicago, party of the second part.

Witnesseth, that said party of the first part being a consulting chemist and an expert in oil refining, and said party of the second part being a manufacturer of crude corn oil, it is agreed as follows:

For and in consideration of the payment of one dollar cash in hand, paid this day, and the further consideration of an annual compensation of three thousand six hundred dollars (\$3,600) per year for his professional services (payable in monthly instalments of three hundred dollars (\$300) per month on the first of each month by said Glucose Sugar Refining Company), Ernest Mas becomes from this date, and for a period of five years, the consulting chemist and chemical advisor of the Glucose Sugar Refining Company on all questions pertaining to corn oil, its methods of extractions, uses, manufacture, special treatment, and preparation and industrial applications.

Ernest Mas binds himself not to act as consulting chemist of any other company or firm or individual in the United States engaged in the manufacture or refining of corn oil, or in the manufacture of starch or glucose, or proposing to engage in any such manufacture, or to enter into the employ of or render any

services to or become in any way identified with any such company or firm or individual; but said Ernest Mas shall be free to act as consulting chemist or in any other capacity for any company or firm not falling within the above prohibition, and to engage in any other business than that of manufacturing or refining corn oil or the manufacture of glucose or starch.

Ernest Mas agrees to continue in New York his laboratory researches and investigations on the treatment, preparations, and refining of corn oil, and binds himself to give the Glucose Sugar Refining Company the exclusive use and benefit in the United States of all the results of his experiments and discoveries in that direction during the term of this contract.

In addition to the annual compensation of three thousand six hundred dollars (\$3,600) per year for five years, Ernest Mas is to receive from said Glucose Sugar Refining Company an amount equal to one per cent on the proceeds of all corn oil refined and prepared under processes or methods discovered by the said Ernest Mas and sold by the Glucose Sugar Refining Company during the life of this contract. Monthly statements shall be rendered by the said company to said Mas, showing the amount of said prepared or refined oil on hand and the amounts sold, and payments shall be made monthly to Ernest Mas, based on the amount of said oil sold, upon the basis of one per cent on the amount of such sales, as above specified.

In consideration of the foregoing contract, said Ernest Mas hereby waives and releases all claims against the American Glucose Company which he may have under his contracts with said company, dated at Peoria August 18th, 1895, and July 1st, 1896, and said Glucose Sugar Refining Company hereby indemnifies and guarantees said Ernest Mas against any claims that the American Glucose Company may have under said contracts against said Ernest Mas for professional services, processes, or otherwise.

The Glucose Sugar Refining Company agrees to defray all travelling and incidental expenses of Ernest Mas when he, at the request of said company, shall visit Chicago or make a visit of inspection to any of the plants owned by this company in the United States.

This contract is to continue for a period of five years from its date.

In witness thereof the said parties have executed this contract this 27th day of September, A. D. 1897.

THE GLUCOSE SUGAR REFINING COMPANY.
C. MATTHIESSEN, *President*.
ERNEST MAS.

Witness to signatures:

S. T. BUTLER, *Treas'r*.

WASHINGTON, D. C., June 13, 1899.

TESTIMONY OF MR. CLAUS DOSCHER, BROOKLYN, N. Y.

The commission met at 2.30 p. m. June 13, 1899, Senator Mallory presiding. Mr. Claus Doscher, Brooklyn, N. Y., after being sworn, testified.

Q. (By Mr. JENKS.) Will you give your full name and address to the commission?—A. Claus Doscher; 142 Ross, Brooklyn, N. Y.

Q. You have been engaged in sugar refining?—A. Yes.

Q. How long an experience have you had in that line of business?—A. I went into the refining business in 1870, and remained in it until 1887. Since then I have not been active until we built the refinery I am now running.

Q. At what time did you build the refinery you are now running?—A. We began in April, I think it was, 1897.

Q. At what time did you begin operating the refinery so that you could sell the product?—A. The 1st of November last.

THE COST OF SUGAR REFINING AND THE PROFITS IN THE BUSINESS.

Q. About what was the margin of profit on refined sugars when you arranged to build your refinery?—A. When we arranged to build it?

Q. Yes; when you began to build; when you decided to go into business in that way?—A. I can not tell just exactly at that time. Do you mean the margin between refined and raw sugar?

Q. No, I mean the margin of profit.—A. That is hard to tell. The margin between raw and refined was all the way from about 70 to 97 cents a hundred.

Q. How much did you say it was?—A. I do not know exactly, from about 70 to 97 cents on 100 pounds.

Q. By raw you mean 96 centrifugal sugars?—A. That is right.

Q. And of this margin between the two how much is considered the cost of refining and how much profit?—A. Well, the cost of refining is very hard to tell; it depends a great deal on what sugars you are working; the better the sugar the less it costs to refine.

Q. Supposing you have a good grade of sugar, 96 centrifugal, what is the cost of refining 100 pounds?—A. You see there are so many different things that go in. If you can work full, of course you can work much cheaper, but as a rule I should say about somewhere around 60 cents a hundred.

Q. Somewhere between 50 and 60 cents a hundred?—A. As I stated before, it is very hard to tell; one class is cheaper than another; then it depends on how much you can work. If you can work full, of course you can do better.

Q. But if you have a good house, a new house such as yours was, and running full, with a good quality of sugar, you would say that the cost of refining was about how much?—A. Well, as far as I am concerned, as far as our house is concerned, I can not tell that. We have not run it long enough, but that is about the figure.

Q. About 50 cents?—A. About; between 50 and 60 cents, I should say.

Q. What is the margin now between raw and refined?—A. The margin now?

Q. The margin at the present time.—A. At the present time, to-day or yesterday, I believe, it is 51 cents. Since we have been running it has varied, as far as I can remember, from 82 to 51 cents per hundred.

WHY THE MARGIN BETWEEN RAW AND REFINED SUGAR WAS REDUCED.

Q. What reason have you to give for this very great reduction from 70 and 97 cents, when you were building your refinery, to 51 and 32 since then?—A. I have no reason to give there.

Q. You see no reason at all for the reduction?—A. Well, we do not make the prices; that is what you are driving at, I presume.

Q. Who makes the prices?—A. The American.

Q. For what purpose do you think the American Sugar Refining Company put prices down in that way?—A. I could not tell you that.

Q. Have you any reason for thinking that the prices are put down in order to prevent your refinery running at a profit?—A. Yes, I have a good reason to believe so; I have heard a good many rumors to that effect.

Q. Have you ever had it reported directly to you that the officials of the American Sugar Refining Company have said that?—A. By that you mean the officials?

Q. I mean the officials.—A. No, I have not.

Q. You have never heard that any of the officers of the American Sugar Refining Company said that at all?—A. I never heard them say it, no.

Q. That does not answer the question.—A. Then I do not understand your question.

Q. I did not ask you if you heard them say it; I asked you if you had heard that they had said it? Have you heard that? Have you heard that any of the officials of the American Sugar Refining Company expressed the intention of making sugar refining so unprofitable that it would drive you out of the business?—A. No; as I said before, there were rumors and newspaper talk, but I never heard it said.

Q. Have you never had it reported to you that some of the officers of the American Sugar Refining Company said that they would put the prices down until it would be unprofitable for you?—A. Just as I stated before, there were rumors about, and it had been told to me and talked about to me, yes.

Q. I am not speaking simply of general rumors, but I am speaking of it somewhat more directly. I want to know if it has been told to you directly or if you heard that it was said by one of the officials of the Sugar Refining Company?—A. No, I can not say they have. I have heard it time and again, and I was told that they were told direct by the officials that they would do it. I do not know as I ever heard it said myself.

Q. No one ever told you directly that he had heard statements that were made by some of the officials of the company?—A. That is very likely. As I stated before, there has been much talk, but I can not remember it and I do not know where. There are of course a good many rumors, you know.

Q. But you are of the opinion that somebody told you that he had heard some of their officials make that statement?—A. Oh, yes.

Q. So that it came to you with simply one person between one of the officials of the sugar refining company and yourself?—A. No; not by the officials.

Q. I do not mean that; but you say that some person has told you that he himself heard an official make that remark?—A. No.

Q. You said that a moment ago.—A. I did not know that. He had said that a party had said that they had been told that by the official.

Q. That they had heard the officials say it?—A. I do not think I can say that.

Q. You state, then, directly that you have never been told by any person that he had heard any of the officials of the American Sugar Refining Company state that they would make prices so low that you would find the business most unprofitable?—A. Yes; that is right. I never heard by anybody telling me directly, coming to me and saying they were told so by the officials.

Q. Have you been told so directly that the officials made that statement that you believed it?—A. Well, so far as believing it, I do not think that I ought to go on belief or hearsay.

Q. It is part of your oath that the facts you state on opinion and belief you believe to be true.—A. Yes.

Q. And it is accepted here. Of course this commission is simply after general information as to the trust.—A. Yes; that is right.

Q. You have your knowledge direct enough so that you believe it to be true that some of the officials of the sugar refining company have stated that they would make sugar refining so unprofitable that it would drive you out of business?—A. I do not doubt that that has been said, but I can not say that I have been told directly by some party who got it from the company.

Q. Still, you have heard it directly enough so that you believe it is true?—A. I believe that is true; yes.

Q. You believe it is true that with the old margin of profit that existed when you were building your refinery and before prices began to be cut you could have made a good annual interest on your investment?—A. Yes.

Q. About what a rate of interest could you have made do you suppose; what rate were you calculating on making?—A. That I can not tell; that depends upon different circumstances again. But I do know that we could have made a nice profit; there is no question about that.

Q. (By Senator MALLORY.) What do you call a good, nice profit?—A. I can not tell that; what we could have made on the investment is a very hard thing to tell.

Q. Of course you can not get at it accurately, nevertheless you were intending to make a good profit. What, in your opinion, is a good, nice profit?—A. Well, I do not know as I have any opinion there.

Q. (By Mr. JENKS.) Coming back to that other matter, you say that you have heard it said definitely enough so that you believe the officials of the American Sugar Refining Company said that it was their intention to make the business of sugar refining so unprofitable that it would drive you out of business. You said you had no doubt of that.—A. I have no doubt of that.

Q. Have you any doubt, with reference to this further matter, that they also said that if they should make your factory prove a failure, no others would be likely to interfere for a good many years with their control of the business?—A. I have heard that indirectly.

Q. You have heard that the same as the other?—A. That is rumored, the same as the other; yes.

Q. Directly enough so that you have no doubt of it the same as the other?—A. Yes; both of them were the same.

Q. That they intended to drive you out, and that if they did nobody else would afterwards be likely to come into that business for a good many years to come?—A. No; that is a little hard.

Q. That they did not think anybody else would come in for some time to come?—A. Yes; I think that is about right.

Q. Since you started your refinery and began selling have you conferred with the officers of the American Sugar Refining Company with reference to the prices of raw and refined sugars?—A. No.

Q. Any conference with them at all?—A. None at all.

Q. Have you conferred with the other sugar refiners who are not in the American with reference to prices?—A. No.

Q. Not with Arbuckle, or anybody else?—A. No.

Q. Has there been any conference held, or have you conferred with any sugar refiners with reference to the testimony that was to be given here before this commission?—A. No.

Q. There has been no conference of that kind that you know of?—A. No.

NO PROFIT IN REFINING.

Q. Let us come back to the question of refining. Since the prices have dropped as they have, what has been the margin of profit in your refinery? How much per barrel do you reckon you are able to make now?—A. How much profit?

Q. How much profit per barrel?—A. I would say we have not made any, so far as I know.

Q. Has that been true since you began?—A. Yes.

Q. Did this drop in prices come at the same time you began to refine?—A. Yes.

Q. That was in November, 1898?—A. November the 1st, and probably a week after—

Q. And the prices were dropped so low that you made nothing?—A. We have made nothing on refining.

Q. What other sources of profit are there in connection with the sugar-refining business?—A. No others, except in buying raw which happens to advance in price.

Q. Have you happened to have any stock on hand that advanced in price so that you made something out of it?—A. Yes.

Q. In that way you have occasionally had the opportunity to make money on something?—A. Yes; we have been fortunate in that.

Q. Then you have not made anything in the refining business?—A. No.

Q. And you think that the reason the price was put down is that the American wanted to drive you out?—A. I think I have answered that question once or twice.

NO RELATIONS WITH THE SUGAR TRUST.

Q. Have you ever had any conference with the American Sugar Refining Company officials with reference to consolidation of interests with them, or any working agreement at all?—A. No.

Q. Have you ever had any communication with them at all with reference to that matter through third parties?—A. No; nothing at all.

Q. Not with reference to any consolidation of interests or with reference to any working agreement of any kind?—A. No; not of that nature at all.

RELATIONS WITH RAILROADS.

Q. In the shipping of your goods are you able to get any advantages from the railroads beyond published rates, lower than the public rates?—A. Do you mean on the railroads?

Q. You ship a great deal of sugar?—A. Yes.

Q. The railroads have certain published rates of freights?—A. Yes.

Q. Are you able to get any advantages that lessen the cost of shipping to you?—A. You mean from the railroads direct; get a rebate from them?

Q. Well, that is one way.—A. No; we do not get any.

Q. You get no rebate?—A. No.

Q. Do the railroads allow any other privileges, as, for example, any free storage at terminal points?—A. Yes.

Q. They do allow you free storage at terminal points?—A. Yes.

Q. Do they allow this to others?—A. I believe they do.

Q. Probably to all large shippers, you think?—A. I think they do; yes.

Q. Is this free storage worth considerable to you as a shipper?—A. No; I do not think that amounts to much; it is merely accommodation. The sugars are sent there, you know, and held by them for distributing.

Q. At these terminal points?—A. While they are being distributed there is no storage charge.

Q. For how long a time are they held?—A. O, I can not tell you; I do not know.

Q. I believe they count on 30 days?—A. It may be held 30 days; I think that is about right; I do not know, but I think about that.

Q. Do you have a pretty large amount of storage at these terminal points?—A. Sometimes we have.

Q. About how much?—A. Well, we have sometimes, I suppose, all the way from 2,000 to 4,000 barrels.

Q. And they remain there for 30 days or in the neighborhood of that?—A. Yes; part of it would be there for 30 days and part of it would be sent out directly.

Q. But there is a good deal of advantage in having that stored there free for so long a time?—A. Of course it is an advantage; there is no doubt about that; yes.

Q. Have you any information with reference to any division of sugar freights out of New York between railroads?—A. Division in sugar freights?

Q. That is, between different railroads?—A. No; I have no knowledge of that at all.

GENERAL CONDITIONS OF REFINING IN THIS COUNTRY.

Q. In your work in connection with the sugar-refining business, you, of course, have studied not only the cost of refining here, but the cost of refining in other countries as well?—A. No, I know nothing about refineries in other countries.

Q. Have there been decided improvements in the methods of refining in this country?—A. Yes.

Q. Within the last few years?—A. It is further back than that. Naturally there have been improvements all the time, of course, but the great improvements that have been made date further back than that, 10, 12, or 15 years. Of course in manufacturing there is something improved, more or less, from time to time.

Q. Do you think the methods of refining in this country are as good as anywhere, so far as you can judge from competition?—A. So far as I can judge, they are; yes.

Q. You are inclined to think the cost of refining here is as cheap as in foreign countries?—A. I am.

Q. Is there any special advantage in having a large refinery over a medium sized or a small one?—A. That depends upon circumstances again. If you have a large refinery, and can work it full, why, of course, there is no doubt an advantage.

CAPACITY OF REFINERIES.

Q. What is the capacity of your refinery?—A. About 1,000,000 pounds a day.

Q. How many barrels is that?—A. In the neighborhood of 3,000 barrels.

Q. Are there many larger refineries in the country?—A. Yes; some larger I believe.

Q. What ones?—A. The Havemeyer is larger.

Q. What is the capacity of that, about, in barrels?—A. Well, you see, they have so many together—

Q. (Interrupting.) I was thinking of their largest single refinery?—A. The largest single refinery; I can not tell you that.

Q. You say the capacity of your refinery is about 3,000 barrels a day in round numbers?—A. About that.

COST OF REFINERIES.

Q. Speaking in round numbers again, how much did it cost you to put up your refinery?—A. I do not know as that is a fair question.

Q. Is it not?—A. I do not know whether it is or not.

Q. I think that is a fair question.—A. I will tell you. I will put that in another shape for you. You want to know what you can put up a good refinery for. Is that the object?

Q. Yes.—A. If you want to put up a good refinery these days, equal to any in existence, it will cost about \$2 per pound.

Q. Does that mean it would cost about \$2,000,000 for a refinery of 1,000,000 pounds capacity?—A. Yes; that is right.

Q. So to put up a refinery similar in size to yours it would cost about \$2,000,000?—A. It would to-day.

Q. That includes just the refinery itself? You are not taking into account the land?—A. I am taking in everything complete, land, machinery, and everything. Of course the difference would be very decided as to whether the land in itself was worth half a million, as it might very well be if standing in a city or on a remote island.

COST ASIDE FROM LAND.

Q. Now, what would be the cost, aside from the land?—A. That does not figure a great deal.

Q. It figures very decidedly; you had better try to get at that.—A. Perhaps you had better let it go at that.

Q. I hardly think so; it is a very important question.—A. Well, I can not tell you that. Let me see; I can not answer that question.

Q. I beg your pardon; I did not understand.—A. I can not answer that question.

Q. Why not?—A. I am not prepared for it.

Q. You certainly have had considerable experience?—A. Yes.

Q. When you speak of the million-pound refinery you mean, of course, a refinery run at its full capacity?—A. Yes; that is right.

Q. Now, this question of the land is really a very important one, because if the place the refinery happens to be, let us say, in New York City, near the river or on a good dock, it may be, with the land, worth hundreds of thousands of dollars more than the refinery standing elsewhere would be worth.—A. Well, you know you have got to have a river front, so that does not make a great deal of difference. There is no great difference there.

Q. But you have not got to have it in so expensive a place as that.—A. All water fronts are expensive; there is no great difference.

Q. In the neighborhood of New York City they are all very expensive?—A. Yes.

Q. But a refinery built somewhere away from New York City would not be so expensive.—A. That is so. There are other disadvantages there also.

Q. Then the question of taking the land out is really a very important one at the time of capitalization?—A. Yes; I can not very well separate that.

Q. How much land, for example, have you with your refinery?—A. We have close on to 100 lots—between 90 and 100 lots.

Q. What is the frontage of a lot?—A. Twenty-five by one hundred.

Q. And you say you have how many? A. One hundred lots, or very nearly that; between 90 and 100.

Q. Have you some idea with reference to the value of real estate in that neighborhood?—A. Have I some idea?

Q. Yes.—A. Well, I have some idea; yes.

Q. About how much is real estate worth per front foot in your locality?—A. Well, I suppose about \$3,000 a lot.

Q. About \$3,000 a lot?—A. Twenty-five by 100—I think that is about the value around there.

Q. And you have about 100 lots?—A. Yes.

Q. Three hundred thousand dollars for your site?—A. Have you got at it now as nearly as you want to get at it?

Q. So the cost of building a refinery like yours would figure up to, say, somewhere from a million and one-half to a million and three quarters?—A. Yes.

Q. You think it would be about that?—A. Not quite—about one million—that depends a great deal—

Q. (Interrupting.) I said, you know, one million and one-half to one million and three-quarters?—A. Yes; there is a good deal of margin; there is a good deal of margin there.

Q. You think you could for probably a million and one-half?—A. I will not build any more; I have enough at present.

Q. You can for a million and a half equip a full, up-to-date, good refinery of a million pounds capacity; you think that can be done?—A. Yes; I think that is about right; in that neighborhood.

Q. You think you could not build one of that capacity at the present time for a million?—A. No, I do not think you could.

Q. You feel pretty confident you could for a million and one-half?—A. I do not know as I could.

Q. Then, as long as you are not in the building business any more—?—A. That is it.

COST AND PROFIT OF REFINING RESUMED.

Q. You said, to begin with, when you were speaking about the margin between raw and refined sugars, that it was perhaps 50 cents now, and had been 70, and as high as 90 at the time you began building your refinery, and that it had one time been down to a little above 80. Now, if we take the cost of raw sugar and attempt to figure out what the cost of refining is, and what the profit would be, etc., how would we get at it? For example, how many pounds of raw sugar, good quality 96 degree test centrifugal, does it take to make 100 pounds of refined?—A. It depends upon what kind of sugar you are working and also how good you are at refining.

Q. Suppose you have a good refinery and a good fair quality of 96-degree sugar, how many pounds would you allow for making 100 pounds of refined sugar, granulated?—A. Well, I can not answer that question.

Q. Does the United States Government have any calculations on that in connection with drawbacks and so on?—A. I do not know whether they have or not.

Q. The yield, as a rule, is, say, for some grades 93, some 92½, and in that neigh-

berhood. That is, that you get that amount from 100 pounds of raw sugar?—A. Yes.

Q. If you are going to attempt to figure out the cost of refining 100 pounds of refined sugar, you would need to calculate on 107 to 108 pounds of the raw sugar, say?—A. No; I guess it would be the other way. To take 100 pounds would be the handiest way, would it not?

Q. It depends on the matter of figuring; it is immaterial which way you take it. If you take 98 pounds as the amount that you expect to get out of 100 pounds of raw sugar you could figure it in that way.—A. You could figure it in that way; yes.

Q. If you were going to figure the cost of 100 pounds, you would take 108 or 109.—A. Yes; that is right.

Q. What is the price of raw sugar to-day, did you say?—A. The price of raw sugar to-day is \$4.69.

Q. That is, for the 96 degree?—A. Yes.

Q. I suppose that 96 degrees, tested by the polariscope, is a pretty definite thing? This quality, 96 degrees, is about the same always; it is a good quality of raw sugar, and when tested it is always substantially the same?—A. Yes.

Q. So, if you figure on the basis of 96 degrees test it would substantially cover all other degrees, because prices vary in accordance with that test, do they not?—A. Well, as I have already stated, they vary; sugars vary, you know.

Q. What difference in the quality of sugar is there, aside from the question of the polariscopic test?—A. You know, when you take the common sugars they have more or less impurities.

Q. And what did you say the price of refined sugar is to-day?—A. I think it is \$5.20 net.

Q. That makes a difference between the raw and refined of 51 cents, as you said?—A. Ycs.

Q. Now, if we were to add to this \$4.69, which is the cost of 100 pounds of raw sugar, let us say 9 per cent for the value of the amount of raw sugar above 100 pounds needed to produce 100 pounds of refined, making about 42 cents, would that be about fair?—A. I do not know; I do not go into figures; I am not a bookkeeper.

Q. But if it takes, to make 100 pounds of refined sugar, 108 or 109 pounds of raw sugar—of course I do not expect this to be absolutely correct?—A. I do not think they figure that way at all; it is always figured the other way, so far as I know.

Q. It is immaterial; it is a little simpler way of getting at the cost.—A. Yes.

Q. You think that instead of putting the amount of refined obtained from 100 pounds raw at 92 it would be more nearly correct to put it at 98?—A. That depends upon circumstances.

Q. Of course it depends upon circumstances, but I want to get a fair general average. That is as near as we can come to it; 98 you think is more nearly correct?—A. Yes.

Q. On that basis which you have given if we add to the price of 100 pounds raw, \$4.69, 7½ per cent, which would be the amount to be added on that basis, it gives us \$5.04, as the cost of the raw sugar in the 100 pounds of refined. Now if the price is \$5.20, that leaves the margin between the two, 16 cents per hundred. Is that in your judgment below the cost of refining?—A. I have no judgment as to that.

Q. On the basis of 51 cents margin you think there is no money in it to-day?—A. No; I did not say that.

Q. You did not?—A. I said there had not been any money in it on the average. It has only been raised for 2 or 3 weeks. It has never been as high as to-day, you know. It only raised one day last week; I think Thursday or Friday.

Q. There is some money in it on the basis of 51?—A. I do not think there is. I think that is getting about even.

Q. So, then, on this other basis you think the real bare cost of refining must be about 16 cents?—A. No; I did not say that.

Q. It amounts to the same thing, does it not?—A. I do not think it does.

Q. I take your own figures. You maintain that refining will cost 16 cents a hundred?—A. Sixteen cents a hundred the cost of refining?

Q. I thought I was taking that from your figures?—A. You are mistaken.

Q. You said, did you not, that it was a fair average to assume that there were 98 pounds from the 100?—A. Yes.

Q. On that basis you would get, then, 98 pounds of refined from 100 pounds raw; that would give almost exactly 107½, on the other basis; so I take your price of raw sugar, \$4.69, and multiply by the 7½ per cent we put on, and add that to the price of the raw?—A. Seven and one-half?

Q. That is what it would amount to, 7½ pounds, which is to be added to the 100 pounds of raw to make 100 pounds of refined?—A. Yes.

Q. Four dollars and sixty-nine cents multiplied by 7½ gives .85 and a trifle over—.85½; that, added to the \$4.69, gives \$5.04; subtract from \$5.20, the price of refined, and you have left .16. I understood you to say that there is possibly a little bit of money at the difference of 51; the difference there is to-day, which would make according to this 16 cents per 100 pounds, the mere cost of refining, unless you take into account the by-products or something of that kind.—A. There was some surplus.

Q. When you reckon it on this basis, you think we ought to count on the surplus beyond that?—A. Well, I am not up in bookkeeping—I am not up in bookkeeping.

Q. I should judge from your experience that you have given that you are pretty well up in refining?—A. I am not up in bookkeeping.

Q. It would seem to show 16 cents a hundred, and you think that would be a fair cost of refining?—A. I told you that refining costs from 50 to 60 cents.

Q. I know. That is not merely the cost of refining; that includes also the 1c of raw sugar. That is your way of stating the same thing?—A. I have told you what I considered the cost of refining.

BY-PRODUCTS FROM REFINING.

Q. Stated on the basis of the figures you gave me, how much by-product is there in refining 100 pounds of refined sugar; how much sirup, for example?—A. Well, about 2 gallons, I think.

Q. About 2 gallons in 100 pounds?—A. Yes.

Q. How much is that worth in the market?—A. About 10 or 12 cents a gallon.

Q. Twenty cents or more you would say, then?—A. I guess that is too much; however, I can not get at these figures exactly.

Q. Of course from what you have already stated about sugar refining there is more or less variation; but in general you get out of 100 pounds about 2 gallons of sirup?—A. About that; that depends again on the kind of sugar you are working.

Q. That is worth about 10 cents by weight?—A. Yes. I guess it is; you had better not say that; you had better say 12 cents for a gallon.

Q. About 12 cents a gallon; you think that is more nearly correct?—A. Yes.

Q. Are there any other by-products besides sirup?—A. No.

Q. Now, in every manufacturing business, of course, aside from the cost of the plant itself, more or less running capital is required. Speaking in round numbers, about how much running capital does it take to operate a refinery that would melt about one million pounds?—A. If you get credit enough you do not need any money, and if you have not got any credit you have got to have considerable capital, and that again depends upon the stock you are carrying.

AMOUNT OF STOCK CARRIED—AMOUNT OF RUNNING CAPITAL.

Q. About how much stock do you ordinarily carry?—A. There is no rule for that.

Q. Of course, there is no rule; but as a matter of general experience?—A. There is no rule for that at all, not any at all.

Q. There is considerable experience, of course?—A. Yes; but no rule for that.

Q. Of course it is true you would often be very much ahead and often run very low?—A. That is true, and that is something no one can tell, the same as in any other manufacturing business.

Q. There is, nevertheless, a great difference in different kinds of manufacturing as to the amount of running capital that one needs in connection with the business. In some lines of business one needs much more running capital than one does in other lines?—A. Yes.

Q. Now, with reference to the sugar business, does that, on the whole, require proportionately a large amount of running capital or a small amount?—A. Now, I am not acquainted with any other business; I can not tell you what it does require to run any other business.

Q. Suppose I put the question in another form. About how often do you turn your capital in the business; every 12 months?—A. I could not tell you; I do not know.

Q. Can you not give pretty nearly the time?—A. I could not undertake it at all.

Q. On what terms do you ordinarily sell refined sugar?—A. The rule now is that most goods are sold on 7 days.

Q. On 7 days?—A. Yes; 7 or 30 days.

Q. That means that they are to be sold on 30 days and you will give a cash discount for payment in 7 days?—A. Yes.

Q. How much do you give?—A. One per cent.

Q. What are the ordinary conditions of purchasing raw sugar?—A. Oh, there is nothing of that kind given. That is bought right out; that is all straight.

Q. No discount at all?—A. Without any discount.

Q. Cash down?—A. Cash.

A. That is the common custom?—A. That is the custom; yes.

METHODS OF SELLING REFINED SUGAR.

Q. How about the methods of selling your refined sugar, now? Do you have any factors' agreements that in case the wholesaler maintains a certain fixed price you will give him a rebate?—A. Yes.

Q. What are the conditions?—A. The conditions are—you know that, I guess, as well as I do—the factor plan—three-sixteenths and 1 per cent for cash and 1 for trade discount. That is what the factor plan is—what the grocers and the American have had and have been working upon for years.

Q. And you work under the same plan? Do you require, at the present time, any affidavits from the dealers to the effect that they have maintained prices?—A. No.

Q. On the whole, do you think they do maintain them pretty well?—A. Do they maintain them?

Q. Yes.—A. I do not think they do.

Q. You think they cut a good deal?—A. I do.

Q. What is the effect of that on their profits?—A. Well, I do not know.

Q. Who fixes the price for the American market, the New York market?—A. I think I have said that once before.

Q. The American does?—A. Yes.

Q. Are your prices regularly the same as the American prices?—A. Yes.

Q. You let them fix them and then you follow?—A. Yes.

Q. You do not cut first when the prices go down?—A. Never did.

Q. When you first began putting your goods on the market, you put them on at the standing rate that they announced beforehand?—A. Yes.

Q. They began to cut and you followed?—A. Yes.

COMPETITION AMONG THE REFINERS.

Q. Do you know whether there are any other refiners who are not in the American Sugar Refining Company who have cut first?—A. Well, the Arbuckles; they did cut once or twice last winter.

Q. What time did the Arbuckles' refinery begin business?—A. I do not know. It was August or October.

Q. A little bit before you?—A. A couple of months before.

Q. When they first started, did they begin to cut?—A. No; they did not cut, as far as I know, until last winter some time.

Q. The first cut was made about the time you began or a little before by the American, and then some time 2 or 3 months later Arbuckle cut under the American some?—A. Yes; that is right.

Q. How long did they keep holding their price below the American?—A. I can not tell you that. We kept it 7 days. That is all we kept it, but I do not know how long the Arbuckles kept it. We followed the Arbuckles, but we only kept it 7 days.

Q. When the Arbuckles cut, you followed them?—A. Yes.

Q. And then the American?—A. No; we did not follow them.

Q. How much was the cut that was made by the Arbuckles?—A. One-sixteenth.

Q. Then you followed the Arbuckles for 7 days and went back to the American price?—A. Yes.

Q. Then the American followed them down, I suppose, inasmuch as prices kept going down?—A. No, no; that was the lowest sugars were selling all that winter. You know raw sugar had been advancing constantly.

Q. I am speaking of the margin of difference between the raw and the refined?—A. Yes.

Q. That margin kept getting smaller constantly?—A. Yes.

Q. That cut of one-sixteenth did not bring them down to where it is now?—A. Yes; I guess it did. I do not know. I do not remember that. I can not tell you.

Q. I have the regular market quotation. October 1 the difference between the two was 1 $\frac{1}{4}$; October 8 it was three-sixteenths; October 15, three-fourths.—A. That was before we worked at all—before we started.

Q. So this cut began before you started?—A. Oh, no; the Arbuckles' cut was after that. It must have been—I think it was in December.

Q. This cut here was the American's cut, then?—A. What cut do you mean?

Q. In October, 1898.—A. Was there a cut there then?

Q. Yes.—A. I suppose so, if it was then. I do not know; we were not in the business.

Q. There was a cut of from 5 $\frac{1}{4}$ to 5. Are the Arbuckles and the American Sugar Refining Company selling at the same price to-day?—A. I believe they are; as far as I know, they are.

Q. Have they been so in the main lately, say within the last three months. Have the two sold at the same price?—A. I think so.

Q. This difference between them, with the Arbuckles lower, did not last a great while?—A. No.

Q. For a month or two?—A. I do not know whether it lasted as long as that; I can not say.

Q. Was this contest between the Arbuckles and the American only in New York, or did it extend all over the country?—A. I think it was general.

Q. You do not know of any special cuts by the American to drive the Arbuckles' sugar or your sugar out of the market in any special locality? You think that whenever cuts have been made they have been general always?—A. No; I do not think they have; they sometimes varied a little.

Q. Can you give any special instance of their having made a cut in a special locality?—A. No; I can not do that, but they have sometimes. In different parts of the country where they have refineries we were cut off, you know, and not in others. That has been done, but I can not state now where.

Q. When the Arbuckles made their cut, to begin with last winter, did it seem to be because they were short of customers or were they making the cut to get away some special customers of the American?—A. I presume they made the cut because they had too much stock on hand and could not dispose of the goods as fast as they could make them.

Q. Unless they could make some special prices?—A. I suppose that was it.

Q. Is that, in your judgment, the reason why the American has been making these cuts?—A. I can not tell you that.

Q. In the case of a great organization like the American, where several refineries are associated, do you think there is any saving? For example, do you think the cost of superintending the refineries will be lessened?—A. I can not answer that question, because I have never had anything to do with their business.

Q. I was asking you simply in a general way, expecting you to answer from your knowledge of the refining business?—A. I understand, but I can not answer.

PLACE OF PRODUCTION AND QUALITIES OF RAW SUGAR.

Q. Where does most of the raw sugar that you use in your business come from?—A. Well, raw sugars come from pretty nearly all over the world now; a good deal comes from Java, and in fact from all over the world; a good deal of beet sugar comes from Europe, i. e., France and Germany.

Q. As regards the qualities of cane sugar from different parts of the world, is there any special difference that you can detect? For example, where does the best cane sugar come from?—A. Those things all go by tests; everything goes by test; whatever the test is settles it.

Q. You do not know from just what country you get the best quality of sugar?—A. No.

Q. You have all of it bought by test without regard to where it comes from?—A. All is bought by test.

Q. Is there any special difference in value between the cane sugar and the beet sugar?—A. Yes; there is a slight difference.

Q. About how much?—A. I can not tell you what the difference is; there is a slight difference. I am sorry to say I can not tell you.

Q. When it comes to refining, do you get as much sirup out of beet sugar as out of cane?—A. Yes; that depends on what kind they are; but some sirup from the ordinary beets is of a poor quality.

Q. At the present time there is considerable of a tariff on both raw sugar and refined?—A. Yes.

Q. Do you recall how much more the tariff is on the refined sugar than on the raw?—A. No; I can not tell.

Q. What would you say the special evils are, if there are any, that come from a combination of manufacturers such as we have in the American Sugar Refining Company?—A. I can not tell you; I can not answer that.

Q. Do you think there are any evils in a combination?—A. I can not tell you; I do not know.

QUESTION OF THE PROFIT IN THE BUSINESS RESUMED.

Q. (By Mr. FARQUHAR.) Mr. Jenks has asked you a question as to how often you turn over your capital in the course of 12 months?—A. Yes.

Q. Can you not give the commission a general idea of that?—A. I can not give it to you. I would if I could, but I can not do it; I do not know it.

Q. Well, your business, whether on cash or credit, is always inside of 30 days?—A. Supposed to be; yes.

Q. Do you think it would be possible, as a business matter, then, to turn your capital over 6 times in a year, which would give you twice 30 days?—A. I can not answer that; I would have to look the matter up.

Q. Do you think it is a fair question to answer? Would it not have been a fair dividend on the capital employed if, when you went into the business, you had made from 12 to 20 per cent?—A. I do not know that.

Q. I simply said would you take that as a fair business question?—A. No; I do not think so. I believe that in sugar refining there ought to be a fair return for the money. It costs a great deal of money to start. If anything turns up that makes your plant useless for sugar refining, you have got nothing left that is worth anything for anything else. Consequently there should be a fair return for the refining. Of course, you all understand that.

Q. Well, you have a changeable market in your raw products. Do you not think it would be safe to say that a man, in order to invest money in a sugar refinery, ought to have 12 to 14 or 16 per cent assured?—A. I think he ought to; yes.

Q. That is what I wanted. Is it not the business rule in New York, especially in New York and Brooklyn, that you could not get an investment of two or three millions of money in a concern—in a business venture—unless it carried from 14 to 20 per cent profit?—A. I think that is a very good basis.

Q. That is your experience in your own trade, considering the fluctuations of raw material, that you could not make a safe investment unless you were always sure of that amount of profit?—A. I think it is a fair proposition to consider it in that way.

Q. (By Mr. JENKS.) That would be in accord with the general statement you made some time ago. When you started to make the investment in building your new refinery, at the rate at which prices were then, you had expected to get as much return as 20 per cent?—A. I did not make any calculations at all.

Q. You simply believed you would probably get that much if you went on with the business?—A. I did not make any calculations at all.

Q. But you ought to get that much?—A. If you put it that way, yes.

THE DIFFERENT REFINERIES AND THEIR PROPORTIONS OF THE TOTAL PRODUCT.

Q. (By Senator MALLORY.) I did not understand your testimony as to the concerns that are engaged in sugar refining. You have mentioned three—the American, the Arbuckles, and yours. Are there any other large concerns engaged in sugar refining in the United States?—A. Yes; there is the Mollenhauer.

Q. Where are they located?—A. They are located over there in Williamsburg or Brooklyn; that is a large one, and there are some smaller ones. I do not know where they are now. There is another at Yonkers—the National.

Q. Well, of the refined-sugar product in this country, is there any single organization or concern that produces the major part?—A. Yes; the American does that.

Q. The American Sugar Refining Company produces more than your own concern and the Arbuckles combined?—A. More than all the rest together; yes.

Q. (By Mr. JENKS.) About what percentage of the total amount refined is refined by the American?—A. I can not tell you that. I do not know.

AMOUNT OF SIRUP PRODUCED IN REFINING.

Q. There is another question with reference to the nature of the refining that is perhaps not quite clear. Out of a hundred pounds of the raw sugar you said it was a fair average statement to make that we could get perhaps 93 pounds of the

refined, and that also there would be about 2 gallons of sirup?—A. About 12 cents' worth per gallon.

Q. Twelve cents of the value, but I am speaking as to the weight. Do you recall about what the weight of those 2 gallons would be?—A. Two gallons of sirup?

Q. Yes.—A. The sirup weighs about 11 pounds—that is, water and all; that is from the raw.

Q. Well, you have then 93 pounds of sugar and about 22 pounds of sirup which makes about 115 pounds from 100 pounds of raw sugar. There is an addition that comes from the water used in washing the sugar, etc., that adds about 15 pounds to the whole weight; that is right?—A. I do not know whether that is right or not.

Q. Well, according to the figures you have given it comes to that?—A. I can not answer that.

OFFERS TO PURCHASE WITNESS'S REFINERY.

Q. (By Mr. C. J. HARRIS.) I understood you to say that the business had been unsatisfactory since you started the last time?—A. Yes.

Q. Have you ever had any offers from other companies to combine with them or go out of business at all?—A. No.

Q. Either directly or indirectly?—A. There has been a question asked by outsiders whether we wanted to sell, but we always said we did not want to sell out; we did not build the refinery to sell.

Q. I did not suppose it would come directly from any other parties; it would probably be done through outsiders.—A. Well, now, that is something that is difficult to tell, of course.

Q. There has been talk of that kind to you by somebody?—A. They have asked whether we would sell our refinery.

WITNESS FORMERLY SOLD OUT TO THE SUGAR TRUST.

Q. (By Mr. PHILLIPS.) Were you engaged in the manufacture of sugar before the sugar trust was formed, the American trust?—A. Was I engaged in it before the so-called trust was formed?

Q. Yes.—A. Yes.

Q. Did you sell out to the American trust?—A. Yes. I did not sell; we all went in together when the trust was formed; the house I was interested in at that time went in.

Q. Do you own any stock in the trust now?—A. Yes.

Q. Do you own the original amount you put in the trust?—A. No, I do not hold the original amount.

Q. There was no bargain or agreement that you should not go into the manufacture again when you sold out to the trust?—A. I did not catch that.

Q. You did not agree that you would not go into the manufacture again when you sold to them?—A. Nothing of the kind at all was asked or done; everybody was left free to hoe his own row, or do what he wanted to do.

Q. (By Mr. C. J. HARRIS.) If you had not started this competition against the American Sugar Refining Company, do you have any idea that sugar would be selling as low as it is now?—A. I can not answer that question; I think other parties can answer that better than I can; I think other parties would be more able to answer that than I am.

Q. I understand you to say that the decrease in price followed almost immediately after you commenced or started business again; is that so?—A. Well, it was not all in one period; you know the Arbuckles started in before we did; and then the drop started, if I remember right, and went right down all the time.

WITNESS RECEIVES DIVIDENDS FROM SUGAR TRUST, BUT MAKES NO PROFITS IN HIS OWN BUSINESS.

Q. (By Mr. PHILLIPS.) Have you been receiving dividends from the sugar trust since you entered the manufacture yourself?—A. Have I been receiving dividends myself?

Q. Yes.—A. Yes.

Q. Will you please state the amount they pay?—A. They pay 12 per cent on the common and 7 per cent on the preferred.

Q. Per annum?—A. Yes.

Q. Yet you said you have not made any money in sugar since you entered the business. Has the trust facilities for manufacturing by which they can make a profit when you can not make a profit?—A. I can not tell you that.

Q. But still they are paying dividends?—A. They are paying dividends, yes.

Q. And you have not been able to pay dividends on yours?—A. I think I have said here that we have not made any money in refining this year.

Q. (By Mr. FARQUHAR.) Was the last dividend of the trust 12½ per cent?—A. At the rate of 12 per cent.

Q. At the rate of 12 per cent on common stock?—A. Yes, there is one payable now; on the 1st of July.

Q. (By Mr. A. L. HARRIS.) What company did you belong to at the time the trust was formed?—A. The Brooklyn Sugar Refining Company.

DIFFERENT CORPORATIONS THAT WENT INTO THE SUGAR TRUST.

Q. Were you acquainted with the different corporations that went into the original trust?—A. I beg your pardon.

Q. Were you acquainted with the names—do you know the names of the original corporations that went into the trust?—A. I do not know all of them.

Q. Did they operate all of them after the organization of the trust?—A. No.

Q. How many of those refineries were suspended?—A. I could not tell you how many; of course they closed some of them, I do not know how many.

Q. Would you remember them if you heard the names?—A. I will try to.

Q. What became of the Donner & De Castro?—A. They worked but very little; they worked some, but very little after that.

Q. What became of the North River Sugar Refining Company?—A. They did not work at all.

Q. What became of the Oxnard Brothers?—A. I do not believe they worked at all.

Q. What became of the Moller & Sierck?—A. They did not work at all.

Q. What became of the Bay State?—A. I do not know; I can not tell you.

Q. You do not know about the Forest City?—A. No.

Q. Nor the St. Louis?—A. I do not know whether they worked any at all or not; I can not tell you; but those right there in our neighborhood, I know they did not work. They were all old houses and were combined and changed, and, of course, they did not work at all.

Q. (By Mr. PHILLIPS.) How many refineries were closed down when the trust was formed?—A. How many were closed down?

Q. Yes; do you know about how many?—A. I do not know as there was any of them closed down. You mean afterwards?

Q. After the trust was formed.—A. I have said what I knew were closed down; how many more I do not know.

Q. What became of those that were closed down? Were they dismantled?—A. Some of them were.

Q. (By Mr. A. L. HARRIS.) Has the dividend on the common stock been about 12 per cent since the organization of the present company?—A. I think it was 10 until they were reorganized.

Q. When was the reorganization?—A. Some of you gentlemen know better than I do. Was it in 1890 or 1891?

Q. 1892?—A. Somewhere around there; I do not know just when it was.

Q. Do you remember the dividend that was declared in 1894?—A. I am not sure, but I guess it was 12 per cent.

Q. Was there an extra dividend in 1894 of 12 per cent in addition to the 10 per cent?—A. There was one; I do not remember how much; I do not remember the date of it, but I know there was one extra dividend once.

Q. (By Mr. PHILLIPS.) Would you care to state to the commission how much stock you own in the sugar trust now?—A. I would rather be excused.

Q. (By Mr. A. L. HARRIS.) I would like to ask if you know whether or not the Mollenhaur is connected in any way with the American Sugar Refining Company?—A. I can not tell you.

Q. Or whether the officers of the American Sugar Refining Company own stock in the Mollenhaur?—A. I do not know, sir.

Q. (By Mr. JENKS.) Their prices regularly go with those of the American Sugar Refining Company the same as yours, do they not?—A. Yes; they have during the last few years.

Q. Since this last cut in prices they have stopped work?—A. Yes.

COMPARATIVE ADVANTAGES OF REFINERIES.

Q. In the manufacture of sugar are there any special secret processes as there are in other lines of business? Does a refinery of the same quality or grade work the same as every other?—A. Well, about.

Q. There are not supposed to be any secret processes or anything of that kind?—A. No; I do not know that there are. Of course there are always some that have thorough knowledge of the business.

Q. As far as the general process is concerned, with the same managers, they all do the same thing?—A. Yes.

Q. Your refinery is the last one of the large refineries that has been built, is it not?—A. Yes.

Q. So that the presumption is that you have really as good a refinery as any of them, considering its size?—A. Well, I will call it that; let it go at that.

Q. You believe, then, that your cost of refining is really as low as that in any other refinery?—A. I think so.

Q. If you can not make any money from refining, then you think it would be a fair inference that the American Sugar Refining Company can not make any money from refining?—A. I do not know what they can do, and besides that you all know when you start a new refinery that there is so much machinery that you are at a disadvantage in the beginning, and that it takes a little time to get all the machinery and everything running smoothly. So, as I said before, we really do not know what we can do; we do not know how cheap we can run, but still we think, after the affair is started, we will be able to run our own as cheaply as any of them.

Q. (By Mr. C. J. HARRIS.) Is your company a stock company?—A. Yes.

VALUATION AND CAPITALIZATION OF THE SUGAR TRUST.

Q. (By Mr. PHILLIPS.) About what was the value of the plants that went into the sugar trust, the American Sugar Refining Company?—A. I do not remember that, and I do not know that I ever knew. If I did I have forgotten.

Q. What was it capitalized at?—A. It is now capitalized at \$75,000,000, is it not?

Q. Was the addition or increase of capital before or after they bought the refineries in Philadelphia?—A. I think it was before; or did they issue a little more stock? I can not tell.

Q. Was the original capital \$50,000,000?—A. I do not remember; I think it was; I do not remember whether it was or not.

Q. Was it not increased after the purchase of the Philadelphia refineries to \$75,000,000?—A. I am not sure about that; I think it was.

Q. Do you have any idea of the value of the plants that went in at that time from Philadelphia?—A. No; I have not; I never was in a Philadelphia refinery; I do not know what they were worth.

Q. (By Mr. A. L. HARRIS.) Compared with your plant, what would be the average value of the plants that went into the original sugar refining company?—A. Oh, I could not tell you that.

Q. Your plant is a new one?—A. Yes.

Q. And has a capacity of 3,000 barrels a day; and 5 of these which went into the trust you say were old and worthless apparently, leaving of the 15 10 good ones, and you can not say whether their average would be more or less than your new plant?—A. No; I can not tell that.

Q. (By Mr. C. J. HARRIS.) Would 10 such plants as your present plant supply the sugar trade of the United States?—A. No; I do not think they would.

Q. (By Mr. A. L. HARRIS.) When you sold the Brooklyn refinery what was the valuation?—A. Of the Brooklyn?

Q. When you sold?—A. It was in the neighborhood of \$3,000,000; I do not just exactly know, but it was just a little over \$3,000,000.

Q. What was the capacity of that refinery at that time?—A. Now I do not remember just what it was at that time.

Q. Was it not one of the best refineries then running?—A. I believe it was. It was one of the best, but it was not one of the largest; but it was one of the more improved and had the most modern machinery; yes.

Q. It was considered valuable property?—A. Yes, it was.

Q. Was that a cash valuation or stock?—A. Certificates.

Q. You sold for \$3,000,000 in certificates?—A. Yes; a little over \$3,000,000 in certificates; no cash.

Q. At what were those certificates valued at that time?—A. I do not know; some valued them pretty high and some did not.

Q. Were they not valued at 50 cents on the dollar?—A. Well, they had been sold, and were sold for 50 cents afterwards, you know.

Q. Was that not the basis upon which the purchases were made? Do you know anything about the purchase of the North River Refinery?—A. No; I do not. You mean the figures they got?

Q. I mean the one that Mr. Searles purchased.—A. Yes. That was the North River. Yes, if I do not mistake, they took cash; they did not want the certificates, and they took cash.

Q. Do you remember the amount?—A. No; I do not remember the amount.

Q. Was not the offer \$325,000 in cash or \$700,000 in stock?—A. I do not remember that, but I believe that they took 50 cents in cash; I believe they did, but what the amount was I do not remember.

Q. They took 50 cents?—A. I think they did.

Q. It was turned over to the American refinery from that purchase?—A. I suppose it was.

Q. And went into the original sugar trust?—(No audible response by the witness.)

Q. (By Mr. JENKS.) Was that, in your judgment, about the basis of the prices paid in certificates for the other refineries, about double what the fair cash value would be?—A. Well that varies, you know, a good deal.

Q. Do you consider it about that with reference to yours?—A. No; I do not.

Q. You do not believe you got quite double?—A. No; I do not think we got double; I never thought so.

Q. You thought your certificates were worth probably more than 50 cents on the dollar?—A. Well, they are worth a little more today; yes.

Q. (By Mr. A. L. HARRIS.) You have no knowledge of the amount that the Brooklyn company was turned into the trust for?—A. I have no knowledge of what?

Q. Have you any knowledge of what the Brooklyn company was valued at when it was turned into the trust?—A. That is what we were first talking about: a little over \$3,000,000.

Q. I want to correct myself; the amount of trust certificates that were issued for the Brooklyn company?—A. I have said a little over \$3,000,000.

Q. And the capitalization; you have no idea of the capitalization when the trust was formed—that \$50,000,000?—A. No; I have not. I believe, if I remember right, that the companies were all left; they were not changed at all. They were capitalized. I think we were incorporated for \$300,000.

Q. (By Mr. JENKS.) That was before you went in?—A. Yes; oh, long before; when we first organized, you know.

Testimony closed.

WASHINGTON, D. C., June 14, 1899.

TESTIMONY OF HENRY O. HAVEMEYER.

The commission met at 11 a. m., June 14, 1899, Vice-Chairman Phillips presiding. Mr. Henry O. Havemeyer was sworn and testified.

Q. (By Mr. JENKS.) Will you be kind enough to give your full name and address to the stenographers?—A. My name is Henry O. Havemeyer; my address is 117 Wall street, New York; I reside in Greenwich, Conn.

Q. You are president of the American Sugar Refining Company?—A. I am.

Q. Will you be kind enough to make a general statement, in the first place with reference to the subject of industrial combinations, and then we will ask such supplementary questions as may seem desirable?—A. I understood that I would be asked questions on the subject of trusts and corporations, and I have jotted down in a very brief form something I should like to read to the commission. (Reading.)

THE ORIGIN OF TRUSTS.

The mother of all trusts is the customs tariff bill. The existing bill and the preceding ones have been the occasion of the formation of all the large trusts, with very few exceptions, inasmuch as they provide for an *inordinate* protection to all the interests of the country, sugar refining excepted. Economic advantages incident to the consolidation of large interests in the same line of business are a great incentive to their formation, but these bear a very insignificant proportion to the advantages granted in the way of protection under the customs tariff.

There probably is not an industry that requires a protection of more than 10 per cent ad valorem, and it is to obtain what is provided over such percentage in the tariff that leads to the formation of what are commonly spoken of as "trusts."

With a protection to an industry not exceeding 10 per cent, all menace to the

community from trusts would cease. This 10 per cent would represent the difference in cost of production, and likewise act as a protection against surplus products of foreign countries being dumped in our local markets, thereby interfering with the regular and economic working of our industries. Any advantage that might then accrue to such combinations, they would be fully entitled to, and the public would not be damaged thereby, as any expansion of price would be met by foreign competition and relief.

THE TARIFF ON SUGAR.

I have said that sugar is an exception. The rate of protection on sugar is one-eighth of a cent per pound, which is about 3½ per cent ad valorem, and is not the difference in the cost of refining between this and foreign countries. The least it should have is 8 per cent, or, in specific figures, one-fourth cent per pound. The sugar refining industry of this country, no matter what form its organization, is entitled to adequate protection, if any industry is. There are at least 100,000 people dependent upon it. What it pays, or has paid, to its stockholders in the past represents nothing more than a fair return on the capital invested, considering the extent of the business.

The United States tariff bill, in assessing about \$40 per ton duty on imported sugar, pays into the pockets of a few Louisianans on their annual crop, of 250,000 tons, \$10,000,000; to the Hawaiian Islanders, probably represented by 150 foreigners, on their annual crop, of 250,000 tons, \$10,000,000; on say 100,000 tons, produced elsewhere in the United States, \$4,000,000.

Here you have \$24,000,000, extracted from the people of the United States for the sake of getting the revenue, which \$40 per ton on foreign sugar provides. This is merely illustrative of the whole tariff—every line of it—and its effect upon the people. In fact, the tariff bill clutches the people by the throat, and then the governors and attorneys-general of the several States take action, not against the cause, but against the machinery which the people employ to rifle the public's pockets.

THE FORM IN WHICH BUSINESS IS DONE IMMATERIAL.

There appears to be in the public mind a distinction between robbery by an individual and that by a corporation. What is commendable in an individual appears to be dishonest in a corporation.

I maintain that it is immaterial to the public in what form business is done—whether by an individual, firm, corporation, or even trust. These are merely forms of conducting business, or, in other words, machinery for the operations of business. It is the duty of the Government to see that under the tariff laws which they enact, this machinery can not in its actions result to the detriment or impoverishment of the public.

It would have been very easy and proper for the Government to have put a corresponding internal-revenue tax on sugar simultaneously with the imposition of the customs duty, and have these \$24,000,000 which now go into the pockets of a few individuals go into the Treasury for the benefit of the whole people. If no expense of the Government needed to be provided for and protection to American industries was desired, the imposition of 10 per cent ad valorem on all manufactured products would have settled the matter. There is every reason why, if revenue is desired, that with a duty on raw materials of foreign production, a corresponding internal-revenue tax should be levied on similar products, and the protection to manufacturers thereof limited to an additional 10 per cent.

THE GOVERNMENT PLUNDERS THE PEOPLE.

I repeat that all this agitation against trusts is against merely the business machinery employed to take from the public what the Government in its tariff laws says it is proper and suitable they should have. It is the Government, through its tariff laws, which plunders the people, and the trusts, etc., are merely the machinery for doing it.

The statements made before the committees in Congress and the speeches against the Sugar Refining Company are absolutely devoid of truth—utterly unworthy of credence. The intention of Congress, however, to enact something into law contrary to what the sugar refining industry properly required resulted, irrespective of the great injury and injustice done, in the passage of the existing sugar schedule.

PRICES OF SUGAR BEFORE AND AFTER THE FORMATION OF THE TRUST.

Whether the Sugar Refining Company has been a benefit or injury to the community can be best expressed in the table following, showing the prices for a considerable period prior to the formation of the trust and for a corresponding period subsequent. The difference since its formation shows an advantage to the consumer—note that, *consumer*—of over one-eighth of a cent per pound.

[Compiled from Willett & Gray's Weekly Statistical Sugar Trade Journal.]

Quotations for raw and refined for twenty years.

	96° centi- grade.	Grann- ulated.	Differ- ence.
1879	7.423	8.785	1.362
1880	8.206	9.602	1.396
1881	8.251	9.667	1.416
1882	7.797	9.234	1.437
1883	7.423	8.506	1.083
1884	5.857	6.780	.923
1885	5.729	6.441	.712
1886	5.396	6.117	.721
1887	5.245	6.013	.768
Average			1.098
1888	5.749	7.007	1.258
1889	6.433	7.640	1.207
1890	5.451	6.171	.720
1891	3.863	4.691	.828
1892	3.311	4.346	1.035
1893	3.689	4.842	1.153
1894	3.235	4.119	.884
1895	3.258	4.140	.882
1896	3.631	4.530	.908
1897	3.553	4.481	.928
1898	4.149	4.976	.827
Average .....			.906
1879 to 1887 inclusive			1.098
1888 to 1898 inclusive .....			.906
Difference .....			.192

What the Sugar Company has disbursed in dividends has been not because of any extreme protection under the tariff, but out of conditions perfectly legitimate and commendable. Their records show conclusively that no advantage has ever been taken by the company of any protection in excess of the 8 per cent claimed, i. e., $\frac{1}{2}$ cent per pound, under the tariff.

Tariff laws should not afford protection exceeding 10 per cent to any industry, so that irrespective of the form of doing business, individual or corporation, the people—that is, the consumers, would be protected. As the tariff laws are and have been, it is the consumer, i. e., the great mass of the people, who has terribly suffered, to the great advantage of the few in the business community.

The Sugar Company undoubtedly tries to do its utmost to enlarge its business, but does it in a way, which they consider the only proper one, i. e., by making the price so low as to defy competition.

CORPORATIONS UNDER NO OBLIGATIONS TO THE STATES.

It is my opinion that corporations are under no obligations whatever to any of the States for their existence. Quite the reverse; the States are under obligations to them. If the plants of these industries consolidated were capable of being put on wheels and moved from State to State, you would find very active bidding for them. It is not an unusual thing for certain localities to guarantee free taxation for 20 years, free water, and in some instances give the land to corporations to have them organize under their statutes and locate in their States.

Hostility to capital meets with its own condemnation. This is illustrated by the situation in New York, where discrimination against capital has prevented its employment and driven it elsewhere, resulting in a greatly increased tax rate, and a tendency to increase the number of the unemployed.

CAPITAL AND LABOR.

All I have to say about trade organizations and strikes is that, without violence, they are natural. They have one objection, however—their tendency to reduce all labor to a low level.

Business is not philanthropy. Capital and labor will adjust their own relations if they are let alone. Interference always operates against one or the other; that means to the disadvantage of both.

There is no such thing as monopoly in these days except that which results from patents and copyrights.

The true "communism of pelf" is the customs tariff bill. It says to the people, "Here is the law we have enacted for your robbery. Do not complain of it, but do your utmost to attack and injure the machinery engaged in extracting from you what we legislate shall be taken from you."

"Keep up the clatter while the voters on the tariff bill take advantage of the noise to enact laws that cause your impoverishment and thus contribute to the greed and avarice of the few."

SUGAR PRODUCT OF THE WORLD.

I submit herewith a statement of the sugar product of the world, since 1894, showing the production and consumption of cane and beet sugars, which may be of interest to the commission.

Country.	Estimate.	Actual.			
	1898-99.	1897-98.	1896-97.	1895-96.	1894-95.
CANE CROP.					
	<i>Tons.</i>	<i>Tons.</i>	<i>Tons.</i>	<i>Tons.</i>	<i>Tons.</i>
Cuba	300,000	250,000	229,208	382,790	735,000
Porto Rico	60,000	51,022	66,623	49,948	52,467
Trinidad	45,000	48,717	49,289	54,591	52,026
Barbados	45,000	52,000	56,793	42,975	37,040
Martinique	30,000	30,600	31,921	35,896	29,658
Guadeloupe	35,000	37,212	42,055	43,988	31,621
Demerara	100,000	107,382	110,537	102,438	96,747
Brazil	150,000	170,000	200,000	220,000	200,000
Java	640,000	623,000	383,440	676,142	509,510
Philippine Islands	175,000	175,000	205,914	250,447	200,870
Mauritius	150,000	117,350	147,648	140,543	113,925
Reunion	40,000	35,239	48,447	44,708	38,248
Jamaica	30,000	35,000	30,000	31,000	30,000
Minor Antilles	30,000	95,000	90,000	38,000	27,000
Louisiana	250,000	345,000	315,000	290,000	325,000
Peru	60,000	65,000	70,000	69,000	75,000
Egypt	120,000	100,000	95,000	82,000	70,000
Sandwich Islands	220,000	200,000	190,000	170,000	148,000
Total	2,530,000	2,537,571	2,371,875	2,704,447	2,832,218
BET CROP.					
Germany	1,710,000	1,852,857	1,836,536	1,617,812	1,844,586
Austria	1,000,000	631,667	934,007	791,405	1,055,821
France	800,000	821,235	752,091	667,853	792,511
Russia	750,000	738,715	730,000	780,000	615,058
Belgium	220,000	265,397	280,000	230,000	243,957
Holland	155,000	125,658	174,216	106,829	84,597
Other countries	155,000	190,000	201,000	130,000	156,000
Total	4,790,000	4,825,529	4,917,840	4,323,899	4,792,530
Total (cane and beet)	7,320,000	7,363,100	7,289,715	7,028,346	7,624,743

Season 1894-95:		Tons.	Consumption.
Visible supply, October 4, 1894 (Czarnikow)		501,000	
Beet crops, 1894-95 (Licht)		4,793,000	
Cane crops, 1894-95 (Licht)		2,832,000	
Total		8,126,000	
Deduct visible supply, October 1, 1895		1,305,000	gives 6,821,000
Season 1895-96:			
Visible supply, October 1, 1895 (Czarnikow)		1,305,000	
Beet crops, 1895-96 (Licht)		4,324,000	
Cane crops, 1895-96 (Licht)		2,704,000	
Total		8,333,000	
Deduct visible supply, October 1, 1896		1,214,000	gives 7,119,000

Season 1896-97:	Tons.	Consumption.
Visible supply, October 1, 1896 (Czarnikow).....	1,214,000	
Beet crops, 1896-97 (Licht).....	4,918,000	
Cane crops, 1896-97 (Licht).....	2,372,000	
Total	8,504,000	
Deduct visible supply, October 1, 1897.....	1,012,000	gives 7,492,000
Season 1897-98:		
Visible supply, October 1, 1897 (Czarnikow).....	1,012,000	
Beet crops, 1897-98 (Licht).....	4,825,000	
Cane crops, 1897-98 (Licht).....	2,537,000	
Total	8,374,000	
Deduct visible supply, October 1, 1898.....	720,000	gives 7,654,000
Season 1898-99:		
Visible supply, October 1, 1898 (Czarnikow).....	720,000	
"Estimated" beet crops, 1898-99 (Licht).....	4,790,000	
"Estimated" cane crops, 1898-99 (Licht).....	2,530,000	
Total	8,040,000	

HOSTILITY TO WEALTH.

There is a prevailing hostility to wealth. This is perfectly illogical. Everyone wants money. It is the abuse of money, not its possession, which is opposed to the public interest.

This hostility finds its outlet in hostile legislation, in unequal and unjust taxation. All this is probably unconstitutional. It is directly against the interest of the very class, I mean the poorer class, whom it is supposed to benefit.

Corporations, whether directly such or in the form of trusts, are an expedient for uniting the interests of a large number of persons of smaller means into a large aggregation of capital.

Attack upon them is, therefore, an attack upon their stockholders. In the case of many well-conducted corporations these stockholders are very numerous and are often persons of moderate means, dependent upon their income for their support.

In the absence of all disturbing causes, the direct tendency of a combination of capital is to promote economy, reduce expenses, and diminish price.

This does not mean that a person having anything to sell will not get for it the largest price that he can. It means that with the abundance of capital ready for investment which is always found everywhere, the only way to prevent competition is to keep prices below the competitive point.

Great public improvements, factories, and other enterprises requiring large capital either are impossible unless through the instrumentality of corporations, or are possible only through the action of individuals themselves possessed of unlimited capital. It is easy to see what in the latter case would happen to the community.

One form in which hostile action manifests itself is by legislation which is intended to keep corporations and their products out of particular States. This legislation in some States takes the form of bills which permit citizens to buy goods and with impunity to refuse to pay for them. This is a premium on dishonesty.

In other States the attempt is to exclude articles which are of prime necessity. If the producers of such articles were to follow the lead and to combine to keep their commodities out of the State, it is easy to see what would result, i. e., either the people would be compelled to go without, or they would be forced to pay an inordinate price.

Trade will always take care of itself. If it is left to pursue ordinary channels, A will see to it that B does not have any extraordinary advantages. It is only when the State interferes that a situation is created of which advantage can be taken against the interest of the community.

ONLY TWO FORMS OF MONOPOLY TO-DAY.

In these days there are two forms, and only two forms, of monopoly:

One, that which results from a patent and copyright. It is universally recognized that this is in the interest of, not against, the public.

The other, that which comes from unfair tariff discrimination.

Tariff for revenue need not be considered. The expenses of the Government must, of course, be provided for. Tariff for the purpose of equalizing against foreign bounties or foreign discrimination does not need to be justified. Beyond

that there is no excuse for giving to one industry a protection of 100 per cent as against 4 per cent to another. The result is that the Government fleeces the community at large in the interest of some favored industry.

THE EFFECT OF HOSTILITY TO COMBINATIONS OF CAPITAL.

It must be kept in mind that this is a rich country, not a poor country. It must be kept in mind that the object of everyone is to make the country stronger, wealthier, more important, more influential.

The hostile action to which I have referred, legislation against corporations, if followed to its legitimate results, would make the country less powerful, its people less prosperous, and would destroy the influence which comes from the richness of the land and its people.

Citizens are divided into two classes—the industrious and those who wish to live on the industry of others. It is they who are without capital who are hostile to it. This is only another mode of stating the obvious proposition that it is those who are without means who wish to have wealth without work.

PROTECTION OF 10 PER CENT AD VALOREM WOULD BENEFIT ALL THE PEOPLE.

Q. I should like to ask you some questions in connection with your paper that have a little more direct bearing upon your own special industry. I understood you to say that you thought there should be no tariff above 10 per cent?—A. No protection.

Q. The general principle you have in mind is this, that the difference between the cost of manufacture in foreign countries and this country is likely to be not over 10 per cent?—A. Yes; and the other provision that it is very vital that the industries of this country should be kept constantly going so as to produce at the least cost. There should be no interruption whatever furnishing any opportune chance for dumping the surplus products of foreigners into this country.

Q. You would think, then, that we had better not attempt to take up any industry in which the difference in the cost of manufacture abroad and here is more than 10 per cent?—A. I do not know about that; it would be a very difficult matter to determine what the difference in cost should be; but I favor a horizontal protection of 10 per cent. There is no law that can be framed to meet every particular case, and it is to the advantage of the great body of the people to be considered, and not some particular manufacturer who pretends and can show that his industry is at 15 per cent disadvantage, compared with the same industry in a foreign country.

Q. By making dishonest representations to get legislation?—A. It is going pretty far to say dishonest; I should say that it is of benefit to the whole people that this should be limited to 10 per cent; what the individual suffered would not count.

PROTECTION NECESSARY FOR THE SUGAR INDUSTRY.

Q. As regards your own special industry, I understood you to say you thought a fair tariff would be one-fourth of a cent per pound instead of one-eighth of a cent?—A. One-quarter of a cent per pound, 8 per cent ad valorem; that foreigner—the German—is getting it at 3 cents a pound; and 8 per cent ad valorem would be 24 cents a hundred, one quarter cent per pound.

Q. This tariff of one quarter of a cent would represent substantially the difference in the cost of manufacture abroad and here?—A. That is a little in excess of it.

Q. Could you tell us about what the difference is?—A. I should say the actual difference is between 12 and 15 cents.

Q. Between 12 and 15 cents a hundred?—A. Yes; the difference between the bare cost of refining and living.

Q. Will you outline in a general way wherein that difference lies?—A. The people of this country prefer the sugar in the barrel, which has been the form of package for 50 years. It would be very expensive to change it. It would throw perhaps 50,000 people out of work that are gathering staves and hoops in 15 or 20 of the Western States. The people of the United States are willing to pay that difference. There is only one reason against it, and that is, that the foreign package, the bag, would supplant it, if it came here; because even against the peoples' wishes to pay, the willingness to pay that additional amount for the barrel, the drummers and the wholesale and retail dealers would push the cheaper article and finally drive it out. That is the main cause. The other direct difference is

to be applied on the total expenses; on the other expenses, such as bone black a portion, cartage a portion, and insurance a portion; the wages, of course, enter to the extent of one-sixteenth, perhaps.

Q. In all of these particulars you mention, you think the foreigner has an advantage over us—insurance, bone black, wages, etc.?—A. Yes.

Q. But the difference between them and you, as you have mentioned, is something less than one-quarter of a cent per pound?—A. Yes.

OUTPUT OF THE AMERICAN SUGAR REFINING COMPANY.

Q. May we take up for a moment the question of prices of which you have spoken? You have given here quotations on raw and refined sugar for 20 years, and also the world's output for 5 years. Have you put in your tables the output of the American Sugar Refining Company?—A. No.

Q. About how much is that?—A. About 30,000 barrels a day.

Q. What proportion does that form of the total output of the country now?—A. I have never been able to get at those figures, but I should say about 90 per cent.

Q. You think about 90 per cent of America?—A. That is not of the capacity, but of the output. The fact is that these refineries are not working full.

Q. Does the American Sugar Refining Company itself have a capacity enough to supply the total demand if it were not for the opposition? Your company could easily supply the total demand at the present capacity?—A. The demand, and 20 per cent in excess.

THE PRICES OF SUGAR.

Q. In this table of prices that you have given you show that the difference in price between the raw and refined has lessened since the organization of the American Sugar Refining Company?—A. Yes.

Q. That is the general result. I have had a chart¹ made out here that shows the monthly course of prices from year to year, and I should like to have you comment on it, if you will, inasmuch as that is a simpler way to get at the price, than by taking it from year to year.—A. Well, the price of raw has depended upon conditions over which the American Sugar Refining Company or any other sugar refinery has had no control whatever. The large advance in the last year, 30 per cent, is due entirely to the war with Spain, the sugar crop being reduced thereby 300,000 tons, enabling the foreigners to put up the price.

Q. The American Sugar Refining Company could, being by all odds the largest buyer, have something to do with that, and in some way it does determine what the price shall be?—A. It has some advantages. It can combine different markets, and so, in a measure, offset the control of these exchanges in the world which speculate in sugar.

Q. And by placing large orders with one broker it could probably get a somewhat better rate than a competitor who could place only a very much smaller order?—A. That is only in case the production is very much in excess of the consumption, as it was some years ago. Where it would relieve certain districts of the surplus, they might entertain a lower offer from one man than they would from a majority, or a lot of buyers, the advantage being that by selling it to one man the market price would not be disturbed on the remainder, but in the main it has little or no advantage over others in the prices of the raw sugar.

Q. Now, let us look for a moment at these prices year by year. I think I have made a little clearer here on the chart just what the condition of affairs is than it can otherwise be seen. If we go back some 3 or 4 years before the organization of the trust in the fall of 1887, the difference in price between the refined and the raw, as you have expressed it, is something over seven-tenths of a cent for 3 years, in 1884 a little over nine-tenths, and earlier than that considerably over 1 cent. The trust was formed in 1887 and shortly after prices went up $1\frac{1}{2}$ of a cent, or a little over?—A. The margin; we had better use the word "margin," which represents the difference between the raw and refined.

Q. The margin between the two?—A. That is the commercial designation of that.

THE EFFECT OF COMPETITION.

Q. That lasted for 2 years, then the margin dropped a little, to about seven-tenths in 1890 and to a little over eight-tenths in 1891, as shown here; what was the cause of the drop in the margin there?—A. I think the competition with the Spreckles and Harrison refineries in Philadelphia.

¹ See general introduction. Chart showing prices of sugar.

Q. Those organizations began work in the latter part of 1889?—A. No; Spreckles did, I think, but the other a little later.

Q. And the others came in a little later?—A. Harrison was there; we did not fight him; we could make our dividend without fighting him, but when Spreckles came in with his enormous capacity we either had to fight or make no dividend; we concluded to fight and that is what we are doing now.

Q. When were you fighting against him?—A. That fight lasted in the neighborhood—lasted until we got his refinery—that is about the length of it.

Q. Then in the latter part of 1891 this margin went up to a little over 0.92 of a cent, and in 1892 to a little over a cent, and in 1893 to a little over 1½ cents?—A. Yes; it went up to the usual margin we had laid out as necessary for the benefit of the stockholders and the proper conduct of the business.

Q. Now, that margin ran, with a slight decrease on the average, all the way through, up until the latter part of last year?—A. Yes. I want to call your attention to one thing, viz, that we are exposed to the Louisiana crop which begins to be harvested about the 1st of December, the profit of the sugar business being lowest generally between December, the beginning of the crop, and the 1st of March when that crop is ended, and that then the policy of the business is to increase the margin between the 1st of March and the 1st of December, so that throughout the entire year the average profit, which involves the margin naturally, shall not exceed one-quarter of a cent a pound. That is the course of the business.

Q. That is your general way of doing business. As regards this Louisiana output, is that connected in any direct way at all with the American Sugar Refining Company?—A. No; except that it is a tremendous competitor during those 4 months. Our meltings are displaced to the extent of that crop.

Q. And you lessen your output at that time?—A. To correspond with the crop.

Q. Now, as regards this later drop in the margin, that was caused by what competition particularly?—A. That is the new interlopers, the new refineries. What do you call them—these different refiners? There were half a dozen of them who began active operations, and threatened, if we left them to themselves, to displace our meltings to the extent of 50 per cent.

Q. You mean the Doscher and the Arbuckle refineries?—A. No; he does not "cut much ice" in the sugar business; he does in the roasted coffee business. There are Arbuckle, Doscher, Mollenhauer, and the National, of New York; there is Nash & Spalding, of Boston; McKean, of Philadelphia; Cunningham, of Galveston; Henderson & Cogswell, of New Orleans; and what is known as the Crockett Refinery, of San Francisco. So you see we are in plenty of company.

Q. And all of those put together make, in your judgment, about 10 per cent of the total output?—A. I think they could run out 50, in capacity I mean; there is a great distinction between capacity and output.

Q. In the output only about 10 per cent at the present time?—A. I should presume that. At the end of the year after the official figures are made up I may be able to give you that information, but I have now no way of ascertaining what these outside refineries do.

METHOD OF THE COMPETITION.

Q. Now as regards the cut in sugar: did the cut come in the first place from the American Sugar Refining Company or from the opposition?—A. I am not sure.

Q. I inferred from your expression a moment or two ago, "These 'interlopers' came in," that it was perhaps a part of your policy to see to it that they did not stay in the business too long; something in the same way that you dealt with the Spreckles's opposition in Philadelphia.—A. It was part of our policy and principles. We did not think they could have any advantage in profit over us, and we let them take the results, whatever they may be.

Q. Your policy was, substantially, to put the price down so they would not find it profitable to remain in the business?—A. And to secure the continuation of the output of the American Sugar Refinery, which is very vital to it.

Q. If the opposition refiners were to remain in the business they would lessen the percentage to your stockholders, you say?—A. If they remained in the business and sold the product—two different things again. Every sale by them displaces so much of the American Company's product, and this is what we have to look out for—that they do not.

Q. If you can make it unprofitable to them they will stop their sales, and in the long run the expectation is that the profit will be larger to your stockholders?—A.

That would be the natural inference. Of course it goes without saying if we protect our own meltings it can only be done under a condition of things that makes it unprofitable for our competitors, the real motive being the protection of our own business, and the result being an absence of profit to them.

NATURE OF COMPETITION OF GREAT CORPORATIONS.

Q. In your judgment, is there any difference in the competition that exists between a great organization like the American Sugar Refining Company, with comparatively few competitors, and the general competition that we have in other lines of business where there is no one organization that seems to be dominant? Would you say there is any difference in the principle of competition that exists?—

A. There is not much difference in the principle, but a good deal of difference in the result. You take a large corporation, and its stock is in the hands of the public; the public owns the company; whereas in the case of the individual, he owns it all. I think the public, the seventy-five millions of people, if it chooses to become more or less interested in the American Sugar Refining Company, stands a pretty good chance of knocking out a man who has all his money in one thing.

Q. That is, if the public would buy freely the stock of the American Sugar Refining Company?—A. Yes.

Q. The public own the stock of the American Sugar Refining Company. I suppose they can hold it as long as they hold shares; they can shift it as they please?—A. I doubt if anybody could buy any of the stock of these outside refineries. You can not tell what they will do.

Q. Can you tell us in round numbers how many stockholders there are in the American Sugar Refining Company?—A. Eleven thousand; almost enough to take Cuba, and they would take it if they could. [Laughter.] Of course that is not a part of the minutes.

Q. (By Mr. PHILLIPS.) That is just testimony.

HISTORY OF THE ORGANIZATION OF THE SUGAR TRUST.

Q. (By Mr. JENKS.) The history and organization of the Sugar Refining Company has been gone over so many times in testimony before that it is not worth while to dwell on it at length, but in order that we may have the record somewhat complete, will you give a brief sketch of its development, going back to the conditions of the old sugar trust?—A. There were about twenty-five different firms or corporations in the sugar business. I think the evidence before some one of the Congressional committees was that for a period of 5 or 6 years before the formation of the trust, 18 of those failed or went out of business.

Q. Eighteen out of 25?—A. Not out of 25; 18 out of about 40. It occurred to some one to consolidate the others, and 18 out of 21, I believe, went into the trust, leaving 3 or 4 outside, who represented, I think, 30 per cent. Then Spreckles built a refinery in Philadelphia and 2 or 3 years after the formation of the trust, the trust or its successor bought the Philadelphia refineries.

Q. Will you explain in a word or two the difference between the trust and its successor and the reason for its going into this other form?—A. The trust was attacked, and the courts decided it was illegal, and a company was organized in New Jersey which bought outright and paid for the different companies, which were the constituent companies of the trust. They then represented, I think, over 90 per cent of the output; then other refineries began to be constructed, until now I think they would represent 50 per cent of the consumption.

Q. There has been no change in the American Sugar Refinery proper, so far as the acquisition of other refineries is concerned, since 1897?—A. 1897, I think not.

Q. In the testimony before the New York senate committee, 1897, a list of these different companies with a capitalization is given. The question is whether that list needs to be supplemented to bring it up to date?—A. I think not.

Q. The condition before the formation of the trust was about this: When these 18 different companies failed business was in such a condition, as a whole, that it was considered unprofitable?—A. Very unprofitable—ruinous.

THE ADVANTAGES OF COMBINATION.

Q. Now, can you tell what special advantages—if you can give this in some detail I shall be glad—come from this organization, and in what way you make your savings?—A. The greatest advantage is in working the refinery full and uninterruptedly. Of course, if you have a capacity of 140,000,000 and can only melt

100,000,000 somebody has got to cut down materially. The moment you cut down you increase the cost; by buying up all the refineries, burning them up, and concentrating the meltings in four refineries and working them full, you work at a minimum cost. That enables us to pay a dividend on the common stock.

Q. So the chief advantage in the combination was in concentrating the production and destroying the poor refineries?—A. Precisely.

Q. Are there any other special advantages that come from a large combination of this kind; for example, in the way of transportation?—A. I do not know of any advantage in that way. Under the interstate-commerce act we dare not take a rebate. The Sugar Trust and other trusts are in such odium that they are laying for us fellows so that there would be no escape; there is no advantage in transportation.

Q. Are those refineries all concentrated in the neighborhood of New York?—A. No. There is one in New Orleans and one in Boston, but the rates from New Orleans, except to points almost contiguous, have no advantage over the New York and Boston rates.

Q. So it is simply in the immediate neighborhood of the refineries that you get an advantage in transportation?—A. That is all.

Q. Is the business of sugar refining of such a nature that the general processes, etc., are substantially common to all sugar refiners?—A. Yes.

Q. There is no special advantage that comes from combination in the way of common use of patents or patented processes of any kind?—A. I think no one man knows it all, and if you get a half a dozen men in the business you get ideas from them, and in that way you get a "deadly parallel" on your business.

Q. And you can more probably make improvements?—A. Greater skill and greater ability.

Q. Simply a matter of greater skill?—A. Simply a matter of greater skill and greater ability. One man might have it all, though, in a separate and independent refinery.

Q. Still, in your own opinion———A. My own opinion is, no one man knows it all; all men frequently can learn from others.

Q. Is there another saving to be made in the cost of superintendence, or in the amount of wages paid, from concentrating and running refineries at their full capacity?—A. It is inappreciable. The economy, of course, the cheapening of production, is due to the regular and full work. You can understand, if it costs me three-quarters of a cent to refine full it would cost me one and one-half cents to refine half. That is exaggerated, of course, simply to make clear the advantages of working a refinery full and uninterruptedly.

Q. The question was along a somewhat different line. You probably produce as much in 3 refineries running full as would have been produced in 5 or 6 different refineries without the combination?—A. We produce more sugars in 5 refineries now than 24 before, and naturally the difference in the economy is represented in the profits.

Q. Certainly. It is also true, is it not, that one source of economy would be that you do not need in these 5 refineries so many laboring men as in the 24 refineries?—A. Undoubtedly.

Q. And the benefit of that saving is a general benefit that will be represented partly in profits and partly, perhaps, in the difference in the price of the product?—A. Difference in price in favor of the consumer. I do not lay great stress upon that matter, however, except as a business proposition. We run our business for business, and have attempted to keep prices so low as to defy competition. Unfortunately, we have not succeeded and are in it now up to our throats.

Q. I understood you to say that the general principle upon which you had made prices was that you would take a quarter of a cent profit and give the rest to the consumer?—A. That is it. We felt that any increased profit, even if we could make it—and under the tariff bill we can not make it—would lead to outside competition; we would be inviting competition.

CAPITALIZATION AND VALUATION OF THE SUGAR TRUST.

Q. There has been a great deal said at different times with reference to the capitalization of the American Sugar Refining Company, with reference to the amount of certificates they issued for the different plants, and so on. What was the general principle that you adopted in fixing the valuation of the different plants that came into the organization?—A. Well, we bought the stock at what we could buy it for, which was considered the value, according to what we termed value. I would rather have the brand of a refinery as value than to have a building worth millions of dollars, and that feature which is called good will in the brand was undoubtedly well estimated.

Q. That is exactly the question. I wanted to get at the meaning that you yourself attach to the term "value" in capitalizing the industry.—A. Well, I do not think we thought much of it then—of defining the value of each particular plant. Some plants we bought probably more on account of the real estate value; others we took because they were going concerns; others we took for their standing; others had very valuable trade-marks; all of these things figured in; but how we can separate or divide them I can never tell.

Q. The question was: Would they contribute to the profit of the new organization?—A. Yes.

Q. Then your general basis of valuation was the paying capacity of the plant?—A. You know I know nothing about it except so far as my own plant is concerned. We figured up that our plant was worth so much money and they accepted it, and we have always felt we sold it at an inconsiderable price compared with its real value.

Q. The real value there again being what one could make out of it?—A. Yes; being the value of the trade-mark, the name of Havemeyer as identified with sugar.

Q. As regards the capitalization of the present organization, the American Sugar Refining Company, you would say it is capitalized over its real value?—A. Very much under its real value.

Q. And you get at that in what way, by simply taking the price of stocks?—A. It is my idea that if it was not for this clamor against trusts, and the hostile State and national legislation toward the sugar industry, we could sell it for 2 or 3 times the amount of its capitalization, and I have never found a better estimate of what a thing is worth than what people are willing to pay for it in cash.

Q. The present output is about 30,000 barrels?—A. Yes.

Q. What is the producing capacity?—A. I should say it was nearly 45,000 a day. You mean the capacity of all the refineries?

Q. Yes; that is what I mean?—A. That could be run by the company.

Q. You mean by that that some of them are lying idle? You are not counting any of those that are dismantled?—A. No; only those that are idle and ready to work in case of fire, or any other business contingency.

Q. Can you give us any idea as to what it would cost to build new refineries with that capacity?—A. The mere cost of building?

Q. The cost of building refineries to give you an output of 45,000?—A. I should say from \$30,000,000 to \$35,000,000. Of course the land—that depends on where you build—in New York is very expensive; in Philadelphia it is not so expensive; in New Orleans it is not so expensive, and in Boston it is not so expensive.

Q. In speaking of this thirty-five millions you were excluding the land?—A. No; I took the land in under normal conditions. The latest refineries I understand cost about two and one-half millions each for 3,000 barrels; multiply that by 15 and you arrive at the figure I name; I have no other data.

Q. So as regards the capitalization of the American Sugar Refining Company at the present time, then, in round numbers, \$30,000,000 to \$35,000,000 is about what it would cost to build the refineries?—A. As mere buildings?

Q. As mere buildings?—A. I think the brand of Havemeyer & Elder would bring thirty-five millions alone.

Q. That is the question I have in mind, as to how far this building value should be considered, and how far good will and other matters of that kind?—A. I never separated them. This is the first time that question has ever been put to me, and I have never given it any thought. I do know that when I went in business 30 years ago—you see I am an old-timer—the daily melting of Havemeyer & Elder was 300,000 pounds; now it is over 5,000,000. That will, you see, give you some idea of the value of the brand. There is no other refinery in the universe that has probably increased its product 10 per cent. I would rather have the brand of Havemeyer & Elder than half of the other sugar refineries in the country.

THE COST OF REFINING SUGAR.

The cost of refining has been going down fairly rapidly for the last 2 or 3 years, has it?—A. I do not think it has gone down much.

Q. There has been some lessening in the cost?—A. Relatively the difference between working refineries separately and concentrating them represents almost the difference in cost to-day.

Q. In some of the sugar papers, e. g., Willett & Gray's Weekly Statistical Trade Journal, it was stated that in earlier years when there was a margin between raw and refined of five-eighths of a cent, it would represent the cost, the substantial cost of refining?—A. The cost of refining has nothing to do with the margin; that is

not the margin. The margin is between 96 centrifugal and granulated at 100; the cost of refining is the actual cost of working that sugar.

Q. A statement was made to this effect some 5 or 6 years ago: That when the margin was above five-eighths of a cent it was fair to assume that everything above five-eighths was profit?—A. When the cost was about five-eighths, but not the margin. I want to call your attention to something perhaps you do not quite clearly understand.

Q. The statement was made, I believe, that all the margin above five-eighths of a cent was to be considered as profit, and five-eighths of a cent to be taken as the cost of refining. That was some years ago.—A. That is not so.

Q. That was some years ago. Now, if you will be kind enough to make the statement you were going to.—A. The margin between raw and refined deals with 96-degree sugar, between sugar containing 96 per cent of pure sugar, and granulated, which contains 100. The commercial value of a degree of sugar is 6 cents, and 4 degrees multiplied by 6 is 24 cents; so, for the margin, the difference in sugar, you have to deduct 24 cents. Now, there has never been any cost of refining that I have ever been acquainted with less than one-half cent a pound, and at the time of the formation of the trust it was three-quarters. Now, you have got the whole business. We maintain that when we reduced the cost we were entitled to the profit, and that it was none of the public's business; we took it and paid it out to our stockholders; it may be business policy to share that with the public sometimes; we did not do that then; we have done it since. We had to increase the output; we could injure our competition by reducing our margin. This is business policy again, not philanthropy.

Q. You say you have never known the actual cost of refining to be less than one-half cent?—A. No; I doubt very much if any refineries can do it.

Q. You think, so far as your own company is concerned, its cost of refining is probably less than others?—A. I do not think we are at any disadvantage compared with them; but you must bear in mind that is my individual judgment; I have no means of knowing what they are, so as to compare the two.

Q. Your own estimate, really, is this: When we find the margin at 50 cents a hundred—A. (Interrupting.) Margin at three-fourths.

Q. I was going to say that when we find the margin at 50 cents a hundred the refineries are running at a loss?—A. Yes; that is a fair inference.

Q. When we find a margin of 75 cents a hundred, presumably—A. (Interrupting.) Oh, then it is beneficial. Excuse me—the margin at 75—there is no great damage done then.

Q. Probably some profit being made?—A. Not unless everything is working in concentrated form in the very best manner.

Q. When the margin between raw and refined sugar, then, stands at 50 cents a hundred, or lower, dividends can hardly be paid out of profits?—A. Not out of profits resulting from such margins; no.

THE QUESTION OF TRANSPORTATION.

Q. That is a fair inference, of course. Now a question or two with reference to freights. You say that under the interstate-commerce law the question of rebates is one that is not to be considered. Do the railroads give the larger shippers of sugar any advantages beyond their published freight rates in the way of storage, for example, at terminal points and such places?—A. I am not very familiar with that, but I imagine they give the ordinary business facilities; it is a high note when a railroad can not give its patrons storage or anything else.

Q. I understand that is the custom. I wanted to ask you what the custom was.—A. I wish they would give them a barrel of sugar; it would increase the demand and lower the price. The practice in former years was to give us such facilities as they had; if their stores were empty, or it happened to be a lively sugar season, and sugar would go there, and it was convenient to the trade, they naturally gave us such accommodations as they had. They never built any storehouses for us; but since some of these outside warehouses have been kicking about it, the facilities, I believe, have been very much restricted.

Q. Is there any allowance of any kind made for the amount of sugar shipped?—A. No. That is all done away with.

Q. They substantially go at carload rates?—A. Altogether at carload rates.

Q. Can you give us any definite information with reference to the amount of sugar shipped over the different railroads going out of New York and Brooklyn?—A. I can send it to you.

Q. We shall be obliged if you will.—A. That is done under agreement.

Q. Will you explain the nature of the agreement, please?—A. To protect

ourselves against these companies, we had to agree that we would give the railroads—that is, the entire sugar industry would give the railroads—each a certain percentage of sugar which had been determined by the commissioner there (whoever he is; some commissioner has it in charge), and they fixed the percentage that each road was entitled to. I think they took the 5 preceding years' business as a basis, and determined in accordance with that the share of each; that ended all this disposition to cut, and I do not think there are any cuts whatever on sugar.

Q. Now there is a certain percentage sent to each railroad in accordance with this agreement?—A. Yes.

Percentage of sugar freights.

[Furnished by Henry O. Havemeyer.]

	Per cent.
New York Central and Hudson River Railroad	30.59
Erle Railroad Company	28.51
West Shore Railroad	12.83
Lehigh Valley Railroad	14.47
New York, Ontario and Western Railroad	3.15
Central Railroad of New Jersey	3.80
Central Vermont Railroad	3.60
Chesapeake and Ohio Railroad	3.75
Total	100.00

DIFFERENCE IN MARGIN IN DIFFERENT PARTS OF THE COUNTRY.

Q. Is the margin between the 96 centrifugal and the refined sugar substantially the same in New York that it is everywhere else in the country, or what is the difference in different sections of the country?—A. The price is the same in all other manufacturing centers as it is in New York; in New Orleans it is a little higher.

Q. I was going to ask in reference to California?—A. They are in a row over there, and their margin is less; heretofore they have had at least half a cent a pound protection in freight over the Rocky Mountains, which has naturally accrued to them as refiners when no competition existed. Now they have competition by outside refineries, and I believe competition is even worse there than here.

Q. What interest has the American Sugar Refining Company in the California refineries?—A. They own a one-half interest in the Western Sugar Refinery, the other half being owned by Spreckles.

Q. And who owns this new one?—A. Some of the Hawaiian planters; they were dissatisfied with the price obtained for their sugar in San Francisco, and built a refinery.

Q. Does the American Sugar Refining Company have any interest in the production of raw sugar? When I say interest, I mean financial interest, of course. Does it own sugar plantations, and so on?—A. They have some interest in California.

Q. The question was suggested by your remark about Cuba.—A. That is a matter of patriotism; I suppose I ought to have qualified that. Cuba is a country that can supply the United States entirely with their sugar in 3 years, and it is a great pity we do not have it and have sugar at 2 cents a pound instead of 5, which we are paying now. That is, if we could have raw sugar coming in from Cuba free, without tariff, we could sell it at 3, and have the raw at 2; it would have to be refined.

AMERICAN SUGAR REFINING COMPANY AND THE COFFEE BUSINESS.

Q. There has been considerable said in the last 2 or 3 years with reference to the American Sugar Refining Company going into the coffee business.—A. They are in the coffee business, and in it to stay.

Q. Will you explain the circumstances under which they went in and what the effect upon the prices of coffee has been? You just expressed the opinion that you were in it to stay.—A. A going concern at Toledo was offered to the firm of Havemeyer & Elder—a going coffee concern; they bought it; and when it was clearly established to the directors of the Sugar Company that it would be an advantage to them to own that plant they bought it from Havemeyer & Elder. When Havemeyer & Elder bought that plant green coffee was selling for 10 cents a pound and roasted coffee was selling for 15. Those who had the management of the business told me that the production of coffee would in the next few years be on such an enormous scale that I had better keep out of the coffee market as much as possible. Of course, having the plant, it had to be run; we could not

close it up. We would lose our brands, lose prestige, and lose business, so we immediately dropped the price to the difference between the cost of roasted and green coffee. The cost of roasting, which was 3 cents, plus the cost of green, made it 13; so we immediately gave the consumer the advantage of 2 cents a pound. This was a gain for business reasons. I want that distinctly understood. It is now worth 6 and not long since dropped to 4, and roasted instead of having a margin of 3 cents a pound has now only 2½, so that the benefit the consumer gets is a price of 8½ as against 15. How much of that is chargeable to the operations of the Woolson Spice Company in protection to its business on business principles you can form your own idea. I do not think the fight has begun yet, if there is going to be one in the coffee business. We are trying to avoid it by making a better grade of coffee and by getting it out of the category it was in. We are trying to be in a field distinctly by ourselves, the same as we are in sugar.

Q. When you lowered the price in the first place, was the reduction made because you thought there would be more money in extending the sale than in keeping the price where it was before?—A. We were afraid of the raw market, and having to run the plant we had to get rid of the product as soon as it was made, and the only way I knew to do it quickly was to make it desirable to the consumer, and so we put prices down to actual cost. We were held up by a judge for 3 months on a suit by Arbuckles, but after that it began to drop gradually until now it is 8½.

GLUCOSE SUGAR AND THE PRODUCT OF THE SUGAR TRUST.

Q. What is the relation, if any, between glucose sugar—I am speaking now of the product—between glucose sugar and the product of the American Sugar Refining Company? How far does that come into competition, if at all, in the market?—A. The sugar itself does not come into competition at all, but the sirup made from glucose has virtually knocked out the consumption of refined molasses in this country; they buy it in preference.

Q. What are the special uses to which it is put?—A. Table consumption and confectionery of all kinds, and they use it in the preparation of malt, I believe, for brewing purposes.

Q. So it comes in as a competitor with the sirups produced by the Sugar Refining Company?—A. With the residuum of the Sugar Refining Company—molasses.

Q. Has the American Sugar Refining Company any interest, directly or indirectly, in the Glucose Sugar Refining Company?—A. None whatever.

Q. Have you, personally?—A. No; I had a little interest at one time, but I sold it out.

Q. So at the present you have none in it?—A. I may have 100 shares, but not over that.

THE MEANING OF MONOPOLY AND THE EFFECT OF GOVERNMENT INTERFERENCE.

Q. You expressed an opinion in your paper with reference to the inadvisability of legislation for the regulation of business, and immediately afterwards with reference to the nature of monopoly. Have you thought about the matter definitely enough to give us a definition of monopoly?—A. I do not need to give you my own because I am irresponsible; it has been declared by the courts that there can be no monopoly without restriction, and if there is no restriction there is no monopoly. I have a perfect right to manufacture, to sell, and to conduct a business which represents a particular article or any article in the United States; and there is no reason why I should not, and there is every reason why I should. I say "hands off" to the Federal and State governments just the moment they interfere with the control in any way, shape, or manner. They increase the cost to the consumer in my opinion. He is the important factor; I do not think the middleman or anybody else counts a snap of your finger compared with the great mass of consumers.

Q. In speaking of "restriction," in the legal definition of monopoly which you have just given, did you have in mind any particular legal restriction? You would not consider it a restriction if, by virtue of the fact that you control 90 per cent of the output of sugar, you practically fix prices for the other producers?—A. No; anybody can go in the sugar business that wants to.

Q. Suppose, for instance, these competing sugar refineries were put on this table to take in. You would not take them in?—A. I would take them in pretty quickly, and get out of them all I could. As long as I do not restrict, or the Government interfere with them, anybody can get into the business. Why is not that a good business proposition? What is harmful in it? That is the way business

has been done from the year one, and always will be. Just as long as you interfere you increase the cost, and that is a detriment to the consumer.

Q. It seems to have been the result of the sugar business the last 12 years that during the 3 years that competitors have tried to get in the prices have been lower to the consumer to a considerable degree than would have been the case if you had not had such vigorous competition.—A. Undoubtedly. Furnishing the consumer at a less price is not the only evidence of business. You have got to take care of yourself, and that is quite an important matter. We are doing that now and the consumer gets the advantage; every time it is the consumer.

Q. If you succeeded in the course of the next year in taking up those refineries, as if they were on the table, as you say, then the consumer would be likely to feel the effect of that in the other way, I suppose?—A. To the extent of a quarter of a cent, sure.

Q. You expect to limit to a quarter of a cent?—A. Yes; I think under the tariff bill we should not have an opportunity to increase it. There is this distinction of doing business on legitimate grounds and doing it under a tariff bill which permits you to fleece the people.

Q. With the tariff we have you can not go beyond that?—A. We can not; but we have been singled out and injured under this clamor that you must do something for somebody; so we have been injured while you are dealing out some of the "swag" to others. That is it; you can not dodge it, and the people are getting on to it.

EFFECT OF REMOVING THE TARIFF.

Q. Suppose the tariff on refined sugar, the differential, should be removed, what would be the effect?—A. It would kill the sugar industry.

Q. You think if this differential were removed—A. It would inflict a terrible and infamous wrong upon 100,000 people dependent upon it. It is merely truckling to a miserable clamor—a bugaboo—this babble about trusts.

Q. Will you be a little more specific as to the way in which it would affect them?—A. It would permit America to be the dumping ground of all the beet sugars of Germany, Austria, France, and Russia; it would reestablish the sugar-refining industry of Great Britain, and everything would go to them in the way of labor to supply to 70,000,000 people over 2,000,000 tons of sugar, and it would be taken out of 100,000 people that are living upon it to-day. It would be simply an infamous atrocity.

Q. You think the sugar industry is practically dependent upon this one-eighth of a cent differential?—A. It is indispensable. Let there come the slightest cause for any interruption in the refining business here so that prices advance, and we would be inundated at once with foreign product, because one-eighth of a cent is inadequate; we ought to have one-quarter. One-eighth is not what we ought to have.

Q. It is only what you could get?—A. No; it is getting something we do not want to have. That was the object of the law.

THE CAUSES OF MONOPOLY.

Q. (By Mr. PHILLIPS.) Speaking of monopoly, if I understood your paper, you attribute monopoly or trusts to two causes; first, patents, and second, tariffs. Did I understand it correctly?—A. Yes.

Q. That they were the outgrowth of two causes, patent rights—A. (Interrupting.) Yes.

Q. (Continuing.) And the tariff levied by the Government?—A. Yes; practical monopoly, not legal monopoly.

Q. Well, now, the Standard Oil Company Trust is admitted, is it not, to be one of the largest that has ever existed?—A. I said with few exceptions. Of course, anything that depends upon the tariff; the Standard Oil Company has not anything to do with the tariff; you read the tariff bill, and you will find that there is no tariff on oil.

Q. That is what I am getting to?—A. I said the tariff.

Q. You said due to two causes, patents and the tariff?—A. Yes.

Q. Do you not understand, or do you, that the Standard Oil Company has never been affected in any degree by tariff, and yet it is one of the greatest monopolies of this country or any country?—A. My dear sir, you are entirely off on the subject of monopoly. A monopoly is something which is carried on, or may be carried on, without competition. The oil business is open to the world; it is open to every

citizen of the United States, and the reason they can not go into it is because the Standard Oil Company makes the price so low that it smashes them, and gives the consumer the benefit of it. You have got to take either one position or the other. The consumer is the man to be considered (and the consumer means the great mass of the people, the 75,000,000 people), because he gets the benefit of the cheap goods, and the more because he gets the advantage when the competition is wiped out, and very properly wiped out.

Q. Then you understand that the reason why the Standard Oil Company has become so prominent in monopolizing the oil-trade is because it is able to manufacture cheaper than others. Now, if that be the case, why have they bought out or crushed out all refineries, all pipe lines thus far, with a view just now of starting in to do business. If you take their own dividends as a basis you will find that they are making an exorbitant profit; for instance, oil is selling at a little over a dollar a barrel now, and very frequently for less than \$1, and is it not shown by the Standard Oil Company's own dividends that they have been making, for the last 10 or 15 years, more profit on each barrel of oil than they have been paying for it?—A. You are confounding profits with monopolies. What is the reason I can not own a gold mine with a million dollars in it? It is all mine. I am undertaking to meet the proposition that you made by saying that the Standard Oil Company make refined oil cheaper. That is the reason why they dominate trade.

Q. Do they make profits because they make oil cheaper, or because they purchase their rivals, circumscribe, circumvent them in some way?—A. That is all business. What do you call the brand of Havemeyer & Elder? You start a refinery and it costs you \$10,000,000. Somebody loans that ten million dollars, let us say; and Havemeyer & Elder, to protect themselves, put down the price of sugar and say to them: "You can not market a barrel of sugar while that brand of sugar is being sold."

Q. Do you think that the Standard Oil Company, if the markets had been opened to the world, to the people, if they had not monopolized the pipe-line business and dominated legislation and got a reduction in freight, got discriminating rates, they could have dominated, as they have?—A. I think that before the interstate-commerce law went into effect the Standard Oil Company had advantages which they should not have had, but that is ancient history; they are here to-day; they go right from the fields to the consumer; they furnish oil cheaper than it can be furnished by anybody else, and that is to the benefit of the consumer. It is to the absolute annihilation of the middleman or anybody else in the oil business, in my judgment, and if it goes into the pockets of the few people it is perhaps so much to be regretted; but there is where it goes, and likely it would be very nice to have them divide it. But until you find what Carnegie is going to do with his millions I do not think you can get the Rockefellers to tell what they are going to do with theirs. They have got it.

Q. Now, you said that they are here; is not the reason they are here because they can do things cheaper? I undertook to say that there no persons engaged in refining, shipping, and transporting oil abroad and at home, who are making a very large profit, but that could make a much larger profit if they had the same facilities and markets open to them as are to the Standard Oil Company?—A. I dare say there is a field at present with the competition of the Standard Oil Company, but if it ever got momentous I think the prestige, ability, and great wealth of the Standard Oil Company would knock it out. I may be wrong; I am talking about something I do not know much about.

COUNTRY WOULD BE BETTER OFF WITHOUT THE AGITATION ABOUT TRUSTS.

Q. (By Mr. C. J. HARRIS.) Do I gather from your remark that you think it is a pretty good idea for all competitors to be knocked out but the one that controls the business?—A. That is trade and you can not alter it, and the Federal Government can not alter it, and the sooner you realize it and stop the talk about it the better off the country will be in that respect.

Q. What we are trying to get at is whether it is better for the country. We want to know whether that is a good state of affairs to have?—A. Take the price of oil: Do you suppose it is better for the country of 75,000,000 of people to have oil 2 cents cheaper or to establish half a dozen competitors in the business who are in it for the same amount of gore that the Standard Oil Company is, and who increase the price? That is like what we had in sugar. You stop here the work by giving \$24,000,000 in tariff on sugar to have a number of people in Louisiana and a few people in Hawaii employed, and see where you are.

AMOUNT OF PROTECTION NECESSARY FOR ALL INDUSTRIES.

Q. I judge from your essay, and I should like to know whether I am right or wrong, that you are against protection, except that extended to the sugar trust. Am I right?—A. No; you are all off.

Q. I should like to have the secretary read that part of the essay.—A. Suppose you allow me to state it; it will be much briefer. I said I did not think any of these industries ought to have over 10 per cent. I thought more was inordinate, because it allowed these combinations of capital to fleece the country. I am in with you for protection every time, but I limit it to 10 per cent; I draw the line at 10 per cent.

Q. Is that because 10 per cent fully covers you, or because you think—A. (Interrupting.) Eight per cent would cover me; I so expressed it in my paper.

Q. I think that has been brought out before, that industries the same as your own were not in need of more than 10 per cent. The same principle would apply to them that does to you. I understood you to say that unless you had protection the refining industry would be driven out of this country. Is that so?—A. True.

CAPITALIZATION OF THE SUGAR TRUST RESUMED.

Q. The capital stock of the American Sugar Refining Company is \$75,000,000, is it not?—A. Yes.

Q. It has not been increased since those figures were published?—A. No.

Q. What is the output of refined sugar in the United States?—A. I do not know.

Q. It was estimated at some 3,000,000,000 pounds a year or two ago?—A. That is right.

Q. I think you estimated it here at 200,000,000 barrels a while ago, did you not?—A. I said the present output was about 30,000 a day; that is not so all the year around.

Q. We have had testimony in our hearings which would lead us to believe that ten refineries, at a cost of a million and a half dollars apiece, which would be \$15,000,000, could supply the refined-sugar demand of the United States; that the capital to run those would not exceed ten more millions, which would be twenty-five millions. Now, if the consumer is to be considered, and he is the main factor, I would ask you what the consumer gains by paying the American Sugar Refining Company on a capitalization of \$75,000,000 if \$25,000,000 will do the same business?—A. If those premises are true—and they are not—you would find that the fellow that made that statement would want about 50 per cent on his stock instead of 12 per cent. I do not think the man who made that statement is absolutely correct; I do not think he would be content with 20; he would want 50; I do not know of any advantage to the consumer. With my knowledge of sugar refining, the cost of it and the capital required, no such thing could be done.

EFFECT OF COMPETITION ON THE CONSUMER.

Q. Is it for the benefit of the consumer that prices are temporarily put down when competition enters the field until you can crush out that competitor, as I gather from your testimony? Is it for the advantage of the consumer if, when that competition is crushed out, you put up the prices immediately thereafter to such a margin of profits as will cover all these expenses and others—that is, the expenses of the fight, the wear and tear, the buying out refineries, and all that? I would ask you if that is for the benefit of the consumer?—A. Well, I do not know. You would have to find out what the figures were in order to determine whether it was just or not. I think the consumer would have to be subject to such a condition of things if it was a trade condition.

Q. I ask this because you have, in your testimony, laid such stress upon the interests of the consumer.—A. Do you think by lowering the prices merely to crush out the competitor, as you put it, that the consumer is not benefited?

Q. I say he may be benefited temporarily for 6 months or a year; but if after the crushing out has taken place you then, as you said in your testimony, resume a margin of profit which you consider is the right thing, and that is the only thing you are governed by, I ask you then whether the consumer will be materially benefited or not?—A. Is he not benefited to the extent of the reduction of prices during the fight?

Q. He is; but if he has to pay double or three times the price after the fight is ended I fail to see where he is benefited?—A. He is not, if he has to pay that.

Q. I understood you to say when the war was ended you evened up?—A. Yes.

Q. The price you put on was for the benefit of the stockholder?—A. Yes.

IT IS FAIR TO GET ALL OUT OF THE CONSUMER POSSIBLE.

Q. (By Mr. FARQUHAR.) Did you state here that 90 per cent of the whole product of this country could be produced in factories that cost \$35,000,000?—A. I think so.

Q. Now, your own capitalization is \$75,000,000; I presume as a business man you would say that the difference between \$35,000,000 and \$75,000,000, or \$40,000,000, is good will, brands, and all that sort of thing in your business?—A. You are making statements that are backwards. I did not say that the \$35,000,000 were required actually to reproduce the refineries that are already a part of the capital of the American Company; I said we took in 18 plants, the cost of which, together with the good will, brands, and such things which we can not divide into the separate accounts, which I have no way of doing, did represent this \$75,000,000.

Q. Well, say it was fifty millions; even it up. That leaves \$25,000,000 which seem to stand for good will, brands, etc. Do you think it fair that the consumer should pay a dividend to your company on these brands, good will, etc.?—A. I think it fair to get out of the consumer all you can, consistent with the business proposition.

Q. You state that as an ethical position before the commission, and you have to stand on that ethical position for fair play. Now, I want to know if you think—you stated that the consumer received the benefits of this consolidation of industry—it a fair ethical proposition, independent of the business view you put on it, that the consumers should pay dividends on this \$25,000,000 of over-capitalization?—A. I do not care two cents for your ethics. I do not know enough of them to apply them.

Q. Well, as a business proposition, is it right?—A. As a business proposition, it is right to get all out of business that you possibly can. If you get too much of a profit, you get somebody in competition. What I object to is a tariff bill which allows these consolidations to mulct the public through them.

GENERAL EFFECTS OF THE TARIFF.

Q. Well, take your position on the tariff bill where you talk about 10 per cent differential: would a 10 per cent differential have brought the tin industry to this country?—A. Well, if it would not, the country would have been better off without it.

Q. But, would it have brought it? Do you know?—A. I do not.

Q. Would it have brought the glass industry to this country?—A. I would like to have proof to the contrary before I would say it would not.

Q. (By Mr. FARQUHAR.) Do you take into account, as an American—you say you are a protectionist, whatever may be your views of protection—that in making the tariff bills in this country or in making any impost legislation we have to take into consideration two great facts, first, the wages paid to American workmen, and secondly the interest on American money? Do you know of any industry in this country that 10 per cent ad valorem ever created—any one—even to the making of tacks?—A. Shall I be perfectly frank, anyway?

Q. Yes.—A. How about steel rails? Steel rails were exported at the time the steel schedule was under discussion; they were being sent to England and Scotland. They can be produced for \$15 a ton; they are worth \$24 a ton; now the reason they are worth \$24 a ton is because the people under the tariff are mulcted for the difference. I am not talking about things that are ancient history; I am talking about things that exist. I am not talking as to whether 100 per cent was necessary or not; I am talking about the effect of the tariff to-day, which is the mother of these trusts which are mulcting the people, and there is not a line of it free from this abuse to-day.

Q. Why not make an open proposition to abolish the tariff on all sugars? Why would not that be a good thing?—A. Why is it not right and proper that the American sugar industry should have 10 and 15 per cent where you are giving others 50 and 100? Why this outrageous discrimination?

Q. Has not your trade been sufficiently protected under the tariff?—A. No.

Q. Why?—A. Because we only get one-eighth and need one-fourth. Where is the rule of ethics that you were talking about that gives you 140 per cent and 144 per cent on some industries and cuts the sugar industry down to 8 and 4?

Q. Do you recollect what the price of steel rails was before the tariff was put on at all?—A. I do not know what steel rails were. I have got Carnegie; I can quote him to the effect that he could export steel rails to any part of the world. What did he want a tariff for?

Q. Is that possibly a natural result of previous protection?—A. Oh, yes, of protection; I am with you there every time, but not inordinate protection, nor are you in favor of that I believe.

THE CONDITIONS OF LABOR.

Q. You made one queer expression—a remarkable one—in your essay here. Speaking of strikes, you say that they lead to a low level. What do you mean; do you mean a low level in economic conditions, social conditions, wage conditions, or what?—A. Oh, I think it takes the independence out of a man. He can not work for less than what the trade union prescribes. He can not be his own master in anything. That is rather a wide subject; I do not want to pursue that.

Q. (By Mr. KENNEDY.) Does not your combination take a good deal of independence out of competitors who were pretty independent previously?—A. You bet we do. But where a man's necessities are so great that he is willing to work for \$1.50 a day, he can not do it because the trade union tells him not to work for less than \$2. I do not want to go into this subject. I have touched it very briefly, but I would rather have it passed. I do not think trades unions are an advantage to the working class.

Q. (By Mr. RATCHFORD.) If a combination of the laborers of the country is not an advantage to the laborers, wherein or how can it be an advantage to the capitalists of the country to combine and to the country to have them combine?—A. I did not say they should not combine. I have not reflected upon labor. I am perfectly willing to leave labor to its own devices.

Q. Nor have I understood you to state that; I simply asked you wherein is the advantage or the disadvantage to labor.—A. They certainly have very materially increased their earnings under combinations.

Q. Then it must be advantageous?—A. As long as this combination or consolidation of capital continues under the tariff I would go in for a consolidation of labor.

Q. (By Mr. KENNEDY.) Did not you reflect on trade unions very seriously when you said they pulled labor down to a very low level?—A. Perhaps that was an unpleasant way to put it, but I really do not see that these labor unions are any particular advantage to the laboring class. It certainly confines a man to do just as it is mapped out for him to do; he is not a free worker or an independent man in any manner, shape, or form; and he is whistled out at the dictation of the few men by whom he is controlled; and it is extending now in these affiliated interests. You see it is a very wide subject, which I should prefer to drop and expunge it from the paper.

Q. (By Mr. PHILLIPS.) But does not the organization of capital compel the organization of labor in order that they may meet on equal terms? Otherwise one dictates and the other submits.—A. Undoubtedly.

Q. How can that be done except through trades unions?—A. I do not believe it can. I have already stated that labor, to protect itself, has got to unite, form trades unions; has got to consolidate, or I believe that these corporations would run them out of existence. There is no doubt about it.

Q. (By Mr. KENNEDY.) That being so, then how will this organized labor bring other labor down to a very low level? If they have to meet it, it is a good thing for them.—A. Where a man is not independent, where he can not act, if his family is suffering, he can not do it. Where the need of work is absolutely required for him to meet his monthly expenses he may be whistled out for 29 days out of 30 by a board of delegates. It is a very serious question, but I would rather you would not question me about it; I would rather you would expunge the whole matter.

Q. Do you not believe in organization when you go into a directors' meeting?—A. I do; but when I go into a board of directors' meeting and do not like it, I get out. A poor man is not exactly in that status.

Q. A laboring man can do the same thing?—A. No, he can not; because he can not get positions in labor as well as those whose positions are purely honorary.

Q. (By Mr. PHILLIPS.) How are they regulated; are they not regulated by a few men?—A. No, they are not. They can sell out and get out.

Q. So can a laboring man; he can resign his position.—A. I will open the basket; I will throw up; I will submit.

OBJECTS OF THE AMERICAN SUGAR REFINING COMPANY.

Q. (By Senator MALLORY.) Did I understand you to say—perhaps I may have misunderstood you a while ago—that it was your policy to make as much profit out of the consumer as you possibly could?—A. Consistent with business methods.

Q. Consistent with business principles. In other words, your idea is that your organization, the American Sugar Refining Company, will, if it can, get the maximum profit out of its business from the consumer. Now, I also understood you to imply at least that it is the policy of the American Sugar Refining Company to crush out all competition, if possible.—A. But that is not so; there is no such testimony. I understand it has been put in that form by one of the gentlemen here, but it is not the fact. What I said was that it was the policy of the American Company to maintain and protect its trade, and if it resulted in crushing a competitor it is no concern of the American Company; if he gets in the press, that is his affair not ours.

Q. And if any one interferes with the business, profits, or competition of the American Sugar Refining Company it is its policy to prevent it if possible?—A. By lowering profits to defy it.

Q. And if it results in crushing him out—A. (Interrupting.) That is his affair.

Q. Not the affair of the American Sugar Refining Company?—A. No.

Q. Now, suppose in the natural course of events the American Sugar Refining Company should suppress—we will not use the word crush out—all competition, all opposition. I understand from your theory—business principles—that you would then seek to get out of the public and consumer the largest amount of profit consistent with your idea of business principles?—A. Precisely.

Q. Then, if you had the power to charge or impose prices on the public, what would be your idea of the limit that the public could possibly stand?—A. I think it would stand a quarter of a cent to-day. I think we could do it for 20 cents a hundred. I think the country is really damaged by having a number of people in the business.

Q. That is not an answer to my question. My question is the limit? What restraint would you put upon yourselves? What would be your restraint?—A. I call that restraint business considerations.

Q. Would it not be the utmost limit that the consumer would bear?—A. Until we had competition we should be in that position, but whether or not we would exercise it is quite another matter.

WHERE THE PRICE WOULD NATURALLY BE FIXED.

Q. In other words, if you had all opposition suppressed the prices would be as high as the public would bear without provoking additional competition?—A. Precisely. That is, in the absence of any tariff bill. If it was not for the tariff bill we would probably be doing as others are doing under it. Harrison had it very much higher; we can not, they can not.

Q. If you had, however, the same protection that others have in other lines of industry you would raise it higher than it is now?—A. We did have at one time considerable protection; but we did not take advantage of it, for the reason I have named, that we did not think it business policy to raise the price considering the large industry we had to control, and to expose it to outside opposition; but I maintain that we ought not to have had the opportunity under the tariff bill to have done it. I do not think the consumer should be placed in such a relation.

Q. On a philanthropic ground?—A. No, no; but it is to protect the consumer from being mulcted in an inordinate degree under the tariff bill.

Q. (By Representative BELL.) As I understand the witness he contends, and also establishes in a measure, that the entire procedure is a business proposition, and that he has in view all the time the permanency of his business?—A. Precisely.

Q. And in consequence of that you try to hold your prices at a figure that will be profitable to you by reason of your economical methods of concentration, and at the same time at a figure that would not be very profitable to others who are not so concentrated?—A. Precisely, considering the extent and the vastness of the business.

Q. And therefore that it redounds to the benefit of the consumer generally?—A. Yes.

Q. And to your stockholders by reason of their great economical benefit. That is my understanding of your general principles of business?—A. Precisely.

THE BUSINESS PRINCIPLES OF OTHER COMBINATIONS.

Q. But I want to ask you if all corporations or the trusts generally follow that principle in the early formation period of the organization?—A. I do not think any of them do, except the trusts that are not dependent upon a tariff bill; I wish that distinctly understood.

Q. Now, for instance, the copper trust. The cost of their product has about doubled in the last few years; it is something like 18 or 19 cents now where a few years ago it was 9 to 12. You take the iron and steel business. In that prices have gone up greatly. Farm implements, nails, wire, and everything made of iron and steel in the last few months have gone up enormously. Now, is it your judgment that in those industries the combinations are following the same lines that your company follows in holding prices down?—A. I should not like to criticize anybody else. It is very easy to determine what the price of copper was, what protection there is under the tariff bill, and what the price is now. Copper is produced in other parts of the world.

Q. Do you not think there can be a trust without the tariff bill?—A. Yes.

THE SMELTERS' TRUST.

Q. For instance, recently we have had the smelters syndicated; they have all gone into a trust. There is no tariff upon smelting; there is no tariff on their product. Now papers from my State, Colorado, where we have more smelters than any other State in the Union, that reached here this morning say that the smelter men have had a meeting and have agreed that if the men do not work after to-morrow by the hour (to-morrow being the day that the 8-hour law takes effect in the State of Colorado affecting the mines and smelters)—that if they do not yield to-morrow the employers will draw the fires from every smelter in the State?—A. That is a terrible thing; I would not want to face that. I think I would go out of business if I ever was confronted with any such condition of things as that.

Q. That is the report of the meeting of the smelter trust. Now, do you think that that is an advantageous organization where that kind of power exists?—A. How are you going to prevent it?

THE ELEVATOR TRUST.

Q. You have suggested the fact that the lowering of the tariff would destroy it. Now I am trying to point out a case where the tariff will not touch it, and we must have some other remedy. Recently, before the Interstate Commerce Commission, one of the managers of one of the large Western roads stated that they do not take freight from the individual farmer; that they can not, and that they never will deal with the individual farmer, or wheat raiser, or corn grower of the West while they can make a contract with a combination of elevators. He further says that they charge the elevators much less than they do the individual farmers and that they can afford to charge them much less. Now there is a combination entirely different from yours. There is one that takes a drawback. I appreciate the position you are in; you say you refuse to take a drawback because of the adverse comment and the conflict against good business policy. I realize the benefit and advantages, for I can see some of the reasons why your company has great prestige following such well-established business principles. But does the ordinary corporation or trust in its formative period do that?—A. Well, there is a very strict law, and of course if it is not enforced it is pretty serious on the fellow that is not in with the rebate.

Q. What would you suggest in the way of limiting these trusts that are not affected by the tariff; like, for instance, the elevator trust of Minnesota, or the smelters' trust?—A. They will not take commodities from the farmers, you say?

Q. That is, not at the same figure. They are bound to take freight; they are bound to ship a man's grain.—A. I should take it from the farmer in preference to anybody else. As business, I get down to the producer.

Q. But the railroads say that they will haul twice the distance for the elevator company that they do for the farmer for the same price.—A. That is against the law, is it not? Can you not get the law on those fellows.

Q. I think it is against the law. Yet they had them before the Interstate Commerce Commission, and when you prove that it is against the law they simply get around it in a different way. You do not believe combinations like that are beneficial to the public, do you?—A. That is so at variance with what my ideas of business principles are that I will have to admit that it is not.

REMEDIES NOT TO BE SOUGHT IN LEGISLATION.

Q. (By Mr. PHILLIPS.) Do you, then, believe that such trusts as the smelter and elevator trusts are beneficial?—A. Well, I own some stock in the smelter trust, and I am not going to commit myself on that; but I may talk more freely on the elevator trust, as I do not own any interest in that. But I say this: Hands off. The conditions that have arisen here between the miners and smelters will have to be settled among themselves. One of these days, when the laborers get well organized, they will make it all up. These things are fights between capital and organizations of labor; they will settle among themselves. You can not do it by legislation, gentlemen.

Q. (By Representative BELL.) The ordinary laborer or farmer can not wait; it means destruction to himself and his family. Your company can wait and some large wealthy company can wait; these weak individuals can not; and that is why people raise such a clamor against these great organizations; it is because they crowd out and cry down the individual citizen. Now, what we want is to find some remedies to prevent these evils for all parties.—A. Why not get the farmers together and form a trust of their own? (Laughter.) I mean it; I mean it, gentlemen. I would sell the grain to one party and establish some fellow to sell it to those elevators and let them share pro rata according to what they contribute. There is a way out of it. I never knew a corporation yet to have anybody under their thumbs very long.

Q. The economists and great thinkers and writers have always held that the farmers were so numerous and so scattered that it was impossible to hold them together, and that all their efforts would mean failures?—A. Yes; his conditions are so different; his necessities are so different and varied.

Q. (Interrupting.) It has been impossible to hold them together. Now, in speaking of the smelters, I get it from the newspapers again that the smelters at Durango have just shut down, while the smelters at Pueblo are just about to shut down, and the newspapers say that the owners of the smelters in making their argument to the men say: "It makes no difference to us; we had just as soon draw the fires as not, because we make the same profit." If the smelter at Durango shuts down, the ore will be smelted in Pueblo or at Denver; and they hold the same club over the labor at Pueblo, where there are several thousand smelter men. The managers of the smelters say to the men: "If the owners shut down it does not hurt us; it hurts you." They get their part of the profits. Those are some of the things that affect the public and the individual and create this prejudice; and, if possible, it seems to me that the men in these combinations ought to help us to solve these problems so as to avoid these injuries; and I was in hopes you would have something to suggest on these questions.—A. I think the same thing occurred in the sugar business when the trust was formed. We had to consider whether we should furnish this sugar to the consumer at a cheap price and get out of it a suitable dividend for the stockholders, or maintain all the different organizations and keep all the men employed. We naturally closed many of the refineries, concentrated the meltings in a few, and achieved the results we sought. But there were a great many men undoubtedly that were left out of employment and had to seek other employment. It is pretty hard. I read in the paper not long ago that along the line of one of the railroads they had established an industry, but found it unprofitable to work it, and after they had been there 10 or 15 years and the men had bought their homes, built houses, schools, and churches, the railroad, apparently in cold blood, shifted the industry somewhere else and left the men there. It looks like cold blood, but when you come to analyze it it is one of those conditions of trade that there is no human way to prevent.

TRUSTS SHOULD NOT BE REGULATED IN ANY WAY, SHAPE, OR FORM.

Q. (By Mr. PHILLIPS.) You have spoken in regard to the benefit of trusts, both in your paper and in your testimony, and you say they should not be regulated by law. As I understand, you would take the same position in regard to a combination of railroads. If railroads can in any sense be governed by law or taxed, has not the Government the same right to tax the great trusts or combinations in industry extending over the whole country and regulate them?—A. I doubt if they have the constitutional power.

Q. The States have the power, each individual State?—A. I doubt if a State has any power over the sugar company in the regulation of its prices; I do not think so.

Q. Do you believe that these trusts should be put more specifically under governmental control than they are, that they should have examination or inspection

similar to the national banks?—A. Not at all. I think the Government should have nothing to do with them in any way, shape, or manner.

Q. You think, then, that when a corporation is chartered by the State, offers stock to the public, and is one in which the public is interested, that the public has no right to know what its earning power is or to subject them to any inspection whatever, that the people may not buy this stock blindly?—A. Yes; that is my theory. Let the buyer beware; that covers the whole business. You can not wet nurse people from the time they are born until the time they die. They have got to wade in and get stuck, and that is the way men are educated and cultivated.

Q. Then, you think that they have a right to charter corporations and allow them to offer stock to the people—to the whole community—and that the community then has no right to a knowledge of what the earning power of that stock is?—A. Precisely. Take the other side. A lot of men get together in New York City and organize a company, and a capital of \$10,000,000 is to be put up. I go into New York City and say, "Gentlemen, put your money up whether you want to or not." They do not do it. They are not compelled to buy the stock. The State does protect these people as against any false statements, as against any fraud; but where a man goes into the stock exchange to-day and buys a hundred shares of sugar and pays 160 and it is 110 to-morrow, and he goes to the State and gets down on his knees: "Mother, dear, pay me the difference, and let us put the sugar trust out of existence." I say, hands off; there is nothing in it; hands off; let them settle it among themselves.

HISTORY OF THE ORGANIZATION OF THE SUGAR TRUST RESUMED.

Q. (By Mr. A. L. HARRIS.) I understood you to say that when the original American Refiners' Trust was organized in 1887 the refinery property of all the companies in business was not very valuable, that the business was being run at a loss, and that it was taken for the purpose of saving their property. Those are not the exact words, but it was taken to save the money invested?—A. Yes; a great many sold out for that reason.

Q. And a number of them quit running and were idle at the time—18, I think you said?—A. No; I said 18 went into the trust. I do not know how many were idle, but a number were.

Q. I understood you to say they were idle. What was the capitalization of the 16 or 18 companies that went into the trust before they entered it?—A. I do not know; but that had no relation whatever to the real worth. You know a company might have \$10,000,000 of assets and be capitalized for \$800,000. The capital has very little relation to the value.

Q. What I want to know is, if on the original capitalization it would show a profit. You say you do not know?—A. Yes.

Q. Do you know Mr. John E. Searles?—A. Yes.

Q. What position does he occupy in your company?—A. He used to be the secretary and treasurer. He has no position now.

Q. What position did he occupy in 1897?—A. The same; he was the secretary and treasurer then.

Q. Would his sworn statement be true in regard to the capitalization of the original corporation?—A. Oh, yes; he had the matter in hand; he knows all about it; I do not.

CAPITALIZATION AND VALUATION.

Q. Now, I see on page 384 of the New York investigation¹ that at the time the original Sugar Refining Company was organized in 1887 their capital stock was \$6,590,000.—A. Of all of them?

Q. Of all of them; that is, of the 15 or 16. He gives: The Havemeyer & Elder Sugar Refining Company, \$500,000; the Dick & Meyer Company, \$200,000; the De Castro & Donner Sugar Refining Company, \$350,000; the Moller & Sierck Company, \$210,000; the Oxnard Brothers Company, \$100,000; the F. O. Matthiesen & Wiechers Sugar Refining Company, \$400,000; the Brooklyn Sugar Refining Company, \$300,000; the Havemeyer Sugar Refining Company, \$1,000,000; the Forest City Sugar Refining Company, \$800,000; the Boston Sugar Refining Company, \$650,000; the Standard Sugar Refining Company, \$1,000,000; the Bay State Sugar Refining Company, \$225,000; the St. Louis Sugar Refining Company, \$755,000; the Louisiana Sugar Refining Company, \$450,000; the Planters' Sugar Refining Company, \$250,000; total, \$6,690,000. He gives that at \$6,690,000.

¹ New York senate investigation, 1897.

Now, if it be true that it was unprofitable to run those companies and so many of them had to get out, some of them had to go out of existence, how does it happen that this trust was organized at the time at \$50,000,000? In other words, how did you reach the capitalization of the trust certificates of \$50,000,000 in the original trust?—A. I said that the expressed capital in figures there of these companies has nothing to do with their real value.

Q. I understand that you put in more money; that these different companies had more money than is represented by the stock capitalization?—A. More money in stock, plant, and assets. Some of them had fifteen or twenty millions and they were capitalized at \$300,000.

Q. I am not able to understand that.—A. Take the capital, for instance, of the Chemical Bank. It has a capital of \$150,000, and its capital stock is worth \$3,500 a share.

Q. I am not able to see how a business that was not profitable can increase in such a rapid way.—A. I think I can illustrate it so that you will understand. You and I are in business and we run our business to suit ourselves. I say let us form a trust; you say no, and you do not care to go in. I go alone and I put up the price a quarter of a cent, and that enables you to make a fair profit. Now, I say to you, what do you want for your plant? You say this plant is worth a million dollars to me, but you will offer it to me for two, and I take it. I can make more money by buying that plant for \$2,000,000 with the advance in price than I can by leaving you out, and I give you the entire advantage of your work on that plant.

Q. But at the time this trust was organized you did not buy the plants?—A. Yes, we did buy them—bought the whole business; there was not a share of stock in any shape or manner but what went into the trust.

Q. In the original trust you issued stock certificates?—A. Yes.

Q. How did you reach that valuation by which you could distribute that \$50,000,000 among the 16 or 18 companies that were taken into the original trust?—A. My faint recollection of the matter is that they had a committee of appraisement to appraise the values, taking plant, location, trade-marks, status of business, and all considerations, and that they agreed upon an amount for which they would transfer their property in consideration for so many certificates on an aggregate capital of so many dollars.

Q. How many of these original companies were dismantled?—A. Oh, I do not know. You are talking about things that occurred 12 years ago.

Q. Of course it is plain to you, but it is not to me.—A. I have made the general statement that while 18 corporations went into the affair the whole melting capacity is now being concentrated into 6 or 7. That answers your question.

Q. I do not care about your specifying the exact number.—A. I could not do it.

Q. All I want to get at is how you put in and issued stock certificates for plants that were considered worthless?—A. They were worthless under those conditions, but they were not worthless under the conditions that were about to prevail.

Q. You went on with this original trust until 1891?—A. Yes.

Q. When the North River suit went against you?—A. Yes.

Q. Then you organized in New Jersey?—A. Yes.

Q. Then you bought all these concerns and issued stock for them?—A. No; we bought and paid stock and cash.

Q. You paid stock and cash?—A. Yes.

Q. It was not all stock?—A. We bought the property.

Q. Now at that time, as I understand, you were making 90 per cent of the product of this country?—A. No; 67 I think the figures show.

Q. Well it was 67 in 1898?—A. It was 65.

Q. You had the capacity, I think, of making 90 per cent?—A. We had competitors.

Q. You had that capacity then?—A. But we could not run it, because we had outside competitors.

TESTIMONY BEFORE THE LEXOW COMMITTEE.

Q. Shall I read to you your testimony before the Lexow committee?—A. You are confounding capacity with output. You see, we may have the capacity for turning out the sugar and not have an output for it.

Q. I will change the question. What is your output?—A. Well, the output may be equal to the capacity. I do not know what this testimony was.

Q. But what per cent?—A. I do not know.

Q. You have some rather valuable testimony here. I do not know but what there is a page or two that might be read; and of course, if you care to correct it, it should be read and you should be asked to explain it. You should have that

opportunity, and let it go into the testimony and be explained. It is only 2 years ago, and you were asked in that commission, by Mr. Lexow, concerning testimony before the Senate bribery committee as to certain facts, this question (reading):¹

"I call your attention to the testimony that you gave before the United States Senate committee in answer to Senator Allen:

"Q. When you sell in this country you control the price?—A. Yes, sir.

"Q. And it was organized, as I understand it, with a view of controlling the price and output to the people of this country?—A. That was one of the objects of consolidation.

"Q. And you have succeeded in doing it?—A. Yes, sir.

"Q. That was the principal object in organizing the American Sugar Refining Company?—A. It may be said that that was the principal object."

"Q. Mr. HAVEMEYER. To control the price?—A. Mr. LEXOW. Yes, sir,

"Q. And making money incident to that control?"

"Mr. HAVEMEYER. Did I say "control of price" or "control of output?"

"Mr. LEXOW. Control of the price and the output.

"Mr. HAVEMEYER. I don't think that is right.

"Q. Do you wish to change the testimony that you gave before the Senate investigating committee?—A. I should have read it myself. [Witness reads testimony given before Senate committee.] It certainly does appear that at that time that was my understanding of one of the objects of the formation of the American Sugar Refining Company.

"Q. You say there that it was the principal object; do you mean to say now that your recollection of the object of the organization of the American Sugar Refining Company in 1891—do you mean to say now that your recollection is better as to the main and principal object of that organization than it was in 1894, when you gave this testimony?—A. I would answer by saying that when I gave that testimony that was in my mind, and I answer now what is in my mind; that is not in my mind now.

"Q. Then this testimony was true that you gave before that committee?—A. That is the way that I felt at that time, undoubtedly.

"Q. Therefore we start out with the proposition that the main object of the organization of the company was to control the product and to control the price of refined sugar in the United States?—A. No, sir; I think that is too broad; the intention was to control the output of their product and the price of their product.

"Q. That would control, under the circumstances, as you control the company?—A. Undoubtedly.

"Q. Therefore the organization of a combination of interests, all of which you controlled at the time of the organization, could not have been for the purpose of controlling their output or their price?—A. How could I control the output or the price of any other refinery? It goes without saying that a man who produces 80 per cent of an article can control the price by not producing; the price must advance if he does not produce; and it must decline if he does produce, if he produces more than the market will take; I do not see any significance in contrasting the evidence."

(By the WITNESS.) Now that is the gist of the whole matter.

Q. Let me go a little further (reading). "Q. You were asked by me as to whether or not one of the objects of the organization of the New Jersey Company was to control the price and the product. You said, in answer to my question, that it was neither; that you had no intention of controlling the price or the product. In the United States testimony you state that that was the main object of consolidation; that is to say, to control the price and the product and the refined sugar of the United States?—A. I am willing to admit either phase; as far as the object is concerned it goes without saying that a corporation that controls 80 per cent of the product does control the market price up to the importing point if it chooses to exercise that power, for it goes without saying that that same power can be exercised to diminish the price; when you ask whether it was the idea in mind on the formation of the company, I would say that I do not think it was; that testimony wants to be read in connection with what went before it and with the objects of that investigation.

"Q. Then, according to your present version of it, in any event, whether it was your object or not, that object was reached by reason of your controlling 80 per cent of the product; you do in fact control the product and price in the United States?—A. We undoubtedly do.

"Q. You do it by reason of the consolidation of the interests which can pro-

¹ Report and Proceedings of the Joint Committee of the Senate and Assembly Appointed to Investigate Trusts. (Lexow Report) Albany, 1897, pp. 109-112.

duce 80 per cent of the refined sugar of the United States?—A. I do not know what the consolidation of interests has done; we do through the fact that we refine so much sugar.

“Q. You have brought under one head and under one direction, through your company, the agencies that produce 80 per cent of the refined sugar?—A. We might do as we did at one time, control 95 per cent of the sugar; and the Supreme Court has decided that it is perfectly legal to do it.

“Q. I understand you to say that you produce 80 per cent of the refined sugar?—A. From 75 to 80 per cent.

“Q. When you entered upon the sugar-trust arrangement in 1887 you had numerous competitors in the market, did you not?—A. In amount greater, so far as output, than to-day; in numbers, fewer.

“Q. That is to say, that each of those 15 companies was undeniably competing in the market for the sugar trade?—A. Do you mean when we formed the trust?

“Q. Before.—A. Yes, sir.

“Q. And the formation of that trust removed that competition?—A. To a very great extent.

“Q. To the extent of those 15 companies?—A. Not absolutely; the companies were all controlled by separate members, and they had their own views of matters, but practically, yes.

“Q. Didn't the price of sugar decline materially prior to 1887—prior to the time of the formation of this so-called trust?—A. A year or two previous it was slightly lower; for a period of 10 years it was slightly higher.

“Q. After formation of the sugar trust the price of refined sugar was increased?—A. Slightly advanced.”

This testimony which I have just read begins on page 109 and ends on page 112. I ask you if you have any explanation to make of that?—A. No; that is perfectly clear; I do not see that that needs any explanation. I stand by that, every word of it.

RELATION OF SUGAR TRUST TO OTHER COMPANIES.

Q. I have a question or two that I would like to ask the witness. One of them is whether or not the American Sugar Refining Company has any interest in the Mollenhauer concern?—A. I prefer not to state about that. That is a little bit too private.

Q. Or in the Nash Company at Boston?—A. Well, the same answer.

Q. Or in any of the other refining companies that are now refining sugar?—A. I have stated that they have an interest in the Western Sugar Refining Company with Mr. Spreckels.

Q. Now, you have stated that you have cut down the price of coffee by competition with the Arbuckles?—A. No; I said there had been a drop incident to the large production.

Q. If you had not gone into the roasting of coffee, or into the coffee trade, the probabilities are that it would have remained still 5 cents profit instead of 2½?—A. Five cents profit; yes.

Q. Five cents profit instead of 2½. That has been brought about by the competition—that reduction?—A. Yes.

Q. (By Mr. KENNEDY.) Can you state whether your recent dividends have been paid from profits or from the surplus that has been piled up?—A. I am unable to answer that.

Q. You do not know?—A. I can not answer any more definitely.

Q. It is true that the wholesale grocers make little or no profit out of the sugar they buy from your company and sell to the retailers?—A. I think they make very little or none now.

Q. Very little?—A. They did make a little before September, 1898, but since then—since the competition of the outside refineries—they have been unable to make any profit of any account out of refined sugar.

THE FACTOR SYSTEM EXPLAINED.

Q. (By Mr. JENKS.) Will you explain to us in brief what your factor system is and how it works at the present time? That will perhaps bring that out a little more clearly.—A. On October 10, 1895, the American company established what is known as the equality plan. It continued in force until about March, 1897. The affidavits under that plan were discontinued in the State of Ohio for some time previous to March, 1897. The plan as embodied in the papers herewith included a rebate to the grocer of three-sixteenths of a cent a pound, providing he maintained the price fixed by the American Sugar Refining Company. The competi-

tion resulting from the operations of the outside refineries after September, 1898, rendered this plan inoperative. Although the form of selling sugar continues, the price has been disregarded, so that there is no profit whatever under the plan.

THE AMERICAN SUGAR REFINING COMPANY,
P. O. Box No. 2036, New York City.

—, 189 .

GENTLEMEN: We are in receipt of yours covering invoice for sugar. We desire to be enrolled as your agents and to receive sugar on consignment, in accordance with the terms of your letter, and we hereby agree to faithfully maintain the terms and conditions therein provided on all sugar received by us.

Yours, truly,

[The American Sugar Refining Company.]

NEW YORK, —, 189 .

DEAR SIR: We inclose herewith invoice of even date, from which you are entitled to our usual deductions of 1 per cent trade discount on 100-barrel lots and 1 per cent for cash if paid within 7 days.

Should you so desire, we shall be pleased, upon receipt of within written request, to constitute you one of our agents, in which case sugar will be consigned to you for sale as our factor, upon the following terms, the title to remain in us subject to your advances and return to you of your necessary outlay.

1. You are to advance to us within 30 days the amount of the invoice, which will be made up at our daily quotations, less 1 per cent trade discount on 100-barrel lots, with the right to deduct 1 per cent additional if invoice is made cash in 7 days; the advance to be without recourse to, or reclamation upon us, and to be due in any event.

2. The sugar when sold is to be billed in your name, although in fact as factor for us, and you shall without reclamation upon us, at your own cost, pay all expenses, and assume all risks of the property, and of payment of collection. You are not to incur any expense on our account.

3. None of the sugar shall be sold or disposed of by you, either directly or indirectly, for less than our daily quotations with freight added from refining point to point of sale (as per equality rate book), nor on more liberal terms as to credit or cash discounts.

So long as the foregoing conditions are observed by you, we will, upon an affidavit to that effect, pay you a commission of three-sixteenths of a cent per pound, and in addition thereto you shall retain the profit, if any, over the advance made as above provided. In case of any failure to comply with either of the above conditions no commissions will be payable. Settlements will be made for each month's commissions at the expiration of 3 months thereafter. All commissions payable for the period preceding the 3 months will then become due. Payments will only be made as above.

This agency is terminable at the pleasure of either party on written notice.

Yours, respectfully,

THE AMERICAN SUGAR REFINING COMPANY.

Bought by a corporation.

STATE OF —, County of —

—, being duly sworn, says: I am the — of the — Company. That company, as factor of the American Sugar Refining Company, claims from the Sugar Company a commission of three-sixteenths of a cent per pound (less 1 per cent where trade discount has been allowed), upon — pounds of sugar consigned by the Sugar Company to it by invoices, the dates of which cover the period from — to —, inclusive. In compliance with the conditions upon which the sugar was consigned to the company, and to entitle it to the commission I do hereby make affidavit that none of the sugar mentioned in the said invoices has been or will be sold or disposed of by the company, either directly or indirectly for less than the daily quotations of the American Sugar Refining Company, with freight added from refining point to point of sale, as per their equality rate book, nor on more liberal terms as to credit or cash discounts.

Sworn to before me this — day of —, in the year 189 .

Bought by a firm.

STATE OF ———, County of —

—, being duly sworn, says: I am a member of the firm of — That firm, as factor of the American Sugar Refining Company, claims from the company a commission of three-sixteenths of a cent per pound (less 1 per cent where trade discount has been allowed), upon — pounds of sugar consigned by the company to the firm by invoices, the dates of which cover the period from — to —, inclusive. In compliance with the conditions upon which the sugar was consigned to the firm, and to entitle it to the commission, I do hereby make affidavit that none of the sugar mentioned in the said invoices has been or will be sold or disposed of by the firm, either directly or indirectly, for less than the daily quotations of the company, with freight added from refining point to point of sale, as per their equality rate book, nor on more liberal terms as to credit or cash discounts.

Sworn to before me this — day of —, in the year 189 .

Q. Why did you stop asking for an affidavit?—A. Well, some of the States passed laws that counsel held it was in contravention of and we did not further request it. And then again the plan never was very successful; there were so many infractions of it that it was really of no practical effect.

Q. (By Mr. KENNEDY.) Are you interested in the beet-sugar industry of the country?—A. Somewhat on the Pacific slope; none east of the Rocky Mountains.

Q. Do you believe the time will come when the beet-sugar industry will furnish this country all the sugar it will consume?—A. If the people of the United States consent to a burden of \$40 a ton on imported sugar, I suppose one of these days the beet-sugar industry will furnish the United States, providing Cuba, Porto Rico, and the Philippines are not annexed, or their products imported free. Those countries could easily within the next 3 years supply the United States with all the sugar they require irrespective of the supply from the Hawaiian Islands or Louisiana.

Q. (By Mr. PHILLIPS.) That is, cane sugar?—A. Cane sugar.

Q. (By Mr. KENNEDY.) If that is done, then the beet-sugar industry will have to be suppressed, will it?—A. It will be relegated where it properly belongs, in competition with the cane. I suppose if they attempted to grow beet sugar in Alaska they would want \$250 a ton. I do not see why they should not get it the same as they do in Louisiana, where the natural condition of the cane is above the frost line.

Q. You stated this morning that you believed in the Federal Government and the State governments keeping their hands off with regard to these matters of trade. Do you believe in the Government keeping its hands off in regard to such matters as adulterated food?—A. I do not.

Q. You think that is a proper place for the Government to step in and put its hands on, do you?—A. I certainly do. There is no way that the consumer can be protected against adulterated food except by law; trade conditions do not control that.

Q. Did the American Sugar Refining Company, or representatives of it and of the independent companies, recently go into some sort of an organization on that line?—A. No; not at all.

Q. The report to that effect in the New York Sun was not true, then?—A. Not true in any paper; not true at all.

Q. Does not the American Sugar Refining Company furnish coöperage to the independent companies?—A. We furnished coöperage to Arbuckle, I believe, for 2 years, then an outside company underbid us, and they do the work now. The trust is suffering now. [Laughter.]

LABOR, WAGES, AND CONDITIONS UNDER WHICH LABORERS WORK.

Q. (By Mr. PHILLIPS.) Do you employ a large amount of labor in the sugar-refining industry, skilled or unskilled, or both?—A. Almost exclusively unskilled, the lowest kind of labor, getting from \$1.35 to \$1.50 a day—Poles, Bohemians—the lowest class of labor in the country.

Q. Well, are not the conditions under which the labor is performed very deleterious to health?—A. No; it is very beneficial.

Q. Do they not have to labor in intense heat?—A. They do, but they sweat out the beer they drink and it does them good. I guess the percentage of injury in the sugar refineries is less than in any other business. The vapors of sugar are beneficial to the lungs, and the heat keeps the pores open and sweats them out—keeps the heat out of the system. I am a physical illustration of the effects of the work, having worked in a sugar refinery myself for 5 years.

Q. Then you employ what you consider the lowest class of labor; and even when you are making very large sums of money, your wages are not high, are they, compared with others?—A. I will tell you what we do: We employ the labor as it presents itself to the bar, and when we find a man that is qualified physically to stand the heat and do the business we give him 10 per cent more than he can get anywhere else, and we keep him; and I do not think there is on record any strike whatever since the Sugar Trust has been in existence; and it is on account of the business principle again, that, having a good man and paying him more than he can get elsewhere, you can keep him. There is not a man in our department, in my opinion, that can go out of it and earn as much as he can in our refinery.

Q. How many laborers does the American Sugar Refining Company employ?—A. Oh, I have not figured that up, but I should say at least 10,000 right around New York, Boston, and Philadelphia.

Q. Do the laborers employed in the refineries, as a rule, belong to the unions?—A. Not the unskilled laborers. The skilled laborers do—the carpenters and mechanics; but the advantage to them in the sugar-refining company is that they have work the year around, and we can weed out the poor ones.

Q. Is there no way to ventilate the works so as to prevent the men working in such intense heat as they do?—A. That is very much exaggerated. The normal heat of a refinery is 90°; there are places where the sugar is dried where it runs up to 110°. They rather like that heat; they perspire freely and do not feel it. They drink a great deal of beer, and that tends to promote perspiration.

Q. Is it essential that they work in such heat?—A. Yes; that is part of the process.

Q. You can not cool the atmosphere by any artificial means and get the results you do?—A. No; you can not conduct the business under 90° in some departments.

Q. I would say this, that it has been stated that the sugar-refining industry pays quite small wages, and they work in the heat, which is unhealthy, and these conditions—A. Oh, that is all false; that is all false.

Q. (By Mr. JENKS.) How many hours a day do your employees work regularly?—A. In summer they work in shifts of 8 hours and in winter they work in shifts of 12 hours, with 2 hours for their meals; in other words, in summer they work 8 hours a day and in winter they work 10.

Q. They run day and night?—A. They run day and night constantly, and there is always a great clamoring for overtime.

Q. You say they work 8-hour shifts in summer and 12 hours in winter. What difference do you make in their wages for the 8 hours in distinction from the 12-hour shifts?—A. I believe they get the same wages; it is hotter.

Q. (By Mr. RATCHFORD.) Do you find that class of men you name, Poles and Bohemians, better adapted to your work than other classes of labor?—A. No; they are willing to work for less. You can not get an Irishman now. They can generally get more money; they do not apply any more.

Q. They are willing to work for less, you say?—A. Yes. The Irishman gets more; all other classes get more.

Q. For common labor?—A. Yes.

Q. Will facts bear that statement out, you think?—A. Oh, I do not think you can get a laborer for \$1.50 a day in New York, 24 days in a month—that is, \$36 a month; I do not know of that. You have to pay grooms in the stable \$50.

Q. Then, it is not because they are better adapted for the refining of sugar that you employ them; you employ them because they are the cheapest?—A. Yes; because they are the cheapest.

Q. And with the wages you pay them they drink a great deal of beer?—A. Yes. We furnish them beer at cost, and they drink a great deal of it, or so much a day.

Q. How much a day?—A. Well, a pretty good deal, some of them; I would not want to say the exact figures.

Q. (By Mr. PHILLIPS.) How much does it cost each one a day for the beer he drinks at cost—the cost on the average?—A. Oh, I would be jumping at that; I should think 15 cents.

Q. (By Mr. KENNEDY.) You own your own brewery?—A. No. We buy beer of a certain standard, sell it by weight, and give it to the men at cost. Otherwise they would be running out to saloons and getting drunk, and be away from their work, and gambling their money away. We do it as a business proposition again.

Q. You have been very frank in some of your statements, and I notice that in a previous investigation you very frankly said that you made contributions to campaign funds on both sides. I would like to ask you whether or not it is true that the American Sugar Refining Company made large contributions to the

Cuban cause previous to the Spanish-American war?—A. I do not recollect that they contributed a cent. I am quite sure we did not; if we did, it was some insignificant sum.

THE TARIFF AND FOREIGN COMPETITION.

Q. (By Mr. NORTH.) I would like to ask the witness if he has made any statement to the commission as to the imports of refined sugar into this country?—A. I have not.

Q. Will you state what the imports of refined sugar are at the present time?—A. I do not know. They are a matter of record. I should not think they were anything.

Q. You should think they were nothing?—A. Yes.

Q. In other words, the American Sugar Refining Company does not suffer from the competition of imported sugar?—A. Not at this immediate time.

Q. Why, then, do you state in the paper which you read before the commission this morning that the least protection refined sugar should have is double what it gets under the existing tariff?—A. We get under the tariff one-eighth. Suppose we are losing one-fourth in our business, we would still want one-eighth to make it good, would we not?

Q. Are you losing one-fourth?—A. I will not say that.

Q. If there are no imports of refined sugar and consequently no competition from foreign refiners, is that not sufficient evidence that the present tariff is high enough to protect the American sugar-refining interest?—A. It is no evidence whatever, because competition with the American goods opens up outside refineries; local men, not foreigners.

Q. I do not understand that answer. My question is, if the American Sugar Refining Company has no competition from foreign refiners, is not that fact sufficient evidence that the tariff is adequate?—A. It is no evidence whatever.

Q. Now, will you tell the commission why?—A. Because the competition itself is local. If the Government should give us one-fourth cent a pound and give our competitors nothing, then we would be able to live. If they give Louisiana \$40 a ton, why do they not give it to us?

THE TARIFF AND LOCAL COMPETITION.

Q. The local competition has nothing to do with the tariff?—A. The local competition has a great deal to do with the condition of the sugar-refining industry, and that is why we do not make any money.

Q. The tariff has nothing to do with the local competition?—A. I did not say it had.

Q. Well, but your answer implied that it did.—A. I do not think it implied anything of the kind.

Q. (By Mr. FARQUHAR.) What proportion does the production of Louisiana cane sugar figure in the whole production of the United States?—A. I believe it is about 10 per cent.

Q. That seems to be the only feature you have criticised?—A. The Hawaiian Islands another 10 per cent, and then these other beet sugars 5 per cent.

Q. However, all of these figure up how much per cent?—A. Twenty-five.

Q. Say 20 per cent?—A. Twenty-five.

Q. So you have a field for 80 per cent yourself?—A. The sugar-refining industry has; yes.

Q. I do not mean that; I mean your own business. I am not talking about any outside refineries; I am talking of what you have said this morning before us. Do you base all you have said about these matters and everything else on this question of 20 per cent? Do you want all this 20 per cent abolished and placed under the same tariff conditions that control the 80 per cent?—A. I have not mentioned that.

Q. I ask the question as a matter of business, would you?—A. I would not give them anything.

RAW SUGAR PRODUCERS SHOULD HAVE NO PROTECTION AT ALL.

Q. You would not give them anything at all?—A. No, they are an agricultural product, and if they can not produce under natural conditions, I would not give them anything at all. If you follow it to its logical extent and give Louisiana 40 per cent because they claim it, why do you not give Alaska \$500 a ton because they claim it?

Q. Well, that is highly hypothetical.—A. Then I refuse to answer that question.

Q. (By Mr. CONGER.) Let us follow your statements to their logical conclusion, and then reverse them. If you would not give Alaska \$250, nor Louisiana \$40, why should the American refining industry have any, and why should not the refining be done on the other side of the water?—A. There is no reason except the true one, and that is just what has been before the American people, and they voted on it twice. They voted Harrison in in the one case, and McKinley in in another; on a straight free-trade issue, or protection, the American people have declared for protection. It promotes civilization in America; it takes the poor man, gives him good food, schools his children, clothes them, feeds them better, and pays better wages. That is the whole and the entire point in which the nation is placed, so far as that is concerned. If you can not take sugar out of the soil of America, there is no reason in the world why you should provide any tariff or compensation which nature has not provided for, and which it has provided against.

Q. So far as this protection is concerned that you have, you want it on your industry. You have given us a very nice argument for protection. It seems to me that the logical conclusion from your argument is that there should be no protection at all upon the refining of sugar, which would remove the base of operation for refining to Europe.—A. My argument is, and has been, that if the American public is going to vote for protection on industry, they should limit it to 10 per cent. That is my argument.

Q. A moment ago you said they had limited it, that the American people, I think, voted in favor of this?—A. Yes, to manufacturers. I do not object to the local men getting a moderate protection. You asked me what the American people did, and that is what they did; the American people believe that a manufacturer should have protection. Now, those who are skilled in determining what protection these people should have, in my opinion, have given them inordinate rates. I stand for protection; I favor it; I have never said anything against it; I am in favor of it.

Q. (By Mr. FARQUHAR.) You say manufacturers. Of course in that you mean the workman and the middleman and all interested in American industries?—A. I think that the proper protection for all the people should be 10 per cent.

Q. (By Mr. NORTH.) Are you manufacturing and selling sugar at a loss to-day?—A. I decline to answer that. That is simply a matter of the American Sugar Refining Company.

Q. (By Representative LIVINGSTON.) You said that you were in favor of moderate protection on manufactures. Why not give a moderate protection to the producer of raw material that comes into competition with the foreign stuff?—A. I should be very happy to. I should think that would be the proper solution of it, but I should consider nature in the matter. If sugar can be produced in Louisiana for 2 cents a pound, I do not see why you should give them 2 cents a pound bounty. I should think that reasonable protection to all industries is the proper one. I think that is what the American voters have twice decided; but those who have had it in their power, give an inordinate protection, and that is what I claim and still maintain is the cause of all this trust agitation and clamor against it; and the public are mulcted by it.

Q. (By Mr. FARQUHAR.) Has not the bounty in Louisiana been abolished?—A. The bounty is abolished, but they get it indirectly in the form of the tariff on sugar of \$40 a ton.

Q. (By Mr. NORTH.) You made this statement here this morning: "Here you have \$24,000,000 extracted from the people of the United States for the sake of getting a revenue which \$40 per ton on foreign sugar provides. This is merely illustrative of the character of the tariff, every line of it, and its effect upon the people." Now, I would like to ask you if you are not aware that there are many articles sold in this country at prices considerably less than the duty on these same articles?—A. No; I do not know anything about it.

CONDITIONS IN THE PRINT-CLOTH INDUSTRY.

Q. Are you not aware that print cloths are now selling for less than the duty on print cloths; that the domestic price of the print cloths is less than the duty on print cloths?—A. No.

Q. Do you decline to answer the question?—A. No; I do not decline to answer it; give it to me again.

Q. I ask you if you are aware of the fact that print cloths are selling for a sum less than the duty?—A. No; I am not.

Q. Do you think, in view of the fact that you are ignorant of a point of that kind, that you ought to make a statement such as I have just read?—A. Yes.

Q. Although you are not aware of whether it is true or false?—A. What has that got to do with that principle that you have laid down? Where is the print-

cloth trust? What is the matter with them? Where are they that they do not come in out of the wet and get all of this advantage from the tariff? You are talking about a condition of things that allows them to get it and fleece the public to that extent.

Q. I am talking about the condition of things that exists in a great many staple industries of this country.—A. Well, they will soon get on to it; it is progressing fast.

Q. Do you not think, in view of the fact that you made this statement without knowledge and in ignorance of the fact, that it would be desirable for you to withdraw it?—A. No.

Q. I think that if the question and answer can go together I am perfectly satisfied to leave it where it is. (No audible response by the witness.)

AN INCREASE IN THE TARIFF WOULD NOT HELP THE SUGAR TRUST.

Q. (By Senator MALLORY.) I understand that, in your judgment, a tariff of one-eighth of a cent a pound on refined sugar is not sufficient.—A. That is my proposition.

Q. There is no money to be made in sugar refining at a tariff of one-eighth of a cent. I understand that one-fourth of a cent, in your judgment, would be better.—A. Yes.

Q. There is no foreign competition, as I understand, and the only competition you have is domestic.—A. That is, at the moment.

Q. At present. Now, what I would like to get at is how would an increase of the tariff from one-eighth to one-fourth of a cent enable you, under existing conditions, to improve your business?—A. It would not.

Q. What increase would?—A. None.

Q. No increase in the tariff at all?—A. Not under existing conditions.

Q. (By Mr. NORTH.) Why do you ask for it?—A. For contingencies. (Laughter.) I have nothing to conceal in the matter; why should I? Why should this business be carried on at a loss, when it can be carried on at a profit? We want to carry it on. We do not want to be inundated with foreign products.

DIVIDENDS AND LOSSES.

Q. (By Mr. NORTH.) Are you now carrying on business at a loss?—A. I have answered that before; I have no other answer to give to it.

Q. You refused to answer it before.—A. Well, I refuse to answer it now.

Q. How do you carry on business at a loss and still declare dividends?—A. You can carry on business at a loss and lose money, and you can meet and declare dividends. One is an executive act and the other is a business matter.

Q. (By Mr. PHILLIPS.) Where do you get the money, though?—A. We may borrow it; the sugar company has got pretty good credit.

Q. (By Mr. NORTH.) How many years can the American Sugar Company keep up that practice?—A. That is a problem to everyone. We would either buy or sell the stock if we knew that.

EFFECT OF THE REMOVAL OF THE TARIFF RESUMED.

Q. (By Representative LIVINGSTON.) I understand that you have practically no foreign competition now?—A. No.

Q. Now, I want to understand whether, if this one-eighth was taken off, it would be detrimental to the interests of this country? Have you taken that position?—A. I think it would, under existing conditions, which are ruinous in them-

Q. Now, I want to know definitely whether, if we should take off the tax, throw it overboard, make the importation of refined sugar free to the world, your idea is that this country would be the dumping ground of all the refineries of the world, and ruin your business and destroy the labor you have employed, and all that?—A. Precisely.

Q. Now, how can sugar be made in Germany from beets, or in the Philippines from cane, or in any other part of the world cheaper than you can make it here? Is that owing to the labor, or what is it?—A. Because, in the evolution of sugar refining, refined sugar can be made directly from the beet without the intermediation of the sugar refinery.

Q. Then it is not the cane sugar abroad that you fear coming in, but the beet?—A. Both.

Q. Both?—A. The cane now amounts to two-thirds of the total product.

COST OF REFINING LESS ABROAD.

Q. You do not mean that the cane sugar can be refined abroad and shipped in here?—A. Cheaper than it is made in Louisiana and refined in New York.

Q. Cheaper than you can refine it?—A. Yes.

Q. What is the cause of that?—A. Labor is cheaper in England.

Q. Well, there is the cost of transportation to pay?—A. That does not amount to anything.

Q. Insurance is heavy?—A. You must recollect that they take the product from abroad merely at a nominal rate here for nothing but ballast; they expect to get freight from this side. The great business in freight is the exportation of merchandise from this country. We are large exporters. The charge on freight to this country from either Antwerp, Hamburg, Bremen, London, or Greenock, is purely nominal. All freighters would like a cargo of sugar; that comes in bags that can be compactly and conveniently stowed.

Q. You mean the foreign sugar imported comes in bags? I thought it was put in barrels?—A. Yes, altogether in bags; it is generally only the American sugar that is put in barrels.

Q. Can you give us the rate from Hamburg?—A. Not to-day; I can not; I am not familiar with it. There has never been an opportunity afforded to the American Sugar Refining Company to demonstrate to a Committee of Ways and Means the disadvantages the industry is under as compared with foreigners, because there is constantly in their mind the public demand that something should be done to the Sugar Trust, no matter what injustice there is in it. You are not acquainted with it. That is the whole logic of the situation.

Q. If you were left perfectly free, would you be willing to face the situation if you were guaranteed that the duty would be taken off?—A. Why, we should be ruined.

Q. You would?—A. Absolutely. Why, England can produce it. England is one of the greatest and cheapest sugar-producing countries. They have free sugar and in 2 years they cut their refining industry from 2,000,000 tons down to 1,000,000; just divided it in two.

Q. What is the stock of a sugar company of England worth as compared with the American Sugar Refining Company?—A. It is not worth anything. I do not suppose you could sell a sugar refinery in England. There is one refinery in England that works a certain brand they have and pays a moderate profit, but the sugar-refining industry is gone, absolutely gone.

SUGAR INDUSTRY BUILT UP UNDER PROTECTION.

Q. Was the American sugar interest built up under a system of free trade or protection?—A. Protection. Why I can recollect when I went down to Washington as an individual, as one of the firm of Havemeyer & Elder—now I want you to bear that in mind—the invitation was: "Come in. What do you want, a cent a pound? You should have it. Of course we will give it to you. You deserve it." When I went down there as a representative of 5 times the capacity of Havemeyer & Elder, because I was in a corporation, the greeting was: "Get out of here. You can not get anything, no matter what it is, now." That is the way with every interest. That is a fact. They simply draw this distinction between what is done by the individual, or a firm, and a corporation. Individual business is everything, and a corporation has nothing to do with it.

Q. I did not mean to ask of your particular enterprise?—A. Oh, I thought you did.

Q. But I asked you this question: If the refining industry of this country was built up under protection or a free-trade system?—A. Protection, enormous protection. [Without the tariff I doubt if we should have dared to take the risk of forming the trust. It could have been done; but I certainly should not have risked all I had, which was then embarked in the sugar business, in a trust unless the business had been protected as it was by the tariff.]¹

Q. How about the English, was that under free trade?—A. They started before the beet culture became so large as it is. Beets have only been grown within 10 or 15 years. But since they started to cultivate beets so much in Germany, France, Austria, and Russia and extract the sugar from the beet itself the importation of beet sugar has ruined the industry in England. It is an illustration of what the American people should avoid. Never allow a foreign country, if it can possibly be avoided, to get its nose into this country and get into its productions.

Q. What do you say about the foreigners letting us get our noses into their country? Do you catch it both ways?—A. Well, I should have to think that out.

Q. That is a rule that works both ways.—A. Well, this question has been before

¹ Added later.

the American people twice and they have voted on the straight issue for protection. I do not say I am individually in favor of protection. As an abstract proposition I do not know but what free trade would have as strong an argument as the other.

TRUSTS AN ADVANTAGE WHEN NOT INORDINATELY PROTECTED.

Q. (By Mr. RATCHFORD.) Taking your testimony as a whole and analyzing it, it strikes me that the existence of these trusts, large moneyed corporations or combinations, is sought to be justified upon the ground that such trusts or moneyed combinations are an advantage to all the people. Is that correct?—A. When they are not inordinately protected under the tariff—I qualify it—so that in their operations they can not fleece the consumer.

Q. Very well. We will take for an illustration, then, the combination that you are representing. It is not inordinately protected under the tariff. In one of your statements you say that we have already too many men in business in this country. Coupling those things together—A. (Interrupting.) What did I say?

Q. That we had already too many men in business in this country.—A. You had better point that out if you are going to quote my testimony.

Q. I do not wish to misrepresent the witness at all. He now states that such a statement has not been made?—A. I do, emphatically.

TRUSTS IN EVERYTHING WOULD BE BENEFICIAL IF LIKE THE SUGAR TRUST.

Q. The point I wish to bring out is simply this, that if it be an advantage to the American consumer to buy his sugar from one trust, or combination, or company, would it not be an equal advantage to the American consumer to buy his flour, his coffee, his clothing, and all other articles of necessary use from one combination or company?—A. If they were conducted on the same business principles that the American company has been, I think it would be.

Q. Upon the same business principles. I want to ask the witness another question along this line. Have you in mind, taking into account your very large experience, any man, any company, any trust or corporation who sell their wares or goods in a noncompetitive market and who are not getting the highest possible price that the consumer can afford to pay for them?—A. Well, I do not know the gentleman's name, but the tariff on print cloths is an illustration of it. He said that his company was not getting the tariff on print cloths, and I have indicated to him that if he forms a trust that there is nothing in the tariff bill that will prevent him from getting that. So there is an instance of an industry getting less money than is possible.

Q. Have you any other instances?—A. The philanthropic work on the part of these corporations is very seldom, but I think you are perfectly right in the idea that they are not in business for their health, for selling their product for anything less than they can get.

Q. Is it any more reasonable to believe that such would be the case than it is to believe that the laboring men of the country, if they have the fixing of their own wages, would fix that upon a basis that would be agreeable to all?—A. Oh, I do not think they could do that.

Q. Neither do you think that the other side could do it?—A. What was the other side to do? I was not quite clear about that; what did you say about the other side?

Q. I say neither do you think, from what you say, the other side, the manufacturing people, could fix a price that would be equitable and just?—A. No.

Q. (By Mr. FARQUHAR.) In answer to that, you think capital is just as equitable as labor?—A. More so.

ALL INDUSTRIES EXCEPT SUGAR REFINING ARE INORDINATELY PROTECTED.

Q. You spoke of American industries that were inordinately protected by the tariff. Will you please mention a few of them, 2 or 3 of them?—A. I can only do it in a general way, that all those which have a protection of over 10 per cent are inordinately protected.

Q. Can you not mention some business, as you have a very close acquaintance with the tariff? We have a great many trusts being formed in New Jersey, and people do not know what they are; and from your wide experience I should like you to name 2 or 3 of the inordinately protected industries of America.—A. Well, I have said already that there is only one that is not, and that is the sugar industry. All the rest are. That embraces 2 or 3.

Q. All the rest, you think, are?—A. All the rest are; that certainly embraces 2 or 3.

Q. You make a broad assertion, which is hardly as clear as a good many of your answers have been to-day. Now, in your essay as read here to-day and in your testimony, I presume that you have stated business propositions; that you have no theories to advance, but that it is the practical business of the country that you have presented to us?—A. Yes. I hope the commission will expunge everything that is objectionable. [Laughter.]

THE TRUSTS A NATURAL EVOLUTION.

Q. You are aware that there is a notion in the country that these companies and combinations are very much in the character of commercial conspiracies; that is the general opinion about trusts?—A. Yes.

Q. You take this view of it, do you not, that as a business proposition a trust, or combine, or great capitalized association is simply the survival of the fittest in business?—A. Precisely.

Q. Exactly, and on that you rest all your political philosophy, that the best is going to win in the long run?—A. Yes.

Q. And the most money is going to have the best of it in any market?—A. I had rather have the brains than the money.

Q. You need the brains and management as well as the money?—A. Yes.

Q. And there ought to be an open field for one hundred and fifty million equal to one hundred and fifty thousand?—A. Yes; providing the Government does not step in and say: "My dear fellow, you are going into business? Yes. Whether you need it or not, I will give you 50 per cent, and I am going to give it to you whether you want it or not. Go after it and fleece the public to that extent." You eliminate that from business, and hands off. Every fellow for himself and the devil take the hindmost.

Q. Now, another question, not so much on business. Do you think that when you advocate these great combinations and powerful commercial bodies, take it all in all, it is serving the well-being of the people of the United States to have that class of great associations in it? Does it serve the well-being of all?—A. Eliminate the advantages under the tariff and it is the proper thing. It furnishes to the community, the mass of the people, all products at the cheapest possible price, and that is what they are interested in. If I pay a man \$1.50 a day, and he can buy from a trust his sugar, his milk, his beef, or anything he uses at prices in all things cheaper than he was able to do before, he saves and makes money as against forcing him to buy from this wonderful individual you are talking about, that must be supported or maintained by a wet nurse called the Government. I tell you, gentlemen, the day of the individual has passed.

Q. (By Mr. KENNEDY.) The wet nurse is the United States. Is that what you mean?—A. Yes; I call the wet nurse over 10 per cent of the tariff, although I still have to go on my 8 per cent.

Q. (By Mr. FARQUHAR.) That does not seem to answer the question. We have in this country, speaking broadly, bills of rights that apply to every individual, and one man's dollar is just as good as another man's dollar unless there is a lien or a judgment back of it. Every man has the right to his liberty and his pursuit of happiness and his business. Now, the broad question put to the American people is this: Are not the great combinations that you speak of against the well being of the people of the United States and the individuals that are in business of the same character in the United States?—A. If the mass of the people profit at the expense of the individual, the individual should and must go.

Q. You have mentioned the fact of the consumer profiting from the lowering of prices. You have also given testimony here that you have only lowered prices when competition hit you; there was neither philanthropy in it nor sentiment. Do you mean to say that about this?—A. I told you that the business of the Sugar Company was conducted on lines that furnished the consumer cheaper sugar than he had been getting, consistent with a fair profit on the capital and the extent of the whole business, and that we had been seriously interfered with lately by the competition of outside refineries.

Q. (By Mr. KENNEDY.) Has there been any dangerous outside competition?—A. Oh, most dangerous and ruinous.

DIVIDENDS AND STOCK OF THE SUGAR TRUST.

Q. (By Representative LIVINGSTON.) Did you answer or not the question: What were the dividends paid by your company; what per cent? Do you mind answering that?—A. The question as to what we have paid has not been asked.

I think it has averaged about 10 per cent on the entire capital; 7 per cent on the preferred and 12 on the common; that makes an average of 10 on the whole.

Q. Now will you mind going a step further and say what your profits for 12 months were?—A. I wish I knew.

Q. (By Mr. PHILLIPS.) Have you stated the amount of capital stock in the American Sugar Refining Company?—A. \$75,000,000.

Q. (By Representative LIVINGSTON.) One thing further. Did you pay the last dividends out of the earnings or out of the surplus?—A. I did not mention that.

Q. Do you mean to say you would not like to answer that?—A. I mean to say that I did not mention it.

Q. (By Mr. PHILLIPS.) Do you refuse to answer that question?—A. I think it had better remain as it is, Mr. Chairman.

EFFECT OF THE TARIFF ON SUGAR RESUMED.

Q. (By Mr. JENKS.) I want to see if we can bring out a little more clearly your views with reference to the present tariff and the tariff of one-fourth of a cent a pound which you have advocated. Under present conditions, as you have emphasized, there is no foreign refined sugar imported. Do you think that, if the price here were to go up, so that you could make what you consider a fair profit for the American Sugar Refining Company, refined sugar would be imported?—A. It would not with a protection of one-fourth of a cent; it would otherwise, I think.

Q. You think it would with a protection of one-eighth of a cent?—A. Yes.

Q. That was the point, I think, that was suggested before. Now is it the competition that has forced prices down so low?—A. Local competition, yes.

Q. The basis on which you fixed the price of sugar so as to return to the American Sugar Refining Company one-fourth of a cent profit (which you said was your general principle), was what you thought in the long run, taking possible competitors into account, would pay to the American Sugar Refining Company the greatest net returns?—A. Precisely.

METHODS OF CONTROLLING TRUSTS OR INDUSTRIAL COMBINATIONS.

Q. We have in connection with the railway system of the country the Interstate Commerce Commission, and we have reports made to them with reference to the condition of the business of the different railroads. Can you give any reason why your business should not be made as open to the public as is the business of any railroad? I am not asking now for a technical legal answer, but for an answer on general business principles, the economic basis.—A. There is always an aversion on the part of business men to expose their business to the advantage of competitors, and it is most probable that in case they did give the Government an opportunity to examine their books their condition and methods would leak out to the injury of themselves and the advantage of their competitors.

Q. Would they be likely to be injured any more than the railroads are?—A. Yes; railroads run in certain districts. It is difficult to get a competing charter. Refineries can be built anywhere at any time.

Q. Simply because railroads are more of a natural monopoly than refineries?—A. Yes; that is the way to put it.

Q. Not, you think, that the people as a whole have any less interest in a sugar refinery as a consumer than they have in a railroad?—A. I think people as a whole have more interest in articles that are a matter of food than they have in matters of transportation.

Q. So that, from the standpoint of the general public interest, if that can count for anything, there is more reason why the Government should get reports from the American Sugar Refining Company than from the railroads?—A. I think it possibly follows that where a corporation like the Sugar Company, or any other large food producer, takes on a quasi-public character, there is more reason why the public should know in reference to it.

Q. You do not consider, then, that the American Sugar Refining Company is of a quasi-public nature?—A. Well, as far as that is concerned, considered from the public standpoint, it is within their power so to consider it whether I want to or not. The power is there, and I have always maintained that we got this protection law in the confidence imposed in the American public, and they had the power to maintain or destroy it. If we could ever get beyond the senseless clamor against trusts, and could get the proper treatment of them into the deliberate consideration of those who have the matter in charge, I think the industry would be treated fairly. But votes will knock out framers of bills any time, and the votes have always been against us.

Q. Your own deliberate judgment is that if the inspection could be made fairly and honorably of the books of all corporations that are of this general nature, and if reports should be made regularly, it would be for the benefit of the people and presumably for that of the corporations concerned?—A. It would be the means of giving those who had legislation in charge some more accurate data upon which to base their judgment and votes, and I really believe that until some such course is adopted industries in this country are in very great danger of very radical changes. If the Republican party, while it is in power, would gradually reduce this inordinate protection that prevails, it would be a very wise thing.

THE EFFECT OF THE TARIFF ON TRUSTS RESUMED.

Q. (By Representative LIVINGSTON.) I gather this to be the sense of your statement, that we have got protection so much from foreign competition that it has bred a species of domestic competition to the extent that it is about to smother the whole business.—A. That applies to the sugar business.

Q. I understand. I want to ask you if it applies to every other protected industry in the country; if it applies to the Oil Trust, to all the trusts, every one of them? If I understand, the Sugar Trust, the Oil Trust, and every other trust that is under the protective system in this country has been bolstered up against foreign competition until they have built up a domestic competition which will absolutely throttle every one of them?—A. Unfortunately, you know, the trusts intervene there and knock that argument out.

Q. Is not that the difficulty you are laboring under to-day?—A. Oh, precisely.

Q. Now if Rockefeller were here I would ask the same question and he would answer the same as you do?—A. Well Rockefeller does not benefit by the tariff at all. I have got the tariff bill here and I looked it up this morning, and there is no tariff on petroleum.

Q. You complain that you are not making money. The time was when you did make money. That is true?—A. Yes.

Q. Is it the truth that under the protective system of our Government foreign competition has been so fought back and kept back that there has been such a margin of profit at home that we have been crippled or kept back from competing with them only by this competition at home? Is not that the trouble with the whole business?—A. Undoubtedly; but trusts intervene and correct it to the extent of the tariff.

Q. You, then, take the position that a trust can intervene also and take the place of the tariff?—A. No, no; you and I fight each other to death under a protective tariff. Now, we get a protection of 5 cents and we heal our differences in 5 minutes.

Q. In other words, by combination you get rid of the trouble?—A. By the trust; that is what these combinations are called, aggregations of capital which are usually known as trusts.

Q. I put those two things together, first that the protective system has brought such domestic competition that you are compelled to form a trust to keep each others' throats from being cut?—A. That is just the case with sugar. Have I not just told you that prior to the formation of the Sugar Trust 18 companies went out of business, failed, were ruined, and that is the advantage of the tariff? But if you do not stick to real protection in itself, but give these producers 40 to 60 per cent, then they are bent on mulcting the public. The great trouble is the tariff, and there you are.

Q. (By Mr. JENKS.) I judge from your answer to Colonel Livingston's question with reference to the gradual reduction of the tariff that you possibly did not mean in your statement that 10 per cent was to be taken literally, applying all the time?—A. I mean that 10 per cent expresses the real difference between the cost here and abroad. I had to fix some figure, and I said about 10, because I believe that is so. In some cases it might be 15 or 20, and I said in sugar it is 8; but I did not mean to propose anything to be introduced into tariffs that are going to be radical or injurious. There should be enacted into law now some remedy against this inordinate duty or protection.

Q. And speaking broadly, you think 10 per cent would be as near it as anything that can be stated in general terms?—A. Yes.

METHODS OF CONTROLLING TRUSTS RESUMED.

Q. One word further with reference to the question of publicity. If I understood you correctly, you would yourself favor any bill that should be introduced that would provide for public reports of all corporations if you thought the law

would be administered fairly and honestly?—A. Well, that requires more thought than I am able to give it at the moment. Of course my individual opinion might be one thing, and as a representative of the American Company without being charged with permission to make any statement, it might be another. I can see no real harm in exposing the affairs of a corporation to governmental inspection, providing some means can be provided to protect that exposure from the advantage of the competitors.

Q. (By Mr. FARQUHAR.) You would say that, on the same line as bank examiners do their work, the credit of the concern should not be given away, nor its manner of doing business, but an examination as to the character of the business proper itself is right; is not that it?—A. I will state broadly that where a corporation is dealing particularly in things that are essential to the benefit of mankind—clothing, fuel, oil, sugar, rice, food—anything which is peculiarly, as I have described it, of a quasi public character, it would be beneficial to the public to have them all under governmental superintendence.

Q. (By Mr. NORTH.) Will you answer one question more? Do you export any product of the American Sugar Refining Company?—A. We export molasses.

Q. No sugar?—A. No sugar.

Testimony closed.

WASHINGTON, D. C., June 15, 1899.

TESTIMONY OF JAMES N. JARVIE.

The commission met at 2 o'clock p. m., June 15, 1899, Second Vice-Chairman Gardner presiding. Mr. James N. Jarvie, 71 Water street, New York City, was sworn and testified.

Q. (By Mr. JENKS.) Will you be kind enough to give your full name and address to the reporters?—A. James N. Jarvie, and my summer address is Glenridge, N. J.

Q. And your business address is?—A. 71 Water street, New York City.

MEMBER OF THE FIRM OF ARBUCKLE BROTHERS.

Q. You are engaged in the sugar-refining business?—A. That is one of the departments of our business.

Q. You are a partner in the firm of Arbuckle Brothers?—A. I am a partner in the firm of Arbuckle Brothers.

Q. How long have you been engaged in the sugar-refining business?—A. Practically since 1897; that is, we started to build a refinery in January, 1897—plans, etc.

Q. When did you begin to put the product on the market?—A. August, 1898.

THE MARGIN BETWEEN RAW AND REFINED SUGARS.

Q. At the time you started to build a refinery and for some time before what had been the margin between raw and refined sugars?—A. About 90 points.

Q. And what has been the margin since you began putting your product on the market?—A. When we started to sell sugars the margin was between 80 and 90 points; since we have been selling sugars the margin has gotten down as low as 52 points; to-day, or yesterday, it was 51 points.

Q. About what time did this cutting in prices begin?—A. I should say in September, 1898.

Q. Very soon after you began putting your product on the market?—A. Yes.

Q. Did you begin cutting in order to dispose of your product?—A. I don't think we did. We followed the prices made by the American Sugar Refining Company.

Q. You have done that regularly—let them fix the prices, you following?—A. We have done that regularly, with perhaps an exception. Where we knew they were cutting prices secretly we made the price an open one.

Q. But you have never made a price lower than their open market price, unless you had reason to believe they were cutting secretly?—A. No, never.

THE MARGIN NECESSARY FOR A PROFIT.

Q. About what do you consider the margin between raw and refined sugar necessary for a sugar refinery to make a profit? What is the lowest margin on which one can refine sugar and get out even, without losing money?—A. Well, I will have to say from 50 to 60 points.

Q. There is more or less variation in the cost of refining?—A. Yes.

Q. What are some of the circumstances that affect that?—A. Well, generally the amount that a refinery turns out compared with what they can turn out.

Q. Speaking generally, then, you would say that when the margin gets below 50 cents a hundred the presumption is that the refineries are running at a loss?—A. Yes.

Q. At the time that you started in with your refining business you said the margin was in the neighborhood of 80 to 90?—A. Yes.

Q. With the margin at 85 or 90, you would say that the margin of profit is about how much?—A. Well, if it costs 50 to 60 cents to refine, it would be the difference between that and 85 points; that would be from 25 to 35 points.

Q. What do you mean by a point?—A. One one-hundredth.

Q. The fair presumption would be, then, that while the American Sugar Company were selling sugars with the margin from 85 to 90 they were making somewhat more than one-quarter of a cent profit?—A. I can not answer that question. I do not know what it costs them to refine.

Q. Since you have been running your refinery have you been in conference with the American Company with reference to consolidation, agreements on prices, and so on?—A. No.

COST, CAPACITY, AND OUTPUT OF REFINERIES.

Q. In order that one may be able to make a fair judgment with reference to capitalization, it is necessary to know something with reference to the cost of building refineries. What, in your judgment, at the present time would be the cost of building a modern up-to-date refinery that would be able to melt a million pounds a day?—A. I should say \$2,000,000; but the location of the building would change that somewhat. If the buildings are on the river front, of course it is more expensive to get foundations, and that might be changed, owing to locations.

Q. In this estimate of \$2,000,000 you are not including the real estate?—A. No.

Q. About how many barrels of output would that be—a million pounds melting?—A. About 3,000 barrels.

Q. (By Representative LIVINGSTON.) He does not say whether that is daily, weekly, or monthly, or what.

Q. (By Mr. JENKS.) I had spoken of the daily output; you mean about 3,000 barrels a day?—A. Yes.

Q. The American Sugar Refining Company was made up of a number of different establishments working in harmony. In your judgment, are there any special advantages as regards the cost of refining from a number of separate establishments working together?—A. Under some conditions there might be.

Q. For example?—A. But, if you want to compare it with our business—

Q. That is perhaps the most definite way; yes.—A. I don't think they can refine sugar and sell it any cheaper than we can.

Q. Your establishment, you would say, then, is large enough and so equipped that you can have all the advantages from division of labor, and so on, that they can?—A. We think it is.

Q. Can you give us any information with reference to the present tariff on sugar, as to whether it is sufficient to cover the difference between the cost of refining abroad and the cost of refining here?—A. Well, I have been too short a time in the business to express an opinion on that. I should prefer to have others speak on that who have been in the business longer than we have.

THE COST OF REFINING SUGAR.

Q. Are you familiar with the cost of refining abroad?—A. I am not.

Q. (By Representative LIVINGSTON.) What is the cost of refining sugar in your plant?—A. I would rather not answer that.

Q. But I want you to answer it.—A. I think that is giving our competitors an advantage that you should not ask us to do. I have answered the question that we could refine sugar and sell it as cheaply as the American Sugar Refining Company, and I think that should be sufficient.

Q. Why not answer the question as to what it costs?—A. Is not that sufficient answer?

Q. No, sir; it is not.—A. Then I can not give it to you, sir.

Q. You said that it costs no more in your plant than it does in the Havemeyer plant. They can not have any advantage of any answer you might make to this question. Why not answer it?—A. Because we might be doing it for less than they were doing it; that would be an advantage.

Q. Suppose they were?—A. I don't think it is necessary to make our business public; we are not a corporation; we are a firm.

Q. I understood you to say, in answer to a question by Mr. Jenks, that there never had been any attempt to reconcile the difference between the Arbuckles and Havemeyer combination. Is that your answer?—A. Well, I don't think he put it exactly that way; did he?

Q. I put it that way.—A. We have had 50 people make the attempt we presume, for stock-jobbing purposes. Arbuckle Brothers are in the sugar business to stay in the business.

Q. I understood that; but so are the American in the coffee business to stay, too. Now, what is the basis of settlement between you two?—A. We have no basis of settlement.

THE COFFEE BUSINESS.

Q. (By Mr. JENKS.) Perhaps you will tell us with reference to the coffee business, since the American Sugar Refining Company went into it, what the prices of green and roasted coffee in the form in which you sell it were at the time you went in and what the prices are now, and what has been the apparent effect on the business of the American Sugar Refining Company going into it. Will you be kind enough to make a brief statement covering that question?—A. The American Sugar Refining Company, we believe, bought the Woolson Spice Company in January, 1897, or December, 1896. The price of roasted coffee at that time was about 15 cents; the price of green about 10 cents—that is, the grade it is presumed they were using. The price to-day of roasted is 8½, and the grade they are using is about 6 cents—grade of green coffee. Now, our price of roasted at that time was 15 cents, and the grade of green we are using is now more than 6 cents in value. Our price for roasted is 9 cents; but it is only fair to state that it was not the so-called coffee war that reduced the price of coffee.

Q. What was it?—A. Why, it was the increased production of coffee all over the world. The coffee crops have increased from 11,000,000 to about 15,000,000 bags in the last 3 years.

Q. That would reduce the price of green; how about the margin between green and roasted?—A. On percentage there is very little difference; that is, 6 cents for green and 9 cents for roasted is 50 per cent; 10 cents for green and 15 cents for roasted is 50 per cent. You must bear in mind that a pound of green coffee only turns out—or 100 pounds of green coffee only turn out 84 pounds of roasted coffee, and there are other things with reference to the manufacture the prices of which are fixed.

Q. How about the profits at the present time as compared with what they were earlier, at the time the American Sugar Refining Company went into the business?—A. Much less.

PRESENT CONDITION OF THE SUGAR BUSINESS.

Q. (By Mr. KENNEDY.) May I ask: Are the Arbuckle Brothers making money now out of the sugar business?—A. If you mean to-day, I can not tell you that. I have answered that it took 50 to 60 points of a margin between raw and refined to make a profit on sugar. Now, the margin to-day is 50 points, but it has only been that for the last week.

Q. (By Mr. JENKS?) Before that?—A. Before that it was 40 points and a few weeks prior to that it was 32 points, so it is rather a difficult question for me to answer.

Q. For about how long a time has the margin been below 50 points?—A. I should say several months.

Q. (By Mr. KENNEDY.) Then as the American Sugar Refining Company is paying dividends on a large overcapitalization, is it not very probable that it is losing money to-day in the sugar business?—A. I do not want to say anything about the American Sugar Refining Company; I know nothing about it beyond published reports; we have no connections with them whatever and know nothing about their business other than their being competitors.

Q. (By Representative GARDNER.) As an abstract question, you would say that a company refining sugar at this time and selling it at 80 to 40 points above the cost of the raw were losing money, would you not?—A. I am under that impression.

Q. (By Mr. JENKS.) About what is your output in barrels per day?—A. At this time from 2,800 to 3,500 barrels.

Q. (By Mr. KENNEDY.) What is your capacity?—A. Under favorable conditions, about 4,000 barrels.

Q. Can you state anything about the output and the capacity of other independent refineries?—A. I can not; I can not say what their output is or their capacity. I don't know.

Q. Do you believe that the American Sugar Refining Company has an output of 90 per cent of the consumption of the country?—A. I heard it was so stated here yesterday.

Q. I want to ask your opinion about it.—A. I don't think they have; but of course I don't know.

Q. (By Representative LIVINGSTON.) What per cent of the output do you send out?—A. You mean to say the output of the country?

Q. The consumption.—A. The consumption of sugar is supposed to be about 2,000,000 tons. It will vary from that this year; the consumption seems to be larger than last year.

Q. What percentage of that do you put out?—A. If we have a capacity—do you mean to say capacity or what we are really selling?

Q. What you do, not what you can do.—A. We refine as much as we can sell.

Q. (By Mr. JENKS.) Do you recollect about how much it was last year?—A. I can not tell you that.

Q. (By Mr. RATCHFORD.) I would like to ask the witness as to where he finds a market for his product—western markets entirely?—A. No; all over the country, east of the Rockies; it depends entirely upon railroad rates of freight.

Q. In your market, then, extending all over the country, you meet in competition the product of all other refineries in the country, do you?—A. It depends upon the rates of freight entirely. We have sold sugars in San Francisco.

NO FOREIGN COMPETITION AT PRESENT.

Q. Do you come in competition with the products of foreign countries?—A. Yes; when they are here.

Q. When are they here? Where do you meet them?—A. The margin between raw and refined has been so small that there has been no foreign refined sugar here this year.

Q. Then you are not affected in your sugar business by any foreign competition?—A. The margin has been so small that it has been impossible for foreign refined sugars to come in.

Q. (By Mr. JENKS.) Do you recollect about what the margin was at the time the last foreign sugar was coming in?—A. I can not tell you.

Q. You have not that in memory?—A. No.

WHY THE ARBUCKLES WENT INTO THE SUGAR BUSINESS.

Q. Is not the house of Arbuckle Brothers a general grocery house?—A. Arbuckle & Co. was the original house of Arbuckle Brothers. They started a wholesale grocery in Pittsburg in 1858. They came to New York in 1870 and made a specialty of coffee, of roasted coffee in pound packages.

Q. You have the Pittsburg house yet?—A. Yes.

Q. It is a general wholesale grocery house?—A. Yes.

Q. You went into the sugar-refining business simply as an auxiliary or adjunct to your general trade?—A. We went into the general sugar-refining business because in our coffee business we had bought a machine for filling, packing, and weighing coffee, and we thought we could adopt the same for sugar. We started to buy sugar from the refineries, from the different refineries in 1893 or 1894, to develop that industry. We ran it for 3 or 4 years, and found we could not make any money out of buying sugar from the refineries and putting it up in that way and then selling again to wholesale grocers, as we had to compete with other refineries as to price, etc., and we came to the conclusion that the only way to make any money was to build a refinery of our own.

Q. On account of this patent?—A. Yes; which we did.

Q. Are you the exclusive owners of that patent?—A. Yes, we are.

Q. Have you had offers from competing companies to take a share in the patent itself?—A. No, sir.

Q. Did the American Company ever make you any offer at all for the use of that patent?—A. Not that I am aware of.

Q. The use of this patent gives you a considerable margin, does it not?—A. No, it does not.

Q. But for your own trade it is a positive advantage?—A. It is an advantage because no one puts up sugars in that way but ourselves.

Q. In that form for the consumers?—A. Yes, the American Sugar Refining Company recently, as well as other outside refineries, have put up sugars in 3 and 5 pound cotton bags to compete.

RELATIONS WITH THE SUGAR TRUST.

Q. (By Mr. C. J. HARRIS.) Did you have any trouble with the American Sugar Refining Company in handling their sugars that led you to start this new plant?—A. We could not make any money out of it.

Q. Are wholesale grocers who handle this sugar making any money at present?—A. I think they are.

Q. Is there any contract which provides that they shall only handle that concern's sugar, or any restrictions of that kind?—A. I don't know of any such contract.

(By Mr. FARQUHAR.) While you were a purchaser from the American Sugar Refining Company you had no arrangement of that kind, did you?—A. No, sir; none whatever. We had no advantage over any other wholesale grocer.

Q. Wholesale grocer in New York State or elsewhere?—A. No.

Q. (By Mr. C. J. HARRIS.) Since you have established your works and since you started building what has been the attitude of the American Sugar Refining Company toward you? Will you describe that briefly?—A. I don't know any other attitude toward us than that of cutting the price.

Q. Has not their attitude been an attempt to crush you out of business?—A. If the cutting of price is that, yes.

Q. Is not that about as good a way as any?—A. I think so.

Q. And as effective? If they can compel you to run business for nothing long enough that is about as effective a mode of procedure as could possibly be adopted, is it not?—A. Well, when a great company like that is selling 90 per cent of the total product at a loss and letting outsiders sell only 10 per cent, I do not think the outsiders are going to suffer very much.

Q. You do not think the outsiders are going to suffer very much?—A. No; not in proportion.

Q. Well, they simply lose on 90 per cent and you make nothing on the 10, so I do not see that it makes much difference between you. For instance, in the Chicago markets, both companies, your own and the American, had quite strong opposition a short time ago, did you not?—A. Well, I do not know that—you mean besides the other outside refineries?

Q. I mean from the independent refiners there.—A. The independent refiners, no; I do not think there is any trouble between them in that market any more than any other.

Q. There was not?—A. No.

Q. Was there not a possible push in the Chicago markets within some months where Arbuckle Brothers came in open competition there with the American Sugar Refining Company?—A. We have been in open competition with them in all markets.

Q. There was no particular overdevelopment in the Chicago matter at all?—A. No.

Q. (By Representative LIVINGSTON.) Does the American Sugar Refining Company, or Havemeyer enterprise, have any advantage compared with you in freights?—A. I do not think that they have.

Q. (By Mr. FARQUHAR.) Since 1896, say, how many new independent refineries have commenced business?—A. The New York Sugar Refining Company and ourselves.

Q. (By Mr. JENKS.) This New York Sugar Refining Company is the Claus Doscher Company?—A. Claus Doscher; yes. These are all I recollect; I know of no others.

COST OF REFINING SUGAR RESUMED.

Q. (By Senator MALLORY.) What does it cost in this country to refine sugar from the average 96 polariscopic test of raw sugar centrifugal?—A. I think I have answered that question by saying from 50 to 60 points, or one-half to six-tenths of a cent per pound. In other words, if raw sugar costs 4½ cents a pound, it will cost over 5 cents up to 5½¢.

Q. That is actual cost?—A. Yes.

Q. Do you refine raw sugar from beets as well as cane sugar—both?—A. We do.

Q. Do you know what it costs in Germany to refine sugar from the same standard of raw sugar?—A. I do not. In Germany they refine sugar directly from the beets. They have a different process entirely.

Q. They refine beet sugar directly, I believe?—A. They do not require any bone black, which is quite an expensive item in the refining of sugar.

Q. You do not know, then, whether they make their refined sugar at a cheaper rate relatively than we do?—A. I do not know, but I do not believe they do.

Q. In Germany, I believe, they have a bounty on all refined sugar exported?—A. Yes.

NO FOREIGN COMPETITION AT PRESENT RESUMED.

Q. I understood you to say there was no foreign competition at present in refined sugar in this country?—A. Yes.

Q. When was the last foreign competition that you had to compete with?—A. Well, we never have had any foreign competition since we have been in the business. The margin has been so small that there has been no opportunity to bring in the sugars, that is, any amount of them. A small amount may have drifted in, in some way or other.

Q. Do you apprehend that there will be?—A. Not until the margin gets greater than it is to-day.

Q. At what figure of margin would there be a probability of foreign competition coming in?—A. I can not answer that definitely; I do not know; we have not been long enough in the business to know that.

THE TARIFF.

Q. (By Mr. FARQUHAR.) As a business proposition, is it the price of the raw product of the American Sugar Refining Company, or is it the tariff of one-eighth of a cent that excludes foreign refined sugars? Is it the present cost of the raw sugar or the tariff of one-eighth of a cent that keeps out the foreign refined sugars from the American market?—A. I think it is the margin between raw and refined sugars that keeps them out, and I think if that margin were increased by one-eighth of a cent there would be but little come in.

Q. (By Representative LIVINGSTON.) You mean to say it is the tariff that keeps it out; that is, the tariff is so low?—A. Under ordinary conditions, yes; the tariff being low would not keep it out.

Q. Is it not low now?—A. I am not familiar enough to answer that question.

GENERAL IMPRESSION THAT IT IS NOT SUFFICIENT.

Q. (By Mr. FARQUHAR.) You can not answer that question, whether the present tariff is insufficient to keep out the foreign refined sugars? Insufficient to keep it out of itself?—A. As I said before, we have not been long enough in the business to answer that; if we had been, I could answer it. I can give you the impression that prevails among sugar men generally.

Q. That is what we desire.—A. That the tariff is not sufficient.

Q. (By Senator MABLORY.) The reason why there is no foreign competition is ascribable to the low rate at which sugar is sold in this country at the present time, as I understand it?—A. No; I think it is ascribable to domestic competition.

Q. Domestic competition?—A. Yes.

Q. (By Mr. JENKS.) Just a little further. You say that the prevailing impression among the refiners is that the present duty on refined sugar, above that on raw sugar, of substantially one-eighth of a cent a pound, is not enough to keep out foreign sugar. Is the prevailing opinion also that this discriminating duty in favor of refined would be sufficient if it were raised to a quarter of a cent a pound?—A. A quarter would help.

Q. Would that be sufficient? Is that the general opinion?—A. I think it would.

Q. You think that the addition of another eighth would afford effective protection—you think that is the general impression?—A. I think so.

IF THERE IS NO FOREIGN COMPETITION, WHY SHOULD THE TARIFF BE INCREASED?

Q. (By Representative LIVINGSTON.) Right there on that point. If the eighth produces a lot of domestic competition, why would you have a quarter?—A. I did not quite catch the gist of your question.

Q. You had agreed before my question that an eighth was not sufficient to keep out the foreign competition, and the reason why it was kept out was the domestic competition. Then, if under only an eighth differential on refined sugar the domestic competition is so great that it keeps out foreign competition, why would you suggest a quarter?—A. Well, I would say that the eighth has nothing to do with the domestic competition.

Q. You get out of it in that way. Is not this true, that when these sugar refineries were combined, constituted, or organized, that the rate on sugar was very high, and that after these combines came into existence it lowered the rate, and that was the trouble with the domestic plants in this country, the lowering of the rate, that is what produced the trouble in this country between the domestic enterprises, and brought this throat-cutting and slashing business?—A. No.

Q. What?—A. I do not think that had anything to do with it.

Q. (By Mr. JENKS.) Do you recall what the tariff on refined sugar was in 1887, when the Sugar Trust was formed?—A. I do not; I was not in the sugar business at that time.

Q. And you do not remember?—A. I do not remember.

Q. (By Mr. FARQUHAR.) Is not it the general opinion among refiners that the cutting of rates in refined sugar in the United States was through the combine throttling, as they call it, all competition? Was not that what brought down the rates of refined sugar in this country?—A. Do you mean to say the prices now between refineries?

Q. Yes.—A. Why, of course it is competition.

Q. Entirely?—A. Yes.

Q. (By Representative LIVINGSTON.) Ask him how that competition was brought about, when you get right down to it.

Q. (By Mr. FARQUHAR.) Now, the commission would like to know just exactly how this competition came about, for and against the American Company and the American Company as against all outside concerns?—A. I shall answer for our own concern; and I have answered that the reason why we went into the sugar-refining business was that we had a machine that we thought, as a matter of convenience to the storekeeper and to the consumer, as well as on the lines of economy, would allow us to enter the sugar business. That is the reason we went into the sugar business.

Q. (By Mr. JENKS.) And the cutting of prices began with the American Sugar Refining Company?—A. I believe so.

Q. And you have regularly followed their prices?—A. Yes.

Q. (By Representative LIVINGSTON.) Would you mind answering this question? Will you be able to follow the reductions if they continue for many months?—A. Well, the future is a sealed book.

Q. (By Mr. FARQUHAR.) In your present frame of mind will you be able to follow them anyway?—A. We are going to stay in the sugar business.

Q. (By Mr. C. J. HARRIS.) What has been the reduction since you commenced up to the present time? We hear that there has been a serious drop in the price of sugar. Now, I would like to know about how much it is.—A. You mean the margin between refined and raw sugar?

Q. Yes.—A. Well, I think I have answered that; I will answer it over again. When we started, in September or August, 1898, the margin was between 80 and 90 points, and since then it has gotten down as low as 32 points. To-day it is 51 points.

Q. (By Representative LIVINGSTON.) You mean 32 cents on a hundred pounds?—A. I mean 32 cents on a hundred pounds.

Q. (By Mr. C. J. HARRIS.) The American Sugar Refining Company, then, made, during most of its career since it has started, 90 points, you mean?—A. That is a matter of record, but I can not recall it.

Q. (By Representative LIVINGSTON.) That is how they got that surplus?

WOULD AN INCREASE IN THE TARIFF HELP THE REFINERS?

Q. (By Senator MALLORY.) I understand that, in your view, the present tariff of one-eighth is too small; that a quarter would be better. Now, supposing Congress should impose a tariff of 1 cent instead of one-eighth of a cent, under that tariff would you be able to do business more profitably than you do now?—A. Well, I have said that the competition at the moment was all domestic. Of course, if you make the difference 1 cent instead of one-eighth of 1 cent per pound, you would practically eliminate the foreign competition.

Q. Well, it is practically eliminated now, is it not?—A. Caused by domestic competition.

Q. Well, whatever it is caused by, there is no foreign competition?—A. At the moment, none.

Q. There would be no foreign competition under an increase, say, of one-half a cent or 1 cent; could not be, I suppose?—A. I should not think so; no.

Q. Now, what I want to ask is, if the business in which you are engaged could be conducted more profitably under such a rate than under one-eighth? In other

words, would you be able to make more money out of the business under a tariff of 1 cent or a half a cent than you do under an eighth of a cent?—A. That is a question I can not answer. Trade conditions would answer that, but I can not.

Q. Would you answer?—A. Trade conditions would answer that, but I can not.

THE TARIFF AT PRESENT OF NO ADVANTAGE.

Q. What I want to get at is whether you derive any special benefit from this one-eighth of a cent that you are getting now; whether that is really anything beneficial to your business. It is not sufficient, as I understand, to keep out foreign competition. What keeps out foreign competition, according to your idea, is the domestic competition that reduces the prices, and therefore the foreign refiner can not get in and compete. Now, if that one-eighth does not keep out foreign competition and there is no means of suppressing the domestic competition, what benefit is the one-eighth to you at all?—A. There will not be any as long as domestic competition goes on.

Q. Would an increased tariff rate have any effect in suppressing or reducing the domestic competition?—A. I do not think it would.

Q. Then there is no way, so far as you see, that the present condition can be bettered by any legislation in regard to the business?—A. No; I believe that the less legislation about the matter the better. Let the American conditions work out their own salvation.

THE EFFECT OF REMOVING THE PRESENT TARIFF.

Q. One moment. You think that the taking off of that one-eighth duty would affect your business?—A. Well, that is pretty fine; I can not answer that question.

Q. It has been stated here that it would be absolutely destructive.—A. I can not answer that, Senator. I want to make the commission as fully acquainted with everything they want to know as I can, and I do not decline to answer the question.

Q. I understand that.—A. I want to make it perfectly clear. I want to make you perfectly familiar with it.

Q. (By Mr. CONGER.) Would you have gone into the business of sugar refining last year if there had been no tariff or no differential of one-eighth of a cent?—A. I can not answer that question. If you will excuse me, I should like to explain why I can not answer that question. Of course, it takes 18 months to build a sugar refinery. Now, our plant would have been ready, and perhaps as a matter of pride we would have gone in whether there was any profit in it or whether there was any duty or differential on foreign refined sugars or not. That is the reason I can not answer.

Q. (By Representative LIVINGSTON.) If Congress should raise the differential from one-eighth to 1 cent at its next session, the Senator asked you what effect that would have. Is not this true that it would completely shut out all foreign competition and quadruple domestic competition?—A. I will not answer about the quadruple part, but I will answer about the other.

Q. How would it enhance domestic competition or increase it?—A. It would not increase it at all; the profit would be too great.

Q. Too great?—A. Yes; it would be made too great if the competition all came from foreign sugars; but I have answered more than once that the competition is among the domestic refiners, and therefore that will make the price.

Q. That exists on the one-eighth?—A. No; not on the one-eighth at all. It exists on the entire amount of sugar sold. The domestic competition to-day is on the 100 per cent of sugar sold in this country.

Q. Answer this question. Take the one-eighth off; will that lessen the domestic competition?—A. To-day?

Q. Yes; take off the eighth.—A. To-day I do not think it would.

Q. Free sugar would not lessen it?—A. Not to-day; no, sir.

Q. Well, would it do it next year?—A. Well, that I can not tell you.

WAYS OF GETTING RID OF COMPETITION.

Q. (By Senator MALLORY.) Do you know of any other way of getting rid of domestic competition than by combination?—A. Yes.

Q. What is it?—A. I think that you would get rid of competition if one man did not want it all—if he were willing to let the others live and get a fair amount of the business.

Q. I understand the great evil to-day with the sugar-refining business in this country is free competition. In other words, for some time past sugar refineries have been doing business at a loss. I appreciate, not only from what you have said, but from what other witnesses have said before us, that there is over-competition. Now, it would seem that no legislation can diminish the competition. We know that by combination competition can be reduced or concentrated in the hands of a few or even of one. Is there any other method by which it can be done that you know of?—A. Why, yes; I could answer by saying it would be lessened if the American Sugar Refining Company should be willing to sell less than 100 per cent of all the sugar sold in this country.

Q. That would reduce it?—A. That would reduce competition if they would be willing to sell less than 100 per cent of the sugar sold in this country.

Q. That would be relying, of course, I suppose, on the philanthropic spirit of the American Sugar Refining Company. The only way, then, you know of reducing competition is to appeal to the philanthropy of the American Sugar Refining Company?—A. Well, I would not want to appeal to it.

Q. (By Representative LIVINGSTON.) Is it not true, as a general proposition, that the only way to eliminate competition in any line—whether it is in sugar or any other line—is by combination?—A. I believe it is one of the ways; I do not mean to say it is the only way.

Q. The Senator asked you if you could suggest any other way except humanitarian philanthropy?—A. I have said, a desire on the part of the largest in the business not to want all the business.

METHODS OF PACKING SUGAR.

Q. (By Mr. JENKS.) Is all of the refined sugar that you sell, or the most of it, put up in barrels, or do you sell some of it in large sacks?—A. The greater part of the refined sugar is sold in barrels.

Q. Do you know whether that is customary with the foreign refiners? Do they sell in barrels or in sacks?—A. Mostly in bags or sacks.

Q. So that one advantage which they apparently have over their American competitors is the package in which it is sold. Do you know about the relative cost of the sacks as compared with the barrels?—A. Well, I doubt if there is very much advantage in the bags; it is exceedingly small.

Q. (By Representative LIVINGSTON.) The waste in sacks is considerably larger than it is in barrels?—A. Yes, and the cost of the sacks is considerable; they have to put sugar in double sacks; the greater part of the refined sugar brought to this country is put in double sacks.

Q. (By Mr. JENKS.) Do you, yourselves, sell any sugar in sacks, so that as regards your own business you could answer definitely as to the relative cost of putting it in sacks and barrels?—A. We sell some in this country. The sack that is sold weighs or holds just about a hundred pounds of sugar. Now the sack that comes from the other side holds usually 300 pounds.

Q. As regards your own sales, you say there is no practical saving, or only a very slight saving, between selling in sacks and selling in barrels?—A. Yes.

Q. If you should sell in large sacks like those that are used by the foreign refiners, would you not make a saving of several cents?—A. It would be very little. It is a package that does not carry well on a railroad and does not handle conveniently.

Q. So that, so far as that one point goes, you think there is practically no advantage that the foreign refiner gets?—A. No.

METHODS OF DOING BUSINESS.

Q. (By Representative LIVINGSTON.) Will you please explain to the commission how you meet the competition of the American Sugar Refining Company at any given point? Take any point you please to illustrate how you meet their competition.—A. We sell at the same price, and we believe we make sugars equally good, if not a little bit better, and we have customers who think the same thing.

Q. If you sell at the same price, what inducement do you give buyers for changing their custom and their business instead of holding to the American?—A. I have said that we make what we think is a little better sugar.

Q. You make better sugar?—A. Yes.

Q. Have you your sugar so branded that the consumer as well as the wholesaler and retailer can discern between the two?—A. The consumer, of course, when he buys 2 and 5 pound packages, will know if he buys Arbuckle Brothers' sugar, and the wholesaler will know it. The consumer will not know it, of course, if he buys

out of a barrel, unless he asks the retailer to show him the head of the package, which he does not often do.

Q. Do you give the same commission to your agents that the American Company pay?—A. We believe we do.

Q. (By Mr. JENKS.) Perhaps you will explain to us what your method of selling is; whether you give rebates to the wholesale dealers; whether or not you have the factor system, and so on?—A. We sell our sugars through wholesale grocers exclusively, and they get a rebate of three-sixteenths of a cent per pound. If they buy in lots of 100 barrels they get 1 per cent extra, and if they pay cash instead of taking 30 days, they get 1 per cent for cash discount.

Q. Are they required to make an affidavit that they have held the price that has been quoted?—A. Not to us.

Q. You never have asked them to make an affidavit?—A. No; not in the sugar business.

Q. Do you in the coffee business?—A. No; in the coffee business there are no rebates such as there are in sugar.

Q. (By Representative LIVINGSTON.) How is that?—A. I say there are no rebates in coffee such as are given in sugar. When a man remits for his bill he remits the net price.

Q. Well, if I understand it, the purchaser, the wholesale grocer, has this advantage in buying from you over and above what he would have in buying from the American Company?—A. No.

Q. What?—A. No; he does not.

Q. (By Mr. JENKS.) In selling your sugars do you employ any traveling salesmen, or do any special advertising?—A. Some, but very little.

Q. Do you employ traveling salesmen?—A. No, sir; we do not. We may have one or two men that are not out for sugar.

Q. They are out for the general business?—A. The general business.

Q. Including sugar?—A. General business, including sugar.

Q. And the advertising for your sugar business is mostly advertising in trade journals?—A. Yes; we have advertised but very little.

Testimony closed.

WASHINGTON, D. C., June 16, 1899.

TESTIMONY OF MR. JAMES H. POST, BROOKLYN, N. Y.

The commission met at 11 a. m., June 16, 1899, Vice-Chairman Phillips presiding. Mr. James H. Post, after being sworn, testified.

Q. (By Mr. JENKS.) What is your full name?—A. James H. Post.

Q. And your residence?—A. Brooklyn, N. Y.

BUSINESS OF THE WITNESS.

Q. What is your business?—A. I am a commission merchant in sugar and molasses.

Q. In what special way are you engaged in the sugar business; will you explain it to us in some detail?—A. We are commercial agents of the Mollenhauer Sugar Refining Company, located in Brooklyn, N. Y., and of the National Sugar Refining Company of Yonkers, N. Y.

Q. You sell their entire product?—A. We buy all the raw sugar used by each refinery, and sell the product of each refinery.

PRICES OF SUGAR SINCE 1887.

Q. Can you give us a statement with reference to the prices of refined and raw sugars for the period covering the time since 1887, when the Sugar Trust, as it was in those days, was organized?—A. Only from the figures prepared by Willett & Gray, which are considered as nearly correct as anyone can secure them. I have a copy of their annual report, if you would like to have it, on both.

Q. Yes; I should be glad to.—A. I notice in one of their statements in the report of January 5, which I brought along, the averages as near as anyone can give them.

Q. Are these the average annual prices or average monthly prices?—A. It gives the average annual prices.

Q. For how long a period?—A. For a period of 9 years; from 1890 to 1898.

Q. Have you any information with reference to the prices of sugar for a period before the organization of the Sugar Trust in 1887?—A. I have no record in regard to that.

Q. What is your opinion with reference to the margin between the prices of raw and refined sugars after the organization of the Sugar Trust in 1887; was that margin increased or lessened?—A. I see the average, according to these figures, shows a decrease in the margin of about 14 cents a hundred.

Q. That takes into consideration how long a period before the organization of the combination?—A. I think it says 7 years.

Q. Do you recollect, yourself, what the course of prices, or what this margin was from year to year, so you could state whether there was an immediate increase in this margin after the formation of the combination?—A. I can not tell without referring to the reports on file.

Q. This decrease begins, I believe you say, in 1890?—A. In 1890; and they give the average before that for a while. It does not give the year 1890—I believe that is the year.

Q. Can you compare the figures there for the years 1890, 1891, 1892, 1893, 1894, comparing the margins between the raw and refined for a period of 5 or 6 years, beginning with the earliest figure that you have?—A. Compared with the earliest, for raw sugar, it is, in 1889, 5½ cents.

Q. Give us the margins, please, between the raw and refined, if they are indicated?—A. No, they are not; I will have to determine each one.

Q. If you can?—A. I see in 1889 it was 1.21; shall I give more?

Q. If you will, for 2 or 3 years, yes.—A. In 1890 it was 0.78; in 1891 it was 0.78; in 1892 it was 1.08.

Q. One year more, if you please.—A. 1893, 1.16.

Q. For 2 years, the years of 1891 and 1892, the margin seems to be decidedly less than for the year preceding or for the 2 years succeeding.—A. Yes.

REASONS FOR THE CHANGE IN THE MARGINS.

Q. Have you any opinion with reference to the cause of this lessened margin in these years?—A. There was a change in the methods of the tariff that accounts for part of it, probably.

Q. Can you explain that?—A. Of course if the tariff was decreased, and it is possible that the changes about the month it occurred would show just about how the average was, you would have to go into detail. I do not know the exact date of the tariff change. It was changed in 1891; 2 cents per pound duty was taken off; then, August 28, 1894, there was 40 per cent ad valorem put on.

Q. Was there any change of the duty at that time that would effect the differential between the refined and raw?—A. It would effect the average; it may have been with the longest series the duty was on or the shortest series the month it was off, and this average is for the year. So it would not show unless you take it by dates.

Q. Was there any further change that would account for the increase in price for these 2 years?—A. The increase in the margin?

Q. The increase in the margin, I mean.—A. In 1894 it was 40 per cent; in August, 1894, we had an additional 40 per cent duty; that would of course change the average for the year considerably.

Q. The increase in the margin came before that time, did it not?—A. The year before.

Q. Do you recollect the additional competition that came in during the two years of 1890 and 1891 in the sugar-refining industry?—A. I think the Mollenhauer Refinery was organized in 1890; the National Refining Company in 1892; I think the McCahan Refinery was built in 1892.

Q. The lowering of prices seemed to be in 1890 first, did it not?—A. Yes.

Q. Covering those 2 years, 1890 and 1891?—A. Yes.

Q. Do you remember about when the Spreckles Refinery of Philadelphia began to work?—A. It was about that time. They had been building for some years. I think they commenced to work probably in 1890. I have not the date here.

THE MARGIN BETWEEN RAW AND REFINED SUGAR AT PRESENT.

Q. How does the margin between raw and refined sugars at the present time compare with the margin of a year ago?—A. In May, 1898, the net price of granulated was 5.08 and the price of raw sugar about 4.81. That is 77 cents margin. I have it in months if you want it.

Q. At the present time what is the margin?—A. 0.51 of a cent, taking the centrifugal as a basis.

Q. This date, when the margin was seventy-seven, you say was what?—A. May 19, 1898, and it did not change very much until October or November.

Q. Suppose you give us the margin in September, then in October and November?—A. In September it was about 90 cents a hundred.

Q. And then you said it began to decrease?—A. In October I think the average was probably 53 cents; I think it was.

Q. And what has been the general course; you need not figure it out for every month, but what has been the general course since that time—since October, 1898?—A. There have been times when it has been as low as 32 cents, and at the present it is 51 cents.

Q. Has it been 51 cents to your knowledge since it dropped in October?—A. Yes.

Q. What, in your judgment, has been the chief cause of this decrease in the margin?—A. Competition of other refineries.

THE WAY THE PRICE OF REFINED SUGAR IS FIXED.

Q. In what way is the price of refined sugar particularly regulated; made known?—A. It is usually announced at the office of the American Sugar Refining Company at 9.30 or 10 o'clock in the morning, and telegraphed to the various brokers all over the country; if the other refiners have changed their prices that is announced, too—or a little later—and also if they change sometimes in the middle of the day, as trade conditions warrant.

Q. You speak of the prices being announced by the American Sugar Refining Company. Is it usually true that the prices they fix are followed by the other refiners?—A. Usually so; yes.

Q. Almost exactly the same?—A. Yes.

Q. The other refiners wait until they know the prices fixed by the American Sugar Refining Company and then they fix theirs?—A. It does not follow that other refiners always change prices when the American does, because there are times when the refiners may have a surplus of refined sugar that they want to continue selling, and there may be times when one refiner has a surplus. The conditions are just regular trade conditions, and vary from week to week.

Q. But in the main the others follow the American in your judgment?—A. Yes.

Q. When there is a condition such as you have just described—when one refiner has a fairly large stock that he wishes to dispose of—what is the difference in the prices?—A. It varies from one-sixteenth to one-eighth.

Q. It hardly ever goes above one-eighth?—A. Not above one-eighth.

Q. By giving some advantage in the terms of delivery he may take orders without any change in prices?—A. Yes.

Q. You would say that in the sale of refined sugar there is what we might call free competition from day to day regularly?—A. Yes.

Q. Will you explain just what you mean by that, because you stated a moment ago that regularly the American Sugar Refining Company fixed the prices and the others followed—will you explain what you mean by free competition under these circumstances, where practically all refiners follow the lead of one?—A. The question of preference of course plays a very important part. Some grocers prefer one brand of sugar over others. Very often the preference of brokers plays a very important part. The brokers are employed to distribute the sugars to wholesale grocers and they are paid for doing it, but each refiner has a special broker, and this broker gives more attention to his sugars than to others. When there are changes noted they sometimes get the preference of the first intimation of the changes, and they are all the time wiring different parts of the country for orders and soliciting a little better terms on delivery or little concessions in some way.

Q. You are yourself the selling agent for the Mollenhauer Refining Company and for the National Refinery?—A. The National and Mollenhauer.

Q. As selling agent for both of these, do you always have the same prices for the products of both?—A. Not always, because, as happened quite recently, the National Refinery had sold its surplus of sugar and the Mollenhauer Refinery was running and wanted to sell more sugar; and therefore our prices for the Mollenhauer was one-sixteenth less. There have been times when changes have occurred in the market, when one of our refiners would say, in order to reduce stock to continue selling at the old prices and when we have sold what we want to we change it.

Q. You have your prices for selling, then, fixed by the refiners you are acting

of the increase in the cost of the iron; of course they are largely built without any wood, that is, altogether iron and steel.

Q. In your judgment then, to build at the present time a refinery of that capacity, what we would call an up-to-date refinery, with the later improvements, would probably cost somewhat more than \$1,500,000?—A. Probably \$1,700,000. The land varies in value from \$250,000 to \$600,000, taking those two as a basis. One of them is located right in the city of Brooklyn, near the water front, where land is valuable, and the other at Yonkers, where it is less valuable.

Q. Can you now give us some idea with reference to the amount of running capital that is required in order to run fairly satisfactorily a refinery of that capacity?—A. You mean taking one refinery?

Q. Yes.—A. It would take somewhere in the neighborhood—carrying the usual stocks of raw with the usual credits that are given on refined sugar—in the neighborhood of \$2,000,000 for each refinery.

Q. For each refinery?—A. Yes.

Q. About what is the average amount of raw sugar carried; of course it varies greatly?—A. It depends on the market. I suppose the smallest quantity is in the neighborhood of 15 days' supply, which would be 30,000,000 pounds for the two.

Q. The largest varies according to your idea whether the market is low or high?—A. Sometimes it is 3 or 4 times that; at present I think some of the refineries have 4 or 5 months' supply of sugar.

Q. You would think, then, that a refinery costs, with the ground, in the neighborhood of \$2,000,000, and ought to have, under ordinary business conditions, a running capital of something like \$2,000,000 in addition?—A. Yes.

Q. About those figures?—A. About that; yes.

Q. These opinions of yours, I judge, from the way in which you state them, are based on your experience in your own refineries?—A. Yes; as to others I have no means of knowing. Of course there are credits which are used very largely at times which makes less cash necessary.

Q. Owing to the conditions of business you may stock up with four or five times the usual amount so that credit is desirable?—A. Very important.

SOURCES OF THE SUGAR SUPPLY.

Q. Where do you import the larger quantities of your raw sugar from?—A. The two refineries that we represent use largely cane sugars; but of course, during the last 3 years, when the product of Cuba has been so small, we have used a large proportion of beet sugars, and they are produced in Europe largely.

Q. Can you tell the countries in Europe that send here the largest quantities of sugar?—A. I think this paper¹ shows the product of the world and separates the product of each country.

Q. Suppose you select the 4 or 5 leading countries that send sugar to the United States—beet sugar first and afterwards cane?—A. We will say Germany and Austria are the two largest.

Q. (By Senator MALLORY.) Can you give the figures of the shipment from Germany?—A. No; I see the two countries are not separated here. It is a matter of record at the custom-house, of course.

Q. (By Mr. JENKS.) Of course it is a matter of convenience for us to put it in here; you would say Germany comes first and then Austria as regards the shipment of beet sugar?—A. Yes; very little French, hardly any Russian, sometimes some from Belgium and Holland.

Q. These are substantially all beet sugars?—A. Yes.

Q. Now as regards cane sugars?—A. Well of course in normal conditions Cuba is a great source of supply.

Q. Then after that?—A. I suppose you can count Java, where the crop is very large, and then the West India Islands, Demerara, and Hawaii.

Q. Have there been heretofore large importations made from the Philippine Islands?—A. Quite large; yes.

Q. Is there any difference in the quality of the beet sugars that come from the different European countries, or is the quality substantially the same?—A. I believe all beet sugar is substantially the same.

Q. And if there is any difference the price, I suppose, evens it up?—A. Yes.

¹ Weekly Statistical Sugar Trade Journal. Willett & Gray, 91, 93 Wall street, publishers.

COST OF REFINING IN OTHER COUNTRIES.

Q. Are you familiar with the cost of refining sugar in Europe?—A. Only from statements that I have seen.

Q. Can you give us any information with reference to the apparent cost of refining sugar in Germany as compared with the United States?—A. I believe it is considerably less in Germany, because they take beet sugar and make it into refined in one process, just as they are doing in Nebraska, California, Michigan, and New York. There is no bone black used at all; it is a filtering process. That, of course, does not give as good a quality, but it answers the purpose.

Q. Then you would say that if we wanted to import refined granulated sugar from Germany it would be inferior in quality to our refined sugar?—A. Yes.

Q. Can you give an opinion that is at all definite with reference to the difference in the cost of refining there as compared with what it is here—how many cents per 100 pounds?—A. Probably 15 to 20 cents a hundred pounds less than here.

Q. Is the difference as great as that, in your judgment?—A. I think so; yes.

Q. Does that include any difference in the cost of the package in which it is put up?—A. Partly.

Q. Will you explain to us what the difference in the package is?—A. The principal call for sugar in this country has always been in barrels which cost from 35 to 38 cents a piece. The foreign sugar is packed in jute bags, and therefore is less expensive.

Q. Can you give any information at all as to the cost of those jute bags?—A. No. The refined sugar which is packed in bags in this country is in 100-pound bags, first in a cotton bag, and then a jute bag, which of course adds to the cost.

Q. What is the cost of the bags that are used in this country?—A. For the same quantity of sugar, it is practically the same. We sell the barrels and bags at the same price, and in figuring the cost we think there is not enough difference to consider that at all between the bags and barrels we use.

EFFECT OF THE SUGAR TRUST ON THE PRICE OF RAW SUGAR.

Q. Have you been able to trace any direct influence of the American Sugar Refining Company on the price of raw sugars?—A. They of course have a very large influence on it, because they are such large consumers of raw sugar; but they have not the power of making the price for any length of time for raw sugar. Europe with its larger production of beet sugar fixes the price. They make there, I think, nearly 5,000,000 tons of beet sugar, as against 3,000,000 tons of cane sugar produced in the world.

Q. So you would say that the price of raw sugar is substantially fixed abroad?—A. Fixed in London, Germany, and France.

Q. How long have you been engaged in the business of buying and selling sugar?—A. Our firm has been in it for 35 years.

Q. And you personally?—A. I have been connected with the firm 25 years—from boyhood up.

Q. You have been actively engaged in that firm?—A. For the last 15 years; 10, say.

Q. It has frequently been asserted that the American Sugar Refining Company, on account of the large amount it buys, has been enabled to exert a steady influence toward depressing the price of raw sugars. I should like to know if, in your judgment, this tendency has been appreciable from the time the Sugar Trust was formed?—A. I think it must have been, from the large amount of sugar they use.

Q. Would you be inclined to think that the price of raw sugar has dropped or has been held, let us say, 10 cents a hundred less than it would have been if there had been the former competition among small independent establishments instead of one great buyer?—A. No; I do not think the difference would have been as great as that; possibly one-sixteenth of a cent, and only for periods of a year. Taking the world as a basis, they can not affect it for any great length of time more than one-sixteenth of a cent a pound, because the product of sugar is not very much more than is required for consumption each year. The production is not increasing as fast as consumption is. I believe statistics show that.

Q. You are referring now to the world product, or to the United States?—A. The world product.

EFFECT ON THE PRICE OF REFINED SUGAR.

Q. In your judgment has there been any restriction of the output of refined sugar in the United States for the purpose of keeping the prices higher than they otherwise would be—deliberate restriction of the output?—A. There is no doubt that at certain periods of the year when the consumption is less than it is at other times the production is curtailed, no doubt as a business principle, to meet the requirements. It is very evident that if we all should make all the sugar we could there would be no way of marketing it at a profit.

Q. And in this adaptation of the supply to the normal demand the American Sugar Refining Company, I suppose, of necessity takes the lead?—A. There is no way of telling whether they do their proportion of it or not. I have no way of knowing. Of course we see the public statements from week to week of the meltings, as made up by Willett & Gray, and we know what our meltings are from day to day, but as to whether we are getting more than we ordinarily would have I have no way of telling. Of course, I do not think that the meltings are always stated correctly. I do not think it is possible to get at it, taking the country as it is.

Q. This lessening of the output comes regularly, of course; when the price goes down so that it becomes less profitable and more difficult to market then they lessen the output?—A. Naturally, when the profit is good we make all we can, and when the profit is not enough we make as little as possible. For some months past we have made very little.

Q. Is your refinery running now?—A. The Mollenhauer is at present. The National will be in a few days.

Q. About what proportion of its capacity is the Mollenhauer running now?—A. They are running full just at the present time, but taking the last 6 months I suppose they averaged, taking the two refineries, about one-third of their capacity. Of course it has been unprofitable.

METHODS OF SELLING SUGAR.

Q. Will you explain to the commission the methods that are followed by the refineries and by yourself as agent of the refineries in placing your sugars upon the market? The factor system—does that exist yet?—A. That is in existence in some cities and some parts of the country, and up to the last 5 or 6 months has been the principal way of distributing the sugar.

Q. Explain to us in brief what this factor system is?—A. I take to-day's basis as an average. The price of granulated sugar is 5½ cents. From that we allow to the grocers, without regard to whether they are factors or not, three-sixteenths of a cent a pound, and if they buy 100-barrel lots we allow them 1 per cent trade discount and 1 per cent for cash in 7 days. They can avail themselves of this 1 per cent discount or not, just as they wish. At the end of the 3 months we send them a check for the three-sixteenths of a cent per pound commission, less 1 per cent, regardless of whether they have maintained the list prices or not.

Q. The custom used to be to require an affidavit?—A. Some years ago we required an affidavit as a means of protection to the grocers, not to the refineries. You can readily see that the price at which the grocers sell sugars is of very small interest in one way to the refineries, but it is such a large proportion of their business—I think refined sugar is about one-third of their sales—and competition is so keen throughout the country to sell sugar that for a good while they did it without any profit. At their request this method of selling sugar was adopted by the refineries. It not only applies to sugar, but to a good many other articles. It covers also tobacco, coffee, and various articles. We believe three-sixteenths of a cent per pound pays them the cost of distributing the sugar and a little profit. It gives them a small profit, certainly as small as anyone would be warranted in doing business for, possibly 15 or 20 cents a barrel.

Q. In your judgment is the price that is fixed by the refineries kept up fairly well by the wholesale grocers, since you have dropped the affidavit system?—A. I am sorry to say it is not, for their sakes, not for ours.

Q. Among the grocers themselves, then, you think there is a great deal of cutting under these prices?—A. No doubt of it.

Q. You say the grocers in a large proportion of the markets are selling sugars practically without any profit at all?—A. Yes; there are certain sections in the country where I think profits are maintained—New York, New England, and Pennsylvania, but west of that, excepting in one or two States, I think the profit most all the time is nothing.

Q. You think in the eastern States they do substantially maintain the prices?—A. Yes.

Q. Are there any other systems of selling sugar, factor systems, and so on?—A. There are different States that have systems of their own; take Ohio, for instance. It was found under some interpretation of the law that it was illegal to hold three-sixteenths of a cent commission and in that State we deduct from the bill instead of holding it, so that every grocer is allowed three-sixteenths right on the face of the bill. They have recently adopted a plan which they hope will be successful in helping them to maintain the profit on sugar.

Q. Can you explain to us what the plan is?—A. Well, I have two circulars here; they are printed documents and I think there is no secret about it. I am very willing to leave them here if you care to have them.

Q. Will you be kind enough to read them to us first, and then put them on file?—A. They are under date of May 18, and May 26, 1899. They are too long to read.

Q. Give us the gist of them; it will be better.—A. The gist of them is that the State has been divided up into certain sections with a committee appointed for each section. They have resolved to maintain a profit of one-eighth of a cent per pound in these sections, and if it is found that any grocery salesman is cutting the price of sugar or coffee and it is proven that it has been cut, the committee in that section notifies all the grocers to reduce their price to the price at which this grocer sold sugar, immediately taking away any profit in that section. That is the gist of it, I believe.

(The two documents referred to are herewith attached.)

[The Ohio Wholesale Grocers' Association Company, Columbus, Ohio, May 18, 1899.]

[Please file for future reference.]

To Ohio wholesale grocers.

GENTLEMEN: At a meeting of the wholesale grocers of Ohio, held at Columbus, May 9 and 10, 1899, a new code of rules and regulations was unanimously adopted. A part of article 4 of the new code reads as follows:

"The board of directors shall divide the State into six divisions, and shall appoint for each division a local board of three members."

At a meeting of the board of directors held in Columbus May 18, 1899, the State was divided into the six divisions as provided in the new code and the following local boards of arbitration were appointed:

No. 1 or northwestern district, composed of the following counties: Williams, Ottawa, Wood, Paulding, Allen, Wyandotte, Fulton, Sandusky, Henry, Putnam, Hancock, Crawford, Lucas, Seneca, Defiance, Van Wert, Hardin. Committee of arbitration for the above 17 counties: R. A. Bartley, chairman, Toledo, Ohio; J. M. Sealts, Lima, Ohio; W. T. Hughes, Van Wert, Ohio.

No. 2 or northeastern district, composed of the following counties: Erie, Cuyahoga, Geauga, Portage, Ashland, Holmes, Huron, Lake, Trumbull, Summit, Richland, Stark, Lorain, Ashtabula, Mahoning, Medina, Wayne, Columbiana. Committee of arbitration for the above 18 counties: J. H. Fitch, chairman, Youngstown, Ohio; H. R. Edwards, Cleveland, Ohio; August Dannemiller, Canton, Ohio.

No. 3 or eastern district, composed of the following counties: Jefferson, Harrison, Guernsey, Noble, Carroll, Coshocton, Belmont, Washington, Tuscarawas, Muskingum, Monroe, Morgan. Committee of arbitration for the above 12 counties: Robt. McGowan, chairman, Steubenville, Ohio; Theo. Wiles, Zanesville, Ohio; W. H. Penrose, Marietta, Ohio.

No. 4 or southern district, composed of the following counties: Meigs, Scioto, Ross, Hocking, Gallia, Pike, Vinton, Lawrence, Jackson, Athens. Committee of arbitration for the above 10 counties: F. M. Bovie, chairman, Gallipolis, Ohio; George Appel, Portsmouth, Ohio; ——— Vaughters, Chillicothe, Ohio.

No. 5 or southwestern district, composed of the following counties: Hamilton, Adams, Warren, Montgomery, Shelby, Clermont, Highland, Butler, Miami, Auglaize, Brown, Clinton, Preble, Darke, Mercer. Committee of arbitration for the above 15 counties: W. W. Andrews, chairman, Cincinnati, Ohio; O. C. Morrow, Hillsboro, Ohio; John K. McIntire, Dayton, Ohio.

No. 6 or central district, composed of the following counties: Franklin, Greene, Logan, Delaware, Knox, Fairfield, Pickaway, Clarke, Union, Marion, Licking, Fayette, Champaign, Madison, Morrow, Perry. Committee of arbitration for the above 16 counties: Fred Shedd, chairman, Columbus, Ohio; H. H. Eavey, Xenia, Ohio; C. C. Stoltz, Marion, Ohio.

Any complaints or violations on sugar or packaged coffee shall first be referred to a member of the local board of arbitration having charge of the division or district wherein the violation is alleged to have occurred.

By order of the board of directors.

ORRIN THACKER, *Secretary.*

[The Ohio Wholesale Grocers' Association Company, Columbus, Ohio, May 26, 1899.]

To all wholesale dealers in sugar.

GENTLEMEN: After a full and fair discussion of the whole subject of sugar equality at a meeting of the new board of directors of this association, held at the office of the secretary on the 18th, the following resolution was unanimously adopted:

[Copy.]

"Resolved, That we reinstate the equality plan for the sale of sugar in the entire State of Ohio on a basis that may be agreed upon."

Suggestions were then entertained by the board from jobbers located in different parts of the State, after which the following was unanimously adopted:

"Resolved, That the executive committee and the secretary publish a new rate book, in which the rates shall be graded gradually, beginning with a one-sixteenth basis in northern Ohio, and as the central part of the State is reached a one-eighth basis, and the southern portion full equality. The same to take effect May 29, 1899."

In accordance with the above order of the board of directors the new rate books have been prepared and the secretary has been instructed to send you to-day sufficient copies to supply each of your salesmen. The new rate books are to be used precisely as the old, viz: New York card plus the rate in the rate book opposite the town where sugar is sold, less local rate of freight, to be deducted from invoice.

The committee desires to say further that under present conditions it is impossible to get support from the refiners in regulating the cutter and rebater. Therefore, it is left to the honor and good sense of each jobber as to whether or not a profit on sugar shall be obtained in the future. You see to it that your men do right, and carry out the rules and prices to the letter. Confide in your competitor, and believe every man honest until he is proven dishonest. All do this and we will have no trouble.

The committee adopted a new rule for its guidance hereafter, viz:

"As soon as this office receives reliable information that sugar is being cut or rebated by any house or salesman at any given point, all jobbers who sell goods at the point where the cut has been made or rebate given will be notified at once to reduce the freight rate (naming the rate) to that particular point to an amount equal to the cut or rebate given." For example, the price of granulated to-day delivered in Elyria, Lorain County, according to the new rate book is 5.53. If any salesman should cut or rebate to a retailer in Elyria, say 20 cents per barrel, and your salesman sends you a report to this effect, examine the matter thoroughly yourself first, and if you are satisfied that a cut has been made, notify one of the members of your local board at once. The local board will then report the same to this office with recommendations, and if it is shown to the executive committee to a reasonable degree of certainty that a cut has been made the price will be fixed to all retailers in Elyria at 5.47, which, as you see, will make a reduction sufficient to meet the cut.

So it will be seen that every house will be on exactly the same basis. The dishonest, as well as the honest man, will, of course, take the loss.

The jobber should be very careful in making complaint. They should question the salesman who makes the change very carefully and be sure that it is well founded. You can see that if the complaint is acted upon by the committee it will mean a loss to every jobber selling sugar at that point.

Any complaints or violations on sugar or package coffee shall first be referred to a member of the local board of arbitration having charge of the division or district wherein the violation is alleged to have occurred. (See inclosed sheet for names of committee of arbitration of your district.)

It is now in your hands. Keep your salesmen straight and "don't jump at conclusions." Take all of them into your private office and explain the situation. They are interested most of all. Be sure you are right before making complaint to your local board of arbitration. If a report of a cut should reach your ears investigate it thoroughly first. *There will be nothing to lose and everything to gain by a little investigation.*

The plan to meet the rebater as outlined above has been in operation in the Chicago district for some time, and it has proven eminently satisfactory.

Very respectfully,

A. S. HAMMOND, *Chairman,*
J. E. WEIFFENBACH,
J. H. PADDOCK,

Executive Committee.

ORRIN THACKER, *Secretary.*

Q. Do you know how long a time this plan has been in existence?—A. I think only since May 26, or May 18, 1899.

Q. Not long enough to see what the effect is likely to be?—A. In Chicago they have had practically the same system.

Q. Have they had it for some time?—A. They have had it there for some time, and the Ohio plan follows that of Illinois, I believe, although I have never seen it so clearly stated.

Q. Do you know whether this Illinois plan has been successful in keeping the prices uniform?—A. It has not been entirely successful in keeping the prices at a profit; but whenever a cut of one-eighth was made the other grocers met it, and every single grocer would perhaps be glad to come back to one-eighth of a cent profit again; so on the whole it has helped to maintain a small profit on sugar.

THE DUTY ON SUGAR—IMPORTATIONS OF SUGAR.

Q. In your judgment the cost of refining sugar in Europe is considerably less than it is here. Does the present differential tariff in favor of refined sugar largely cover this difference in the cost of refining?—A. I believe it very nearly covers it. As to just what that differential is I am not able to say. It is a matter of record in the custom laws, you know, in countries that pay a countervailing duty.

Q. I said differential duty on refined sugar?—A. I do not think one-eighth covers the difference in the cost of refining between the United State and Europe.

Q. So as far as countervailing duties are concerned, that is, the duties that are put on imported sugars to offset bounties which are given directly or indirectly by European systems; you think that this countervailing duty is substantially accurate?—A. I think so; yes. It was left open for some months until they could determine it accurately, and I suppose the 28 or 38 cents on refined is as nearly accurate as they can determine.

Q. So that at the present time, so far as these European bounties are concerned, our refineries are certainly protected?—A. I think so.

Q. Now, as regards the cost of refining, this differential of one-eighth cent per pound does not quite cover the cost?—A. No; it does not cover the difference in this cost.

Q. Can you express an opinion as to how much would be required to cover it?—A. I think I did state a little earlier 15 to 20 cents a hundred. I think that is as near as one can tell without going into a very difficult calculation.

Q. You think, then, that it would not require 25 cents, or one-fourth of a cent a pound, in order to cover the difference?—A. I have an impression that the present protection to refineries, whatever that may be determined to be, is sufficient to enable us to compete with Europe.

Q. Are there any importations of foreign refined sugars at the present time?—A. Well, from January 1 to May 25 I see the report is 1,602 tons; in 1898 there were 12,243 tons, showing the decrease in the 2 years of 10,641 tons.

Q. What is the total amount consumed in tons?—A. In this country?

Q. Yes.—A. Two million tons, in round numbers.

Q. So that the importation of refined sugar here is merely nominal?—A. Yes.

Q. Has that condition of affairs with reference to importations been continuous for some years back, or have there been periods of a few years when large quantities of refined sugar were imported?—A. Whenever the prices maintained by the refineries here are high enough to warrant buying abroad, it comes over, but as soon as the margin is reduced it ceases to come.

Q. The reason, then, for the nonimportation at the present time is the very low margin between the raw and refined?—A. Yes.

Q. Would you tell us at about what margin between the raw and refined sugars we begin to receive importations of refined sugar; I mean as a matter of history?—A. No, I can not tell because it is very difficult to arrive at it accurately. It would depend upon the surplus stocks in Europe very largely. If there is a large surplus you will find that instead of lowering their prices they would probably ship it here, and if they only had enough for consumption on hand they would probably market it at home instead of shipping it here, so that it does not follow that the margin between the raw and refined would be the only reason that the refined would come here.

Q. Of course, that would not be the only reason, but, in your judgment, that would perhaps be the dominant influence?—A. I think that merchants and manufacturers of all kinds seek the market where they can net the most money without disturbing their own local markets.

Q. Could you give your opinion—it would have to be somewhat general—as to the normal margin between the raw and refined at which we might expect imports?—A. I should think that if the margin between raw and refined was three-fourths of a cent per pound refined sugars would come here.

Q. Seventy-five one hundredths expresses substantially the cost of getting sugar from Europe, added to the cost, with a moderate profit, of refining there?—A. Not altogether, because in order to maintain their prices in Europe they would ship their surplus refined here to be sold, even if they had to sell it at a little less than they did there at times.

COMBINATION AMONG THE SUGAR REFINERS A BENEFIT TO THE COUNTRY.

Q. From your experience in the sugar business for the last few years, do you consider that a combination of refiners, such as the American Sugar Refining Company, is to be considered on the whole a benefit or an evil?—A. I believe the results show that it has been a benefit to the country at large.

Q. And these benefits are shown?—A. In the reduced price at which the consumers are getting their refined sugar and in the more steady employment of labor. Of course, the reduction in the margin of profit increases the consumption, and we believe in that way it is very helpful.

Q. (By Senator MALLORY.) If I understand that question, you regard combinations such as the American Sugar Refining Company as the cause of all this reduction?—A. Well, personally, I think that the American Sugar Refining Company has not used the power that it might have used to maintain exorbitant profits. I think it has kept the margin of profit where it paid well for the money invested, but has not sought large profits over that.

Q. I did not quite understand your answer or the question. I understood it to be that in your opinion combinations such as the American Sugar Refining Company produce beneficial results in lowering prices and keeping up wages.—A. In the way that particular organization has been managed, I believe the result has been beneficial. I am not referring to the effect of trusts in general, but to that particular one.

Q. Has the competition to which the Sugar Refining Company has been subjected in the last two years had anything to do with the reduction in prices?—A. It possibly has; but I think, by the policy which has been pursued, that the American Sugar Refining Company has realized that it is important to keep the margin of profit fairly small, and there is no doubt that competition, and there has been all the time more or less competition, has had its effect too.

Q. In the event that the American Sugar Refining Company succeeded in suppressing all competition do you think that beneficial results would remain?—A. No, I do not; it would depend on who is the manager of it, but it is not natural. I think it would get a larger price if possible.

Q. Have you heard or not the statement of the manager here that they were in business for business and not for philanthropy?—A. (No audible response by the witness.)

Q. (By Mr. FARQUHAR.) When you made the statement in regard to the moderate prices charged by the American Sugar Refining Company does that cover the period between 1887 and the present time?—A. They have been in the organization since that time. It has varied in different years, of course, and things have come in to make the profit of the American in some cases larger than would seem natural, for example, in the purchase of raw sugar. They may be successful in buying raw sugars when the price is low, and they, having enormous capital, are enabled to carry it. There are certain seasons in the year when an advance in raw sugar would materially increase their profits. It would effect the consumer, but prices advance without their control or without their influence.

Q. Does the question of the tariff enter into the matter of the stock?—A. Yes.

Q. How?—A. Naturally, when the duty was taken off we carried just as little as possible. When the tariff was going on we probably put all our money into sugar, and all our credit, in order to carry as much as possible.

Q. The sugar business is conducted on the same business principles as the tobacco business, for instance?—A. Yes; I think it is. There are general principles that they follow.

Q. Is there any advantage in having the large capital that the American Sugar Refining Company has in buying stock and the raw material? Is it a rule in the business to carry extraordinary stocks at any time?—A. It is at times, because the cane crop of the world is marketed within a few months—January, February, March, and April—and at that time there is the greatest pressure always to sell, just as the greatest pressure to sell the beet crop would be in the fall. At those times they avail themselves of their immense capital to get as large a supply as possible at the lowest prices possible.

Q. Then the commission should understand from your former answer that it is the principle of the American Refining Company to control the market as much

as possible and to get control of the price at a moderate per cent of profit?—A. I think so; yes.

Q. Do you think that they have adopted that line of policy as a matter of safety against opposition or as a business method of getting an ordinary profit out of this large capital?—A. I do not doubt that the fear of competition influences them; it would anybody. They do not want to encourage other competition. The fact that the Arbuckle, the Doscher, and our refineries have been built since the trust was formed shows that capital is very willing to go into a business where there is a margin of profit, and there is considerable risk with it, too, of course.

COMPLETE CONTROL BY ONE ORGANIZATION WOULD NOT BE BENEFICIAL.

Q. Then, as another business proposition, suppose you are the head of a concern that is able to control 80 per cent of the whole output of the refined sugar of this country, would you regard it as a good business proposition on your own part for your board of directors to control by any possible means the other 20 per cent?—A. I should not think it was good business policy; no.

Q. Would you please give your reasons why perfect control is not good business policy?—A. Perfect control of any article of universal consumption is a very dangerous thing for any company or any body of men to have.

Q. (Interrupting). That is just what I want to get at—A. (Continuing). In my opinion we are all human, and we would naturally use the power it gave us. We would be restricted only by the fear of competition.

Q. When you say a dangerous power for them to have, you mean dangerous for the people in general?—A. Yes. They might not all be as broad-minded as Mr. Havemeyer in managing the concern; they might want to exact larger profits.

Q. You have noticed, I presume, in the public prints what he has said before this commission—that the profits have come from the consumer, and that it is their intention to control the market as widely as they can. Now, what I wish to know is what effect these independent refineries—there is, 15 to 20 per cent of refined sugar produced outside of the Havemeyer Company—have on the general market, on the consumer? What power through this limited attempt, you might say, have you to control prices?—A. We have not the power to control, but we have the power to influence prices.

Q. (By Mr. RATCHFORD). Do you think that power is in the interest of the consumer?—A. I think it is; it has been so.

TOO MUCH COMPETITION IS HARMFUL.

Q. If the independent refiners, producing 20 per cent of the sugar in this country, have a beneficial influence to the consumer, would not that beneficial influence be increased from the consumer's standpoint if the number of independent refineries was double or treble what it is to-day?—A. It might be temporarily, but it is a question how long some of them would last. Some of them would have to go out of business because it would be made unprofitable. While competition is necessary to a certain extent, it can be too great.

Q. What would cause them to go out, in your judgment?—A. Well, if there was more sugar made than could be used, we would naturally have to sell it for less.

Q. The operation of the law of supply and demand?—A. It might take 2 or 3 years to do it, and it might take 5 years. It would depend upon how much money each one had to start with.

RAW SUGAR INDUSTRY AT PRESENT IN A HEALTHY CONDITION.

Q. You said, I believe, earlier in your testimony, that the production of sugar was not increasing so rapidly as the demand?—A. I believe that is what the figures of the world show.

Q. Well, what have the American Sugar Refining Company, and other concerns of its kind engaged in that industry, to do with bringing about that condition?—A. In reducing the output?

Q. Either in extending the markets or curtailing the output?—A. The great reason for the curtailing of the output of the sugar in the world has been the war in Cuba and the Philippine Islands. Cuba, some years ago, as is well known, produced 1,000,000 tons of sugar per annum. Their output for the last 2 or 3 years has been 250,000 to 300,000 tons. It is very likely that in the next 5 years Cuba will be producing 1,000,000 tons of sugar. As soon as people feel that investments can be made there with safety there is money to go there to produce

sugar. It can be grown there more cheaply than in any other place in the world, in my opinion.

Q. Then, that situation would be present even in the absence of large combinations in that industry?—A. Yes.

Q. It is due, is it not, in other words, to natural causes?—A. I think it has been an unnatural cause, war.

Q. That being the case, then, the raw sugar industry is in a healthy condition?—A. Yes; I believe it is. I think it will be some time, probably 6 to 10 years, before the production of sugar in the world will be such as to reduce the price more than, possibly, half a cent a pound. I think the tendency will be, as Cuba increases her production, to reduce the price of raw sugar and in that way to reduce the price of refined sugar, and this country will be greatly benefited by the increase in production.

Q. If the sugar industry be in a healthy condition, then, wherein is the necessity, in your judgment, for the formation of trusts or combinations in order to regulate production and control prices?—A. They do not regulate the production except in so far as they have the power to make a great deal more refined sugar than can possibly be consumed.

Q. Did they not close down refineries?—A. Because they had capacity to make more sugar than the country could possibly consume.

Q. Does that not regulate production?—A. Is there any business that is not regulated by supply and demand whether in the form of combination or individual? I do not know of any.

Q. It is true all business is regulated by supply and demand; but in the absence of large corporations and trusts is it true that industries are closed down indefinitely, and in some instances dismantled, the business transferred from one community or one city to another? Is that true in any instances except under the operation of trusts or combinations?—A. It might not be transferred to other cities; they go out of business and fail.

Q. (By Mr. FARQUHAR.) Do you know of any United States refiners that have any interests in Cuban sugar lands?—A. Not as refiners.

Q. No, I mean companies, the American refiners, companies of any kind, have they any interest?—A. As individuals they have some interests. Some of our people own a plantation in Cuba, which has just recently been bought with a view of development. In fact, a cable came to us a few days ago offering a large estate that some of our people are going to manage. We believe that means good business under our Government.

Q. Now, do you know or have you any knowledge of Mr. Havemeyer going into that?—A. No doubt Mr. Havemeyer has investments in Cuba entirely independent of the American Sugar Refining Company, just as any other individual might own a great many other things. His money buys it.

THE PROFIT IN SUGAR REFINING.

Q. You spoke of an ordinary refinery costing a million and a quarter?—A. A million and a half, I think I said.

Q. A million and a half; and melting 1,000,000 pounds a day?—A. That is without the land, you mean?

Q. For a working capital of that refinery you perhaps need about two millions?—A. Yes.

Q. So that you take the whole capitalization, and it would be, say, four millions?—A. Yes.

Q. Now, out of your intimate knowledge of the whole sugar business, can you give this commission any idea how often a refinery of that kind could turn over its capital inside of 12 months?—A. They could probably do it from 4 to 6 times.

Q. Four to 6 times?—A. Yes.

Q. That comes from your 30 days' settlement, especially your short credits, does it not?—A. Yes.

Q. The immediate return of the capital to your hands?—A. Yes; and the discount is made so much to the grocers that it is an inducement to them to discount their bills, because 1 per cent in 7 days is equivalent to about 12 per cent per annum if they take 30 days' time, and therefore it is best for them, if they can, to borrow—as they do in our large centers—the money at 3, 4, and 5 per cent, according to their credit.

Q. Now, if you are not giving away any confidence here, would you be willing to state to this commission what per cent that capital would earn; I mean in good prosperous times; would it turn over 2 per cent net?—A. Two per cent 6 times would be 12 per cent a year.

Q. Yes.—A. It would be more than that.

Q. How much more have you an opinion it would be?—A. Well, if the refinery paid 20 per cent a year on its stock (not on the four millions, I do not mean, but as ours is capitalized at one million, although worth two millions) it would, on two millions, be equivalent to 10 per cent on the investment, which is certainly, in our opinion, little enough for the risk of the business in these times and for the ability it takes to manage it.

Q. Well, you could safely say that in good times it would probably go up from 10 to 12 or 20 per cent?—A. Which would vary probably. It would vary, not perhaps altogether according to the profit made in refining, but according to the fortunate purchases of raw sugar, possibly.

Q. (By Mr. JENKS.) You speak of the money that is made in the fortunate purchase of raw sugar and you have spoken of that quite frequently. You may happen to buy a large stock of raw sugar when it is low and then gain the benefit of the increase in price?—A. It is quite prominent in my mind just at present, because it has quite frequently been the case in some refineries.

Q. It is also quite frequent for the reverse process to take place?—A. Yes; a great deal of money has been lost in that way.

Q. You have spoken of one side, not of the reverse side?—A. It is possible; yes.

Q. From your experience in the business, I judge from what you say, the capital that is handled that way by the American refiners is more frequently handled to make a profit than a loss?—A. Well, there have been conditions in the last 6 years of changes in the tariff, war, and other conditions that have made it possible.

Q. (By Mr. PHILLIPS.) Can the refining industry be carried on without any tariff on sugar?—A. I think it would decrease very rapidly in this country and would be moved to Europe, to Cuba, and other countries if it was not protected.

Q. How much tariff do you think is necessary to maintain the industry in this country?—A. Well, the figure, as I saw it stated the other day, is one-eighth of a cent now. I think there is a little more than that protection in it; I think somewhere from 15 to 17 cents a hundred protection as against Europe. Under the great decrease in the production of cane sugars they have practically had the benefit (that is, Louisiana, the beet States, and the Hawaiian Islands) of this countervailing duty in the prices that they get for their products. Under conditions where we were using a very much larger per cent of cane sugar from Cuba, it would decrease somewhat.

CONDITIONS OF LABOR IN SUGAR REFINING.

Q. Are you informed in regard to the labor employed in the refining of sugar?—A. Only in a general way.

Q. And the conditions under which they work?—A. They work under very much more favorable conditions than they did from 5 to 7 years ago. They have very much more thought given to their comfort. I think an average of 3 to 5 cents an hour more money is paid to-day than some years ago. That would be a matter that could be determined, but my impression is that it is about that.

Q. (By Mr. RATCHFORD.) What wages do they get generally?—A. I think it averages now practically for the lowest paid labor from 15 to 18 cents an hour, and they have work—

Q. (By Mr. FARQUHAR.) How many hours a day do they work?—A. I think in most refineries they work on an average of 10 hours a day, but of course the length of the day varies. Sometimes they work 10 or 12 hours a day for a week and then they are thrown over to 8 hours, but I think they average about 10 hours a day.

Q. Ten hours a day. How constant is that employment?—A. Pretty steady.

Q. (By Mr. PHILLIPS.) Are the laborers subjected to a very great degree of heat?—A. There are a few men who are employed in the filter house, when perhaps for 2 or 3 hours a day it is necessary for them to be where the temperature is high; but from what I have seen those men are just as well pleased with that work—of course, it is only a short time—as where the men work in the cooler parts of the refinery. There are very few men required in that part of the refinery, of course, because the mechanical devices for handling charcoal are so perfect that very few men are needed.

Q. What class of labor or what nationality is employed chiefly in the sugar refineries?—A. I think they are very largely German, some Irish; I think hardly any Italians; there may be a few.

Q. (By Representative BELL.) You spoke of investment in Cuba by individuals engaged in the sugar business. Does that also extend to Hawaii?—A. The refinery that is located in California, I believe, has some interest in Hawaiian plantations Mr. Spreckles particularly.

Q. What effect do you think the supply that would come from Cuba would have

upon beet sugar production in this country?—A. Do you mean if the sugar of Cuba was admitted free?

Q. Yes; I suppose it is the idea of the investors that it will be admitted free.—A. Not necessarily, because it can be grown so very much more cheaply than cane and beet sugar can be in this country that therefore we would want to have sufficient tariff to enable the cane and beet to compete with the sugars from there.

Q. Why? Would that be from the cheap labor there?—A. No; from the natural conditions of Cuba; they say it is the ideal place to grow sugar.

CONDITIONS OF LABOR IN THE PRODUCTION OF RAW SUGAR.

Q. What is the labor problem there?—A. Of course, it is very unsettled, but with the moving in of people from this country it will be very much changed.

Q. You have no idea that the people in this country will ever go to Cuba to labor in the sugar refineries there?—A. I have an idea that the colored people of this country will find conditions so satisfactory that they will find a very acceptable and profitable employment there.

Q. Your idea is that if we Americanize Cuba it will be through the colored people?—A. Under the direction of men who will have to direct them in the growing of sugar.

Q. What is the average wages paid on a plantation in Cuba and Hawaii?—A. I think in Cuba it has been only 60 to 70 cents a day, but under the conditions that are ruling now and from the information I have received recently I think they are getting from \$1.25 to \$1.50 a day for labor in the field.

Q. And a man furnishes himself, does he?—A. They did; yes.

Q. On 60 to 70 cents?—A. They used to; that is, the food was paid for by themselves.

Q. About what part of the year do these refineries run; do they run constantly?—A. I think some of the refineries, of course, run constantly. Those that are the very best equipped are run constantly, except, perhaps, for three or four weeks in the year when they are cleaning up and repairing. The surplus refineries owned by the American Sugar Refining Company are only run during the season when the consumption warrants it.

A REARRANGEMENT OF THE TARIFF WOULD BE DETRIMENTAL TO THE SUGAR INDUSTRY.

Q. Now, it was said here the other day that the tariff was too low, and were it not for the tariff the refiners would have to go out of business. The same man who states that also states that the combination of sugar refineries never could have been built up but for the tariff. Is it your idea that a higher tariff than the present would cause an increase in the competition of refiners?—A. I do not think I am familiar enough with the conditions to express an opinion about that. I think there are enough refineries in the country to last for some years.

Q. What induces you to believe that the tariff ought to be increased? I think you said it ought to be increased to 15 or 20 cents.—A. I said that I believed that the protection under the present law is somewhere between 15 and 17 cents a hundred.

Q. You did not express an opinion as to whether it was high enough?—A. I did not express any opinion in regard to it.

Q. Have you an opinion on that subject?—A. Well, I have. I think that any rearrangement of the tariff would be more detrimental to the business than any increase that would be apt to go to the refiners. I think this continuous discussion of the tariff and continuous unsettling of business conditions by this talk about the tariff, taking the average of years, is a detriment to the country.

Q. The tariff has prevented the importation of refined sugar, together with competition, so far?—A. Yes; in a large measure.

Q. And you see no reason why it should be increased?—A. Not unless conditions in other parts of the world should make it necessary to increase it.

PRESENT CONDITION OF SUGAR BUSINESS THE RESULT OF SHARP COMPETITION.

Q. You have declared no dividends on your stock so far?—A. Not this year, no; we always have paid dividends up to this year.

Q. Are your conditions harder this year than they have been heretofore?—A. They certainly are; yes.

Q. That is caused by this very sharp competition?—A. It is; yes. I do not believe there is any refinery in the country that has made any money in the last 6 months, except possibly that losses have been reduced by having cheap raw sugars which they have been able to market at a little higher prices than were ruling some months ago.

Q. Do you have organized labor or unorganized?—A. I believe in one refinery it is organized labor; in the other I believe it is not.

Q. Is there any discrimination made between this organized and unorganized?—A. I think not.

Q. Do you know about what proportion of the refineries are running now?—A. I know in a general way that the outside refineries are making as little sugar as possible, and the American Sugar Refining Company is making a good deal of sugar.

Q. And the independents?—A. Are making as little as possible.

Q. Still because it is not profitable?—A. And probably 10 per cent of the country is being supplied by the outside refineries.

Q. You are willing the American Sugar Refining Company shall lose as much money as possible?—A. We are willing they should have all the business, so far as we are concerned, at present prices.

Q. Do you imagine they will destroy the independent refineries?—A. No; I think it will take 15 or 20 years at least, and that by that time they will adopt some other method. I think they will adopt some other method within the next 2 or 3 years, maybe the next 6 months. No one can tell.

Q. Is your organization a company or a mere firm?—A. A firm. B. H. Howell & Son is a firm, a partnership. The Mollenhauer is incorporated under the laws of New York, and the National is incorporated under the laws of New Jersey.

Q. You represent all those companies?—A. We do; yes.

Q. (By Mr. FARQUHAR.) Does the cheapening of refined sugar to the consumer result from competition entirely within the United States?—A. It does just at present; yes.

Q. At present?—A. Yes.

Q. And that competition could not be maintained without the presence of the independent refiners?—A. I think not.

RELATION OF THE SUGAR TRUST TO THE INDEPENDENT REFINERS.

Q. (By Mr. C. J. HARRIS.) From your knowledge of the sugar refining business, does the American Sugar Refining Company control directly or indirectly some of these outside companies that appear, to the general outside public, to be independent?—A. I know positively that they do not control these outside refineries.

Q. Not directly or indirectly?—A. Directly or indirectly. I am interested in 2 of them and I know who owns them. I know they do not control the Arbuckle and Doscher, the Nash & Spaulding in Boston, and the McCahan in Philadelphia, and they certainly do not control or own 2 or 3 in Louisiana and Texas, and they certainly do not own or control the beet producers, and they do not control the California Beet Sugar and Refining Company, which is owned by Hawaiian planters largely.

Q. (By Mr. PHILLIPS.) Is the American Company making any money at the present time, have you reason to believe?—A. My information is that they are not making money.

Q. Are they paying dividends?—A. They did declare a dividend a short time ago. Mr. Havemeyer has given a very good reason for that, I think, in his answer. It is very easy for a board of directors to declare a dividend; then the question of paying it, of course, is a business proposition.

Q. (By Mr. FARQUHAR.) One is an executive act and the other is a business proposition?

Q. (By Mr. PHILLIPS.) Do you mean to intimate that they declare it and it is not paid to the stockholders?—A. No; I believe they can declare a dividend out of their surplus and pay it; they certainly are able to pay it.

Q. Your judgment is that they pay it out of their surplus, and not out of their present earnings?—A. I think the dividend for the last 3 months will be paid out of their surplus.

Q. (By Mr. KENNEDY.) Do you know what their surplus is?—A. No; I do not. There are a good many thousands of people in this country that would like to know, especially those who operate in the stock. I do not know as they would like to know either, because then there would not be the uncertainty there is about it now, which is a great source of income to the stock manipulators.

THE BEET-SUGAR INDUSTRY IN THE UNITED STATES.

Q. (By Senator MALLORY.) Can you state the relation which the beet sugar manufactured in this country by the direct process bears to the total manufactured product in this country?—A. There has been a statement prepared here by Willett & Gray showing the beet crop estimated for this year, taking each State by itself, and it is about as nearly correct as anything I have seen. It shows that there are 11 States in which factories are operated. They expect the product for this year to be 122,000 tons of sugar.

Q. One hundred and twenty-two thousand tons. As compared with the production in this country of refined sugar, that is something less than one-twentieth, is it not?—A. Five per cent would be about 100,000 tons, and this is 125,000, say.

Q. This is what I am referring to. Is the beet sugar refined by the direct process?—A. It shows that Michigan is going to make 32,000 tons; California, 54,000 tons.

Q. Can you give any idea of the relative increase, in the last 2 or 3 years, of the product of that kind of sugar?—A. Last year it was only about 34,000 tons, partly in consequence of a drought in California; the year before it was about 41,000 tons.

Q. Has it increased very greatly this year?—A. Especially in Michigan and New York, where they have a State bounty, there is a very important increase.

Q. What would be the effect of sugar from Cuba in case we annex it—the effect of free sugar from Cuba? Would it be deleterious to that industry in this country?—A. I think in 5 years—it would commence to decrease immediately.

Q. As soon as sugar commenced to be imported freely?—A. I think it would decrease here in Louisiana, and in beets, because we can not compete with Cuba in growing sugar.

Q. Well, the sugar production of Louisiana is comparatively small in comparison with the consumption here?—A. It is about 220,000 tons, I believe.

Q. (By Mr. FARQUHAR.) Do you know whether there is any limit of these State bounties on sugar—beet sugar?—A. I think they are only paid from year to year. It takes legislation each year to pay it.

Q. Do you know as to the progress they are making?—A. Not exactly; no. As I understand it, Michigan is the one that is increasing most rapidly, and they pay it from year to year, as New York does.

Q. (By Representative BELL.) When was that report made up?—A. It was made up this year, quite recently.

Q. Does it credit anything to Colorado?—A. Yes; they expect to make 3,000 tons this year, using 30,000 tons of beets, with 3,000 tons of refined sugar output. In Utah it is 28,000; California, 54,000.

Q. (By Mr. C. J. HARRIS.) There is only about 100,000 tons that is expected to be made?—A. One hundred and twenty-two thousand.

Q. (By Mr. CONGER.) Do you know when Michigan first paid a bounty on the production of beet sugar?—A. I think it was 2 years ago.

Q. Do you know if the act of 2 years ago guaranteed a bounty for any length of time?—A. I think only for the current year, but there was a kind of an intimation made, as near as I can make out, that it would be continued for about 5 years.

Q. Do you not know that that act guaranteed a bounty for the period of 7 years?—A. I think it only guaranteed it for 1 year. That is my recollection; but, of course, that is a matter of record and can easily be ascertained.

Q. It is a fact that the act has been interpreted to guarantee the bounty for the period of 7 years. It can not be from year to year in Michigan, for the reason that the legislature meets biennially, and the appropriations have to be made at each session of the legislature; but the act itself contemplated the giving of the bounty to all factories that were put in operation for a period of 7 years from the passage of the act.

Q. (By Mr. KENNEDY.) Have you any business relations with the American Sugar Refining Company whatever?—A. Nothing in any way, except as any other commission merchants. We at times as commission merchants have raw sugars to sell, which we sell to them or anybody else that will buy them.

Q. You do not buy coopeage of them?—A. No; a separate coopeage company supplies both of our refineries.

Q. Some of the independents do?—A. The Doscher, I think, does. It is a separate organization that supplies whatever is required.

Q. Do you buy of anybody else?—A. No; of course there are other people who compete for our contracts. Our contract is with the Wideman Coopeage Company. The Arbuckle was with the Brooklyn Coopeage Company, but it is with

the Wideman Cooperage Company now, I believe. And there are other people who compete for it when the contracts are made. They have to be made for a series of years, because it takes quite a plant and quite an arrangement of staves and so on to supply it.

DISCUSSION OF THE MARGIN BETWEEN RAW AND REFINED SUGAR RESUMED.

Q. (By Mr. JENKS.) Is the margin of difference between the prices of raw and refined sugar substantially the same throughout the country, or has it been different in California and the West from what it was in the East?—A. It was larger in the West until quite recently, when the competition of beet sugar, the Hong Kong sugars, and the California beet sugar reduced it materially.

Q. I should like to revert again for a moment to the effect of the American Sugar Refining company upon prices, inasmuch as there has been handed to me, since you spoke on that matter, the quotations of raw and refined from 1879 up to date with the margin of difference. Perhaps you will yourself state what the result is in round numbers from 1884 to 1887, and then by yearly periods from that time on.—A. I will read from Willett & Gray's statistics the quotations for raw and refined for 20 years; only the difference, the average difference in each year, does not necessarily show the exact margin of profit, because the average is made up by itself, and the average for the cost of the refined might be very different, at least it might be one-eighth of a cent; the tendency would be to be one-eighth lower than the figures shown by Willett & Gray; the methods of selling are such in most years that the selling would show a little less.

Q. For a period of about 4 years before the sugar trust was organized the margin was substantially what?—A. 1884, it is quoted at .92; 1885, .71; 1886, .78; 1887, at .76 to .80.

Q. And then the sugar trust was organized in the latter part of 1887, and for the next 2 years?—A. In 1888, I see it is quoted at 1.258; 1889, 1.297; 1890, .72; 1891, .82.

Q. Those 2 years, 1890 and 1891, were two years that were explained?—A. Tariff changes.

Q. For one factor and the Philadelphia competition with the Spreckles refinery, if I recollect right?—A. The Spreckles and Brooklyn refineries, yes.

Q. Then for the next year?—A. 1892 was the highest figure—1892, 1.03; 1893, 1.15; 1894, .88; 1895, .88; 1896, .90; 1897, .92; 1898, .82. You can get the exact quotations up to this time, if you wish.

Q. Now, these figures seem to show that the average margin from 1887 is considerably higher than it was for 3 or 4 years preceding the formation of the trust, do they not?—A. Yes; I see the average for from 1888 to 1898, was .966. The average from 1885 to 1887 was apparently about .75.

Q. If we go back to the period 1879 to 1883, the average margin was about how much?—A. Well, for the 4 years, 1879, 1880, 1881, and 1882, it was about 1.40. I should think. In 1883 it was 1.08.

Q. Does it appear clearly from those figures, then, that the American Sugar Refining Company, or the effect of that organization has been, on the whole, to reduce or to increase the margin?—A. The effect has been to reduce the margin.

Q. Will you explain that, please?—A. As to why it was reduced?

Q. As to why there has been a reduction in the margin, if the figures as they appear here seem to show that the margin was higher on the average than for the 3 or 4 years preceding the formation of the combination, and that during the years when the margin has been less, there has been active competition, and during the years when the competition has been less active the margin has been considerably higher than it was during the 3 years preceding the organization?—A. That appears to be the reason—the competition: and I think the tariff changes had something to do with the average. There was one change in August; the duty was taken off and put on again; so that it would take a very lengthy calculation to tell that.

Q. But do not the figures seem to show that on the whole the effect, instead of lessening the margin, has been to increase it?—A. Within the last few years it might have.

Q. Beginning with 3 or 4 years before the combination?—A. During those 3 or 4 years of very keen competition, when several refineries failed and only the strongest were able to survive, the tendency was to drive out all the weak houses; it got to such a point that they were all very willing to try to come to an arrangement that would give them a fair profit.

Q. You would say, then, that the margin during the 4 years preceding the formation of the trust was smaller than the best interests of the country, as a

whole, really would demand?—A. I do think so, because if it had been kept up, it would have resulted in the reduction of the product; and then an increase would have come that it would have taken years to make up again. It would have driven out the weaker houses and prices would have ruled higher naturally, because the demand for sugar would be more than could be supplied by those who were the survivors.

Q. Then I think I see your reason for your statement that prices have been really lowered by the combination. You believe that, had the combination not been formed, the few survivors would have put the prices considerably higher than the combination has put them?—A. Because the demand for sugar would have been more than they could supply, and would have naturally enabled them to secure a greater price. When there is a great call for any article you can put the price up; when there is not, you have to lower it.

Q. That, I think, makes your point clear as to the decrease. The figures, so far as I could judge, seemed to be against the statement you have made here that the American Sugar Refining Company had reduced the prices, but the explanation you make is, that had the combination never been formed, the individual survivors, owing to the fact that their production would have been much lessened, would have been forced to put their prices considerably higher than the trust does. It makes, perhaps, your reason clear.—A. That explains it to me; that is why I think so.

Q. Your point was not quite clear to me; that is the reason why I wished to have this explanation made.—A. Yes.

Testimony closed.

THE WHISKY COMBINATIONS.

NOTE.—As early as 1870-71 many of the distillers north of the Ohio River entered into an agreement to limit their production in order to keep up prices.

November, 1881, the Western Export Association was formed to limit the output and to assess members in order to pay expenses of exporting the surplus stock, and thus to keep up prices.

From this time on there were frequent pools lasting for short times each until 1887, when, in order to secure a more stable combination, the Distillers and Cattle Feeders' Trust, formed on the model of the Standard Oil Trust, was organized with a capital of \$30,000,000 to be issued in trust certificates.

In 1890 this trust was reorganized as a corporation under the name of the Distilling and Cattle Feeding Company, with a capital stock of \$35,000,000. The new company had taken over from the trust 81 distilleries and cash and earnings to the amount of \$3,837,066, and there still remained in the treasury 34,084 shares as an asset. In the latter part of January, 1891, this treasury stock was issued. The Shufeldt and Calumet distilleries were bought, the stock being sold at 45.

In November, 1892, four other distilleries, making practically all of the important opponents, were bought. No bonds or stocks were issued to pay for these distilleries. Instead, the surplus was used and dividends lessened. In January, 1893, it was found that the cash on hand was exhausted and that no money remained to pay rebates, which had been promised to purchasers. The stock fell shortly from 65 and 70 to about 20. In May, 1893, the attorney-general of Illinois brought suit against the company on the ground that it was illegal. During 1893 \$2,500,000 bonds were issued and placed in escrow to secure rebates which had not been paid; \$1,000,000 worth of bonds was to be used as collateral in making loans for current expenses.

In December, 1894, the directors of the company suggested plans of reorganization; the treasurer suggested another. All of the plans involved a decided lessening of the stock. The suit in Illinois had gone against the company in the lower court and was before the supreme court. In January, 1895, notice was given that over a third of all the stockholders had organized a committee to protect their interest and secure a change of management.

January 28, 1895, holders of 1,700 shares applied for a receiver. The company, through the president, consented, and the president (Mr. Greenhut) and Mr. E. F. Lawrence were appointed temporary receivers. January 30 the stockholders' committee mentioned above secured from the court a stay and an order not to turn the property over to these receivers. February 2 Judge Grosscup removed Mr. Greenhut (he was said to be 15,000 shares short of the company's stock) and appointed Gen. John McNulta as the chief receiver, representing the court, and John J. Mitchell, president of the Illinois Trust and Savings Company, to represent the stockholders. Mr. Lawrence remained as a third receiver.

A committee was appointed to prepare plans of reorganization.

The plan finally submitted early in 1895 provided for \$1,500,000 first-mortgage 6 per cent 20-year gold bonds (out of a total issue of \$2,000,000); \$7,000,000 5 per cent noncumulative preferred stock and \$28,000,000 common stock.

The plan was in due time accepted, and the American Spirits Manufacturing Company was incorporated in New York, August 22, 1895. After considerable litigation between the receiver with the reorganization committee, and the former president and trustees, the best of the plants (16 distilleries) were taken over from the old organization.

In 1896 the case against the old Distilling and Cattle Feeding Company was finally decided in the supreme court of Illinois. The decision of the judge in the lower court was affirmed, the company being declared a trust and its charter annulled. Previous to the rendering of the decision, however, it had gone out of business, the most valuable property going into the hands of the American Spirits Manufacturing Company, as said heretofore.

The Standard Distilling and Distributing Company was incorporated under the laws of New Jersey to begin active business July 1, 1896. Capitalization, \$24,000,000—\$16,000,000 common stock and \$8,000,000 7 per cent cumulative preferred stock; there were no bonds. It was thought that this company would get control of most of the spirit-distilling plants outside of those in the American Spirits Manufacturing Company.

February 11, 1896, there had been incorporated in New Jersey, with a capital of \$7,350,000, the Spirits Distributing Company.

February 3, 1896, the Kentucky Distilleries and Warehouse Company, capital \$32,000,000, was incorporated in New Jersey.

The names of those interested in these companies suggested union; and in June, 1899, were published plans for the union of the four companies last named, together with certain rye-distilling properties, under the name of The Distilling Company of America, with a capital of \$125,000,000—\$55,000,000 7 per cent cumulative preferred stock, and \$70,000,000 common stock.

WASHINGTON, D. C., May 13, 1899.

TESTIMONY OF CHARLES C. CLARKE, PEORIA, ILL.

The commission met at 11 a. m. May 13, 1899, Vice-Chairman Phillips presiding. Mr. Charles C. Clarke, distiller, testified.

Q. (By Mr. JENKS.) Will you be kind enough to give your name and residence?—
A. Charles C. Clarke; Peoria, Ill'

Q. And your business at present is what?—A. Distilling alcoholic and cologne spirits and rye whisky.

Q. How long have you been engaged in the distilling business?—A. Since 1873; actively since 1882.

THE DISTILLING BUSINESS DESCRIBED.

Q. Will you explain to the commission, in the first place, something about the nature of the business itself, the relation between the distilling and the cattle-feeding business, the raw materials that you have to use, the side products that come from the business, etc.?—A. In the manufacture of alcohol and cologne spirits the principal products used are corn and malt. Of course there are other materials, in the shape of fuel, etc., that are not necessary in the manufacture except for the purpose of producing power. Corn is the basis of the whole production. Malt is used for its chemical effects in producing glucose out of the starch of corn. Fermentation is used in the process, which changes the glucose produced from starch into alcohol. After this fermentation takes place, the distilling process commences, by which the alcohol and spirits are evaporated from the fermented material and taken care of by condensation. The residue is the slop, which is used for feeding cattle. This is the connection that cattle have with the distilling business. Slop makes a very good feed and requires about 1 bushel of the original material to feed an animal.

Q. That is, from every bushel of corn that is used per day in the distillery you can feed one head of cattle?—A. One head of cattle; yes.

Q. What is the nature of the main product made in the Peoria distilleries that were connected with the Distilling and Cattle-feeding Trust?—A. Their products are principally alcohol, cologne spirits, gin, and many whiskies.

Q. What is the difference between their product and that of the Kentucky distilleries?—A. The products of the trust are the pure spirits that are capable of being marketed immediately after they are produced, whereas competitive products require age and time to perfect them. The alcohol and spirits are refined by running through charcoal, which takes out the essential oils and flavors, leaving nothing but pure spirits to a greater or lesser extent. Alcohol is not quite so pure as the pure spirits, having some flavor left; a little bit of essential oil, but not very much. The pure spirit is used for a great many purposes, such as the manufacture of colognes and essences; in the arts, wherever they need a very fine alcohol; and also in what we call the blending of cheaper grades of whiskies, 1 gallon of whisky being used to perhaps 5 or 10 gallons of pure spirits. The basis of a majority of the whiskies drunk in the United States is pure spirits, which is blended together with old rye whisky and bourbon, as the case may be.

THE FIRST COMBINATIONS OF DISTILLERS WERE POOLS.

Q. When were the first combinations made among the distillers in the line of business that you are engaged in?—A. The first combinations that I remember were in 1882. There was one combination in earlier days that I do not know much about; it was entered into in 1872; but the first combination that had any particular influence on the business was in 1882.

Q. What was the nature of that?—A. It was a pool—a pooling of the interests to regulate the amount that each distillery operator should sell.

Q. Tell us in detail with reference to this regulation of the amounts they put out.—A. At first each distillery agreed to produce so many barrels, the number being regulated by the committee of managers. They also regulated the prices, which were not arbitrary, but agreed on by all members. The pools were very successful at first, but were subject to a sudden breaking up, because it was not possible to control all the individuals that were concerned in them.

Q. About how many went into one of these pools?—A. We generally had 70 or 80 distilleries connected with them.

Q. How much was the product limited?—A. Sometimes to 40 per cent of the total capacity, sometimes to 50 per cent, but scarcely ever more than 50 per cent was operated.

Q. That is, if your capacity was 1,000 barrels a day, you would run 500?—A. Yes.

Q. Is there any loss in that?—A. Yes; there is more profit in running a distillery full time. It is at least half a cent a gallon cheaper running at full time than at half time.

EXPORTING AT A LOSS.

Q. What special purposes had your association in connection with export business?—A. We oftentimes found that we were overproducing. We organized our association into what we called the Western Export Association, for the purpose of exporting a surplus, which was done at a loss to the whole body, each distillery contributing so much to the loss sustained. At times we were assessed a high as 10 cents a barrel.

Q. Why did you export at a loss?—A. In order to prevent too great competition in this country by the overproduction.

Q. Could prices in the home market be so kept up?—A. Yes; they were so kept up.

HOW THE POOLS WERE BROKEN UP.

Q. You said these pools were frequently broken up. What broke them up?—A. Well, it generally came through one member producing more than he was entitled to; sometimes new distilleries being built created trouble; oftentimes they were broken up by limitation; we allowed them to expire for the purpose of getting them better organized. We could not reorganize them very well when they were in operation, but when they went to pieces and prices suffered to a great extent we often found it easier to get the distillers into the pools than when there was profit in the business. The minute a pool was broken, prices would decline and the business generally—in fact, I might say always—became unprofitable.

Q. Did you have any way of bringing pressure to bear on those who went into the pools to keep them from breaking the agreements—any penalty of any kind?—A. No; there were no penalties.

THE ORGANIZATION OF THE DISTILLERS AND CATTLE FEEDERS' TRUST.

Q. What was the next form of combination, after these pools, and when was that organized?—A. In 1887 the Distillers and Cattle Feeders' trust was organized. This was organized because we found our pools were getting unwieldy and it was hard to control the members. At times we found that they would agree to certain things, but would violate their agreements; and as the trust question had been studied, we thought we could make better profits and create a more stable business by organizing the different distilleries into a trust.

Q. Will you explain briefly the form of this trust organization?—A. A trust agreement was drawn up, which was a copy of the Standard Oil trust agreement to some extent, but changed to suit our business. There were nine trustees appointed, who, in the beginning, put their distilleries into the trust, made themselves trustees of this property, and put all these distilling companies which they had organized into corporations; they put the stock of the corporations into the hands of the trustees, dividing it pro rata among the different trustees, and appointing one manager from the distilling company that had formerly existed, who generally held a share. The nine trustees, after getting possession of the stock, elected the board of directors for each constituent company that had been put into the trust, and this board of directors consisted generally of the manager of the distillery, who was not a trustee, and part of the trustees. The board of directors received their instructions from the trustees, and the board of directors instructed the manager how to operate the distillery. The method of putting each distillery into the trust was by organizing it into a stock company and placing this stock in the hands of the trustees, who issued in lieu thereof what they called trust certificates, generally increasing the number of shares that were issued to a large extent.

TRUST CERTIFICATES ISSUED FOR FOUR TIMES THE VALUE OF THE ORIGINAL PLANTS.

Q. Can you not tell us definitely with reference to that? Just how much was the increase in certificates over the ordinary stock that the company had had before?—A. I think, on the average, it was generally about 4 shares for 1 of the valuation of the distillery; that is, if the distillery and the personal property that was put in was valued by the trustees at \$100,000, they would issue \$400,000

in trust certificates. There were cases where only 3 for 1 were issued, and others where, I suppose, there were more than 4. It was controlled by the estimate of the valuations.

Q. Who made these valuations?—A. A committee of the trustees valued each distillery, and their valuation was the basis upon which the trust certificates were issued. It was supposed that they made the valuation so that the multiple of trust certificates was the same in all cases, and if there was any variation it came in the valuation rather than in a change in the basis.

Q. What was the basis of this first valuation: was it the cost of reproducing the plant, or its earning power, or what?—A. As near as the trustees could estimate the cost of reproducing the plant, that was made the basis of the valuation. Sometimes they said they also used the earning power as a basis of valuation.

Q. That is, they would first take the cost of reproducing the plant; then, if the distillery happened to be situated in a not very favorable location, they would deduct something, and if the property was well located they would put on something?—A. That is the way I have been told they did it.

Q. Then, the amount of certificates issued was about four times the valuation as fixed?—A. As near as I can learn in different cases, that was the fact.

Q. That was true in your own case?—A. That was true in our own case.

Q. Was the valuation placed upon each of the different plants made public, or did each distiller simply know what was given him?—A. It was intended that the valuation should be kept absolutely quiet and should be known only to the trustees.

Q. After the combination had been made in this way and the distilleries were practically under the management of the trustees, you said that each separate company had its own board of directors, who elected a manager to conduct the work of the distillery. How was that manager paid?—A. He was paid a salary for managing the distillery, whether in operation or not, for 5 years; he was paid by the original distilling company, not by the trust itself.

Q. Then the board of directors was under the control of the board of trustees?—A. Yes; the board of directors of each distilling company was composed of a part of the trustees and the manager of the distillery.

MANY DISTILLERIES CLOSED BY THE TRUST.

Q. What proportion of these distilleries was shut up?—A. I should judge about 75 per cent of them.

Q. How many went into the trust?—A. Eighty-one went into the original trust, and I think they did not operate over 10 or 12, except for a short time. They were gradually closed and combined with the larger houses and the houses that were most conveniently situated for producing liquor cheap.

Q. But they paid the salaries of those managers whether the distillery ran or not?—A. They were paid right straight along for the first 5 years, whether operating or not.

Q. In the distribution of dividends on trust certificates, was any distinction made between the distilleries closed and those running?—A. Anybody who received trust certificates received a dividend as long as they were declared by the trust. They commenced paying dividends almost immediately after the trust was organized, and continued for several years.

TREATMENT OF COMPETITORS.

Q. What methods did the trust employ toward competitors?—A. They used every effort in the world to induce them to join the trust, by showing them the profits that were to be made both in the business and the probable increase in value of the certificates. All kinds of inducements were laid before those that did not join at first; a great many refused to come in for a good while; one or two did not come in at all.

Q. Were prices cut against those that were out?—A. There were very often cases where prices were cut on outside competitors, especially to the regular trade—trade that they considered their customers. The methods used were to send a salesman to any known customer of an outside distillery and offer him lower prices than the regular prices made by the trust. These were, of course, secret and not quoted prices. They induced some members to come in by cutting prices to their customers, causing them to fear that they were going to lose the trade. They then joined the trust on the same basis as the rest.

EFFECT OF THE TRUST ON PRICES AND PROFITS.

Q. What was the general effect on prices?—A. As soon as the trust was well organized there was an increase in the price of the product, the business having been conducted at or below cost before the trust was organized. In a short time they put prices up to where there was a very good profit.

Q. How much profit as compared with what it was before?—A. I think they put on a profit of about 5 cents a gallon shortly after the trust was organized; that is my remembrance of it; it may have been only 4 cents.

Q. Did that affect the sales particularly?—A. It was put on at the time of year when trade is generally lively; in fact, I might say that the trade increased each month at that time, but that was because of the usual demand that comes at that season of the year. It was well timed for a rise of prices.

Q. You spoke about the general increase in prices and the way in which goods were sold to the trade. What about special discounts to the distributing agents, the wholesale dealers, etc.?—A. After the organization of the trust there were not many special discounts, although to individual members of the trust who also owned a distributing house there were probably some special prices made, but it was kept quiet and was not generally known to the trade.

Q. That is, some of the managers of the trust sold the products to themselves in another capacity cheaper than to others?—A. It is supposed to have been so.

Q. How about the rebate system?—A. That was not inaugurated until after the trust expired.

Q. What was the rebate system?—A. That was organized by the successors of the trust.

ORGANIZATION OF THE DISTILLING AND CATTLE FEEDING COMPANY.

Q. Why did the trust go out of existence itself as a trust?—A. My remembrance is that the New York courts had declared the sugar trust an illegal combination; and in order to avoid the same thing in our State, we organized the corporation known as the Distilling and Cattle Feeding Company.

Q. Was this change of form entirely voluntary on the part of the trust?—A. It was done by a vote; almost all the parties holding trust certificates, as well as others, declared in favor of it.

Q. Can you give the dates of the organization of the trust and of this change in form?—A. The trust was organized in 1887, and the Distilling and Cattle Feeding Company succeeded it in 1890.

Q. Was there any change in officers, or in the management and methods of doing business, etc., when the trust went out of existence and the new company was formed?—A. The trustees at the time of the reorganization became directors in the new corporation. The managers of the different distilleries were appointed just the same as under the trust agreement; the salaries were continued and assumed by the new company, and afterwards paid by the new company.

Q. What was the relation of the separate distilleries, that had their own boards of directors, to the trust, and what was their relation to the new board of directors and to the new company?—A. They were bought; these corporations were abandoned; they surrendered their charters to the State in which they were organized and became a part of the new corporation. The board of directors ceased doing business, and thereafter the distilleries were controlled by the nine directors of the new company.

Q. Did they assign managers directly?—A. They appointed managers directly.

THE REBATE SYSTEM OF THE NEW COMPANY.

Q. Now, you said that under this new company, the Distilling and Cattle Feeding Company, a system of rebates was inaugurated. What was that?—A. There was a system of rebates organized by this new company by which they had two sets of customers. The original buyers from a distillery were given for themselves a rebate of 2 cents per gallon and extra rebate certificates of 5 cents per gallon to distribute to their customers. These were paid by the Distilling and Cattle Feeding Company, making a total rebate of 7 cents. The trust itself delivered the 2-cent rebate to the distributors and also the 5-cent rebate to be given by them to their customers.

Q. That is, to the wholesale dealers?—A. To the wholesale dealers. The wholesale dealers and also the distributors were obligated to buy all their goods of the trust, or rather of the Distillery and Cattle Feeding Company. That is to say,

the wholesale dealers were obliged, in order to get their rebates, to buy all their goods of distributors supplied by the Distillery and Cattle Feeding Company, and the distributors, in order to get rebates, were also obliged to buy all of their goods from the Distillery and Cattle Feeding Company.

GOVERNMENT RECORDS USED BY THE TRUST.

Q. By what means could they find out whether or not they were living up to these agreements before paying the rebates?—A. They retained the right to examine the Government books. Oftentimes they did not make any examination; but wherever there were charges of a violation of the rebate agreement, they refused to pay until they had a chance to examine the Government records of each customer.

Q. What records are kept by the Government that would show all of these facts?—A. There is a regular record kept under instructions from the Government by each wholesale dealer and jobber in the country; it is called Form 52, and keeps a record of every package of spirits in any form, whether whisky, gin, or any class of liquors produced by distillers. The number of gallons is shown, to whom it goes, and the serial number of the package. This makes an absolute record for the Government at all times by which it is possible to prevent fraud. All wholesale liquor dealers and rectifiers are obliged to keep this record accurately. It is often examined by the Government, and is a very accurate record. An examination of these records would show immediately from whom the distilling products had been bought, so that the trust could very easily tell whether the parties had abided by their agreement.

Q. Are these records kept by both the distributors and wholesale dealers?—A. Yes; they are.

Q. Are retail dealers compelled to keep any records?—A. No; but they are not allowed to sell over five gallons at a time.

Q. Who has the right under the law to examine these records?—A. The revenue officials of the United States.

Q. Then what right had the Distilling and Cattle Feeding Company to examine these records?—A. That was a part of the agreement concerning the rebate certificates.

Q. What was the effect of the rebate system upon the business as a whole, and upon the welfare of the company itself?—A. At first it seemed to be a very good thing for holding the trade. After the customers had once become attached to the trust they did not seem to be inclined to turn their custom elsewhere; at all times, however, there were some men who refused to buy of the trust and bought of outsiders. There were only two large distilleries that were operating outside the trust.

Q. What ones in particular?—A. The distillery of H. H. Shufeldt & Co., of Chicago, and, I believe, the Calumet Distillery, of Chicago, were operated outside of the trust.

Q. Were the rebate certificates promptly paid by the company?—A. Payment was very prompt after six months; that was the agreement; at the end of each month—that is, six months after the certificates were issued—they were redeemable at the trust office and were paid on presentation. There were very few of these certificates upon which payment was refused, and only then in the cases where violations had been flagrant. A minor violation did not attract much notice, but wherever it was large and the customer discontinued giving his trade to the trust payment was refused.

OUTSIDE DISTILLERIES BOUGHT UP WITH THE REBATE FUND.

Q. Did this prompt redemption of certificates keep up?—A. It kept up until along in 1893 or 1894, when the trust got into trouble, through the fact that it had to buy a great many competing distilleries, which absorbed all its ready cash. I believe they used the rebate fund for buying up the competitors who had come into existence in a few years. I think they bought the Shufeldt Distillery, the Calumet Distillery, the Crescent Distillery at Pekin, and a distillery in St. Louis, along in 1893 or 1894; but I can not remember the exact date.

Q. And they used the money that was really due at the time to holders of rebate certificates to make these purchases?—A. I understood they used the money that had been set aside for rebates for that purpose. They had kept the fund intact for a good many months, but at that time I believe they used it to buy these distilleries.

Q. What effect did that have on the distributors and wholesale dealers to whom money was due?—A. The distributors themselves did not seem to worry much about it, but the wholesale dealers and jobbers were very much alarmed, and, I believe, organized a committee to look after their interests. The trust itself—I will not call it the trust—the company itself seemed to think it would come out all right, and they issued bonds to protect the rebate holders. These bonds were a mortgage on the trust plants.

Q. What was done with the bonds? How did they protect them?—A. They were placed in the hands of a trust company in New York as a guarantee to secure payment on the rebates.

STOCK OF THE DISTILLING AND CATTLE FEEDING COMPANY.

Q. Was the stock of this Distilling and Cattle Feeding Company the same in amount as the trust certificates of the old trust?—A. I think it was exactly the same, except that a few shares more were put in the treasury. The original trust certificates were in the neighborhood of \$34,000,000, whereas the new company capitalized for \$35,000,000, the balance of the stock going into the treasury to be used for the future welfare of the company.

Q. What was the basis of a trust certificate itself?—A. It was based upon the stock of the original constituent companies.

Q. According to the statement you made before, as I understood, this original stock represented pretty fairly the value of the plant itself, and when the certificates were issued they were issued to something like four times that amount?—A. Yes.

Q. What was the form of the guarantee itself?—A. Simply a certificate of the stock of the corporation. The corporations were, all of them, at that time free from debt. Each corporation owned a distillery and the stock of that corporation was all turned over to the trustees.

Q. Was it put into their hands as trustees?—A. It was formally assigned to them as trustees and paid for by them with trust certificates, which were issued at the appointed amount of 4 to 1.

Q. (By Mr. FARQUHAR.) What was the dividend on unpaid stock to the parties who entered into this trust?—A. There was not any unpaid stock.

Q. There must have been unpaid stock, if 4 to 1 were issued.—A. It was a trust certificate that was issued in lieu of the stock of the corporation; for instance, if the corporation put in 1,000 shares of its stock at par value, \$100, they would receive 4,000 shares in trust certificates of a par value of \$100. They never pretended that this was a legal transfer.

Q. Did the trustees hold this amount of overcapitalization in the ratio of 4 to 1, or did it go to the credit of the original stockholders who were members of the first trusteeship?—A. The overcapitalization went to the owners of the stock of the constituent companies.

Q. Of the separate companies?—A. Yes.

Q. (By Mr. PHILLIPS.) They had no treasury stock, in other words?—A. No; there was no treasury stock at the time of the original trust.

Q. Was the real and personal property of the constituent companies turned over to the trustees, or was it simply a stock transfer?—A. Simply a stock transfer.

Q. Where was the ownership of the property, if not in the trusteeship?—A. The ownership of the property was in the original constituent company.

Q. So your trusteeship was simply conditional?—A. The trusteeship was simply conditional.

THE AUTHORITY OF THE TRUSTEES.

Q. What were the powers of a trustee over any concern? Were they limited in writing?—A. His powers were the same as if he were an actual owner of the stock of the corporation.

Q. (By Mr. JENKS.) Did he have the power of voting that stock?—A. He had the same power as any owner of stock in a corporation; it gave the trustees possession of all corporations through the election of the board of directors.

Q. (By Mr. FARQUHAR.) What authority had the trustees for issuing bonds if they had nothing but stock? Did they have authority to market stock through trust companies or otherwise?—A. Perhaps you have not followed me closely enough. After the Sugar Trust was declared illegal in New York a company was organized as a corporation covering all plants which were turned over to it. After they became a corporation they had the privilege of mortgaging all the plants.

Q. But the point I desire to get at is the character of the trustee. Was he simply a trustee in law to transfer stock without having authority to dispose of all stocks and securities and outlying securities, or was his obligation simply a bond of honor? Did his authority amount in law to a possessory right?—A. In fact, it gave him a possessory right; but we have never been able to discover quite what his legal powers were.

Q. Was not his authority simply that of a temporary agent?—A. That was what it was supposed to be; and in law it has been demonstrated by a great many decisions that it was not a legal organization.

Q. (By Mr. JENKS.) When the organization was in the old trust form did the trustees at any time sell or dispose of any of the plants?—A. Not any that I know of.

Q. They closed several of them?—A. They closed a great many of them. There was one which they did sell, limiting the right of manufacture to anything but alcohol and spirits.

Q. When they were simply holders in trust how could they sell the distillery?—A. They were given authority under the trust agreement to do as they saw fit with the property.

SPECULATIONS IN THE STOCK OF THE COMPANY.

Q. What was the value in the market of the stock of the new company which grew out of the old Distillers and Cattle Feeders Trust? What was the nature of the fluctuations in value of the stock, etc.?—A. It varied in value greatly. Right on the start in, before it was listed, the value was about 50 per share, and after it was listed it varied in the 40's for some time. From then on it fluctuated up and down and went as high as 70, and I understand as low as 8. There were very violent fluctuations, according to the way the business was being conducted, and the manipulation by the speculating members.

Q. Tell us about the speculating members. Who were they?—A. Well, I understood they were the directors and the certificate holders. The directors were the men who did most of the speculating, but thousands of men were connected with the whisky business and imbued with the ideas of speculation, and I should not be surprised if almost every wholesale liquor dealer in the United States and a great many retailers took flyers in the stock.

Q. Were there any reasons to believe that the directors of the company were speculating, not only with their own money, but with the money that belonged to the corporation itself?—A. I believe it was shown before the courts that the directors used some of the money of the corporation for protecting margins in speculation. The reorganization committee later made that accusation and summoned some of the members in court. It was never brought to a final issue, but was settled outside of the courts.

Q. That is, they were charged with using the funds in the treasury of the corporation for protecting margins on stock held in their names as individuals?—A. No; not as individuals. The stock was bought in the name of the treasurer of the corporation.

Q. As an individual?—A. I think as agent of the company, and the money that was used was put up to protect this stock.

Q. That is to say, the company was really speculating in its own stock?—A. That is what I have been told, and that was what was brought up in the courts at the time.

Q. Did that fact when it came out have any effect on the price of the stock in the market?—A. When that fact was brought out, the stock was very low, and I do not think there was much fluctuation.

Q. About how long did the company continue in business?—A. From 1890 to the spring of 1895.

REASONS WHY THE COMPANY BROKE UP.

Q. Will you explain the circumstances under which it went out of business?—A. The owners of the stock in New York became very much dissatisfied with the management and a great number of them combined for the purpose of an examination and sent a special bookkeeper to the offices in Peoria to examine the books. Some of the shareholders in Illinois applied to the court at the same time for a receivership.

Q. Will you tell us just what you know of the complaint that was made against the management?—A. The business was not managed for the benefit of the stock

holders; the directors used their positions for the purpose of manipulating the price of the stock; they also used money of the company for protecting margins on stock. There were many other charges which I can not remember now.

Q. Practically the charges were dishonesty against the members?—A. I will not say that.

Q. Unwise action, then?—A. The charge was practically mismanagement of the business.

A RECEIVER APPOINTED.

Q. What further can you tell with reference to the change in management?—A. The holders of some 1,700 shares of stock applied to the United States courts in Chicago for a receiver, making the charge that the company was insolvent. On that appeal a receiver was appointed, 2 receivers, in fact—Mr. J. B. Greenhut and Mr. E. F. Lawrence.

Q. What connection did these 2 men have with the company?—A. Mr. Greenhut was president of the company, and Mr. Lawrence, of the old distillery in Chicago, was not connected with the company at this time. I think he was not even a certificate holder. A few days after this appointment, and before he had qualified as receiver, the shareholders in New York accused Mr. Greenhut in court of being a speculator in the stock and brought proofs to that effect. The court removed Mr. Greenhut as receiver and appointed in his place Mr. John McNulta, of Illinois, to represent the court, and Mr. Mitchell, of the Illinois Loan and Trust Company of Chicago, to represent the eastern share owners, leaving Mr. Lawrence in his position. Soon after Mr. Lawrence and Mr. Mitchell resigned, leaving Mr. John McNulta sole receiver as representing the court.

MANAGEMENT OF THE BUSINESS BY THE RECEIVER.

He took charge of the business and operated it for a short time, pending the reorganization which was being effected by the New York shareholders, who had formed themselves into a reorganization committee. I think General McNulta operated enough of the distilleries to keep the trade going from February, 1895, to November or December of the same year, when he was succeeded by the reorganization, called the American Spirits Manufacturing Company.

Q. In whose interests did General McNulta manage the business? How did he turn over the property to this new company you speak of—the American Spirits Manufacturing Company? What was done with the rest of the property which they did not take?—A. On the reorganization of the business the shareholders of the old company came in and bought from General McNulta 17 of the best properties for a sum equal to about \$10,000,000, which was paid, I understand, in stock of the old company and not in cash. Afterwards General McNulta turned over 4 or 5 more of the old properties for a nominal consideration, by order of the court. The new company, in assuming control of the distillery properties, agreed with the court that they would pay all debts of the old corporation and all receivership expenses, which they have done, as I have been told by General McNulta within the last 3 days. He said that the old company's debts and the receivership expenses had all been paid by the new American Spirits Manufacturing Company.

Q. (By Representative OTJEN.) Including the rebates of the old company?—A. He paid all rebates that were declared legal, or that the court allowed. There were some cases in which, when the purchase agreement had been violated, he refused payment; and the court decided that he was warranted in so doing.

Q. You have told us that 81 distilleries went into the old trust, and that all the old trust property was turned over to the Distilling and Cattle Feeding Company; now you say that of this new property the American Spirits Manufacturing Company took 17 different plants and afterwards some 4 or 5 others. What became of the rest?—A. A great many of them have gone back to the original owners of the real estate. In the first arrangement the real estate was not sold, but was held intact by the original distillers and leased to the organization that composed the trust.

Q. They sold the distillery and leased the land?—A. That was the plan, in fact. After the distilleries had been wrecked General McNulta refused payment on a great many of these leases by order of the court.

Q. On what ground?—A. That it was unprofitable to the receivership. They reverted back to the owners of the real estate who went into the original company.

Q. (By Mr. PHILLIPS.) For what period were they leased?—A. Twenty-five years.

Q. (By Mr. JENKS.) In selling to the trust the distillers retained the land but sold the distilleries with the good will of the business. That is incidental, is it not?—A. Yes.

Q. Was not that counted as part of the consideration in the increased capitalization?—A. The good will was counted as part of the increase in the capitalization.

Q. (By C. J. HARRIS.) Did not the distillers agree not to go into the distilling business also?—A. Not under the original trust. They only bound us up to 5 years on a salary.

Q. (By Mr. JENKS.) Was any change made in that respect when the new corporation took the place of the trust?—A. I think not; under this organization no one was bound not to go into the business except as he was controlled by a salary.

Q. Where and by whom is the stock of the new American Spirits Manufacturing Company mainly held?—A. A syndicate of New York capitalists have apparently been in control of this stock from the time of the organization until the present.

NO PROFIT IN THE BUSINESS IN RECENT YEARS.

Q. How has the new company succeeded as compared with the old one?—A. Since the new company was organized there has been very little profit in the business. I think there was scarcely a time from 1895 to July, 1898, when there was any profit. After the organization they agreed to sell at a price that would be profitable. This continued for about 6 months; but the outside distilleries, that were being built all the time, came into such direct competition with them that they were unable to sustain a profitable market, and up to July, 1898, there had been no profit in the business.

CONTROL OF THE MARKET BY THE COMBINATIONS.

Q. To what extent did the old Distilling and Cattle Feeding Trust control the market—about what proportion of the output was in their hands?—A. I think it averaged at first about 95 per cent of the production of spirits and alcohol. It decreased a little, as near as I can remember; but I should judge it never got below 85 per cent while the trust was in existence. After the Distilling and Cattle Feeding Company was organized there were more distilleries built, and the percentage outside was greater.

Q. About what proportion?—A. At one time the Distilling and Cattle Feeding Company purchased about all the outside distilleries and came very nearly into complete control of the output. When they made those purchases I should judge they owned over 95 per cent of all the distilleries producing alcohol and spirits.

Q. About what proportion of the output does the American Spirits Manufacturing Company control directly, or what proportion has it controlled?—A. I do not think it has ever controlled more than 60 per cent.

Q. Do you think that is enough to enable them to hold prices up?—A. No; they were never in a position to hold prices up to any great extent after they were organized until July, 1898.

ANOTHER COMPANY ORGANIZED.

Q. What new circumstances came in then that gave them better control?—A. The outside distillers, which had been rebuilding for several years, were competing quite heavily in 1897 and the spring of 1898. In fact, they were absorbing most of the trade and were being operated either at no profit or at a loss. There was a new company organized in the spring of 1898 called the Distilling and Cattle Feeding Company, which absorbed very nearly all the outside companies.

Q. Did it take the same name as the old company—the Distilling and Cattle-Feeding Company?—A. No; it is called the Standard Distilling and Distributing Company.

Q. I think you applied the other name.—A. I may have used the wrong words there.

Q. It is the Standard Distilling and Distributing Company?—A. It is called the Standard Distilling and Distributing Company. It was organized by the same influences that control and manage the American Spirits Manufacturing Company. While the directors are different, they are at the present time beginning

to amalgamate; they have controlled and operated the business since that last organization in a very mutual way, in no way competing with each other.

Q. It was organized among those who had been former competitors of the trust, but apparently by the friends of the American Spirits Manufacturing Company itself in order to stop competition?—A. Yes; it was organized by the friends of the Spirits Manufacturing Company in order that the two companies might run in connection and stop disastrous competition.

METHOD OF ORGANIZATION OF THE NEW COMPANY.

Q. What was the method of the organization of this new company?—A. As nearly as I have been able to find out, and from my personal knowledge of offers that were made, each distillery was valued at about what it would cost, and a cash offer equal to that cost was made to the owners. In connection therewith they were to receive also an equal amount of preferred stock in the new company, and in addition to that an equal amount of common stock. That is to say, where they valued a distillery at \$100,000 actual cost the owners would receive \$100,000 in cash, \$100,000 in shares of preferred stock, and \$100,000 in shares of the common stock of the company. The parties that underwrote this new company received on the same basis. If they put in \$100,000 to pay for a distillery they received \$100,000 in shares of preferred stock and \$150,000 in shares of the common stock of the company.

Q. Then in the organization of this new company, if I understand it, the plan was substantially this: Each individual distiller would sell out to this new company for the cash value of his plant in cash, an equal amount in preferred stock, and an equal amount in common stock?—A. Yes.

Q. Was the common stock delivered to him at once?—A. The common stock was delivered generally in 1, 2, 3, 4, and 5 years.

Q. That is, he received 20 per cent the first year, 20 per cent the second year, and so on?—A. Yes; the rest being held in escrow until the time of delivery.

Q. What was the purpose of that?—A. The purpose was to keep an owner of said stock from entering the outside business again. One of the agreements was that if he went back into the distilling business he was not to receive his common stock.

Q. He was practically obliged not to go into the business again for 5 years?—A. Yes; not to go into the business again.

Q. According to this plan the New York capitalists who advanced the money received the same amount in preferred stock and one and one-half times that amount in common stock?—A. That was it.

Q. For their services in advancing the money?—A. Yes; that is what I have been told by parties very closely connected with the company when it was organized.

THE AMOUNT OF OVERCAPITALIZATION.

Q. Can you testify from your own knowledge as to what part of this was the true value?—A. Only that part which represented the bid for the distillery.

Q. But from your own knowledge you can say that this new company offered the distillers a bargain of that kind?—A. Yes; I am certain that offers came in that way, for one came to me directly for the distillery I am operating.

Q. (By Representative OTJEN.) Where did the money come from that these different distillers received?—A. It was underwritten by a syndicate of New York capitalists. The total amount underwritten was \$4,000,000.

Q. And what security did they receive on the property?—A. They received in payment for underwriting for every \$100 one share of preferred stock and one and a half shares of common stock. The promoters of the enterprise received for themselves for every \$100 one and a half shares of common stock. On the whole issue, then, of \$4,000,000 underwritten by the syndicate which was used for the purpose of buying the distilleries the distillers got \$4,000,000 in cash, \$4,000,000 in preferred stock, and \$4,000,000 in common stock; the underwriters got \$4,000,000 in preferred stock and \$6,000,000 in common stock, and the promoters of the enterprise got for their expense and trouble \$6,000,000 in common stock. There was therefore a total issue of \$8,000,000 in preferred stock and \$16,000,000 in common stock to cover \$4,000,000 in distilling property sold by the distillers.

RELATION OF THE NEW COMPANY TO THE AMERICAN SPIRITS MANUFACTURING COMPANY.

Q. (By Mr. JENKS.) What has been the relation of the new company since its organization to the American Spirits Manufacturing Company?—A. I understand that they have a running agreement by which the American Spirits Manufacturing Company produces about one-third, or rather one-half, as much as the Standard Distilling and Distributing Company.

Q. That is, the Standard is about twice as large as the American?—A. The Standard produces about twice as much as the American, and buys whatever the American does not have a demand for. The American Spirits Manufacturing Company has a demand, through one or two distributing houses, for a great portion of their product. The balance is taken and paid for by the Standard Distilling and Distributing Company.

Q. What proportion of the total product is under the control of these two companies?—A. At the present time they are manufacturing about 75 per cent of the total product of spirits and alcohol.

Q. Are there any new distilleries coming into competition with them?—A. There has been one large distillery completed since they were organized and two or three more are in process of construction.

EFFECT OF THE NEW ORGANIZATION ON PRICES AND COMPETITORS.

Q. What has been your own experience as regards the effect of this new organization upon prices and upon their competitors?—A. The new organization that went into effect in July, 1898, immediately established a scale of prices which were profitable and which continued profitable up to the 1st of May. During the last 2 years, since the large new distillery at Terre Haute went into operation, there has been a constant cutting in prices; but, up to the 1st of May, of this year, they had not fallen below the cost of production. Since then prices have been at a point where there are no profits in the business.

Q. Did the new combination cut prices at all, until recently, in different neighborhoods, in order to drive out special individual distillers?—A. Prices were first cut, to a great extent, in the Eastern market. The new Terre Haute distillery started in to market its products in New York, Baltimore, Boston, and other eastern markets, and the prices of the product were cut in those markets more than in any others in the United States. Whether the trust cut the prices or whether the new company cut them I am unable to say, but they followed very closely in each other's wake.

Q. They have cut down prices, then, until there is practically no profit in the business?—A. The profit at present is practically wiped out of existence on account of the competition that has arisen in the last 2 months.

Q. Is it your opinion, then, that the effect of all three of these combinations has very generally been to increase and maintain prices?—A. All the combinations have controlled prices to a great extent and made profits in the business.

Q. Profits for their competitors as well as for themselves?—A. For both parties for the time being.

EFFECT OF COMBINATIONS ON WHOLESALESALE AND RETAILERS.

Q. What was the effect of these companies upon the dealers, wholesale and retail, and upon consumers?—A. My observation has been that the wholesale dealers were at an advantage when the combinations were making money, because the combinations controlled the amount of the product to such an extent that the wholesale dealers were able to get larger profits on their sales. They did not come into such fierce competition with one another. The retail dealers are mostly saloon keepers, and my observation has been that they are fully as prosperous when the distilleries are on a profitable as when they are on an unprofitable basis. The margin of profit is so small, comparatively, that it does not seem to affect the retail dealer. An additional 2 or 3 cents on the price of a gallon means a large profit for the distiller, but is not observable in the retailers' purchases. It might amount to \$3 or \$4 a month to a very large retailer, but to a moderate-sized retailer 3 cents on each gallon would perhaps be only \$1.20 or \$1.80, so that it is not noticeable to the retailer.

EFFECT ON THE CONSUMER.

Q. How about the consumer?—A. The consumer, as far as I can see, is not affected.

Q. Then, if I understand——?—A. (Interrupting.) Whisky goes over the bar

at the same price whether or not the distillers are making money and whether or not the business is controlled by a trust.

Q. When the price of whisky goes up, then, so that the business becomes profitable to the distiller, he sells to the wholesaler at a higher price, and the wholesaler always adds the advance to what he asks of the retailer?—A. Always.

Q. But as the retailer asks the same price of the consumer as before, is he not the one who, as a matter of fact, pays the increase in price?—A. It would seem to come out of the retailer entirely.

Q. But you think the difference is so slight that he does not feel it much?—A. I do not think it is noticeable to the retailer.

THE PROFITS OF THE RETAILER.

Q. His profits are so big that he can not tell the difference?—A. A gallon of whisky sold over the bar will ordinarily produce to a retailer anywhere from \$10 to \$20, according to his custom; and a difference of 2 or 3 cents a gallon cuts no figure with him in such a large sale.

Q. How much does the retailer ordinarily pay for whisky that he can retail at from \$10 to \$20 a gallon?

Q. (By Representative LIVINGSTON.) Take some special brand of whisky and make it specific?—A. Whisky which the retailer pays \$1.50 a gallon for, and which is a very cheap grade, though not above quality of whisky, might produce \$8 a gallon at 10 cents a drink. It is sold to men who take large drinks, and will not run over \$8 to the gallon. On \$10 or \$12 whisky, the prices range from \$1.75 to \$2.25 a gallon, and on \$15 whisky from \$2.25 to \$3.

Q. Do you know what the old Commissary whisky is sold for per case, e. g., by Alexander, of New York?—A. By the case?

Q. By the case. Most of those people buy by the case and not by the barrel.—A. Most of them buy by the barrel.

Q. Not fine whiskies?—A. No, not fine whiskies; I am not talking about fine whiskies; I am talking about whiskies that pass over the bar.

Q. Rectified whiskies they buy by the barrel?—A. Very fine whisky costs them more money. I put up a case of whisky in my rye whisky business that goes to the trade at about \$4 a gallon.

Q. You sell it by the case?—A. By the case.

Q. How much?—A. Twelve dollars a case; a case contains about 8 gallons.

Q. That is about what Commissary whisky is sold for by Alexander. What does the retail man make on that?—A. Of that class of whisky the retail man sells about 120 drinks to the gallon, which, at 15 cents a drink, would produce \$18, but at 12½ cents, not quite so much. Very fine whiskies are sold in smaller drinks; that class of trade does not use such large quantities; my experience has been that the drinks run about 120 to the gallon.

COMPOUNDING OF WHISKIES.

Q. (By Mr. JENKS.) Is is not pure spirits rather than the higher grades of whisky which these combinations, of which we have been speaking, manufacture?—A. They manufacture cologne spirits and alcohol. Cologne spirits is the basis of common and rectified whisky; and spirits, while a highly refined product, is the basis of the cheaper grades of whisky.

Q. Can you tell us where the compounding is done and something about the profits of the men that compound whiskies?—A. The compounding is done at what we call the rectifying houses. They put the pure spirits into a tub where it is colored with brown sugar and other coloring material and flavored with high-priced old whiskies and sometimes with flavoring materials.

Q. (By Representative LIVINGSTON.) Is not the flavoring always done by whiskies?—A. I think it is generally so done to-day, old rye whisky being added, sometimes in large quantities and sometimes in smaller. I have in my possession receipts for different grades that run from 1 gallon up to 20 gallons per barrel, 1 gallon being the very lowest that is used for flavoring. But there are flavoring materials that are used which are harmless in themselves. Though it is claimed some of them are harmful, I know of none such being used. Not being a rectifier, I do not know much about the different substances that are used except rye whisky and pure spirits. I produce both of these in my two distilleries, and am well acquainted with that important part of the business.

Q. Can they make apple brandy, rye whisky, or anything else out of it?—A. Anything desired in the cheap grade of brandies is made by using cheap cologne spirits. Such goods go to the cheaper saloons, those outside the district where,

perhaps, we gentlemen would go to take a drink. I think we are all pretty sure in the best saloons to get a good grade of whiskies, brandies, gins, and such things, but in other saloons—

COST OF RECTIFIED WHISKY.

Q. (Interrupting.) What is the cost of a barrel of rectified whisky on that plan per gallon?—A. It would cost the wholesale dealer \$1.30 for the original gallon of pure spirits.

Q. How much would the coloring matter cost?—A. The cost of the other materials used would be very small, except the rye whisky. The coloring materials and flavoring extracts would cost about 5 cents per gallon. The cost of the rye whisky will have to be estimated according to the amount used. At the present time a good quality of rye whisky (i. e., well-aged whisky from 3 to 10 years of age) costs, in large quantities, \$2.25 a gallon. If 10 gallons, which is quite a large quantity, were used, that would be \$10 extra on 40 gallons, which would be 25 cents a gallon. This, added to the original cost of \$1.30, makes \$1.55, and the 5 cents extra for coloring materials and flavoring extracts makes \$1.60 for very ordinary whisky. There is another method of cheapening it, which consists in the reduction of the proof. It may be put up at 60 proof, which makes it cost 60 per cent of what I have figured, which would be 96 cents.

Q. Is not the bulk of it put up in that way?—A. The bulk of it is put up at about 85 or 90 proof, although there is a good deal of whisky made at 60 proof. But that is getting into the business of rectifiers, and I do not know much about it, except what I have learned from rectifiers, being closely connected with them.

Q. (By Mr. JENKS.) Then the average price of rectified whisky is about \$1.60 per gallon if compounded in the way you have indicated?—A. If it were at proof.

Q. But 40 per cent less if it were put out at 60 proof?—A. Yes. There is another grade of cheap whisky made from pure spirits and flavoring extracts, which is sold at what we call 6 cents over the price of spirits multiplied by the strength. For instance, if the strength is 90 and the price \$1.30, multiply \$1.30 by 90, and add 6 cents, and you have the price of cheap rectified whisky. That is the way it is sold to the jobbing trade direct; not to the retailer.

Q. The purpose in putting the question in reference to rectifying was to show who gets the profits when the price of whisky goes up. According to what you have said abundant profits go to the rectifiers. Now who, in the main, does the rectifying?—A. The parties we call distributors generally do most of the rectifying. They sell mostly to the larger wholesale dealers. Some wholesale dealers do their own rectifying and mixing, and deal directly with the saloon. Both of these parties are known to the Government as rectifiers and pay the special tax on rectifiers.

CHARACTER OF WHISKY USED IN THE DRUG TRADE.

Q. Is the liquor sold in drug stores ordinarily bought directly from the trade and sold in the same way, or is that rectified and improved by the druggist?—A. The majority of druggists buy a pretty fair quality of whisky, mostly what we call straight whisky. In the prohibition States, where the drug store is practically used as a saloon, they buy the very cheapest grade of whiskies that come to the trade. I am pretty well acquainted with the drug trade, because in my rye-whisky business I have catered to the drug trade, and I believe I sell more straight whisky to that trade than any other distiller in the United States. They are anxious, as a general thing, to get a pure, straight, good whisky. In prohibition States I have found that they do buy these cheaper grades of whiskies.

Q. Then, so far as the profits from compounding are concerned, an increase in price by the trust is still borne by the retail dealers?—A. It would seem so to me.

Q. And, so far as the rectifier is concerned, any profit that he makes—A. As a general thing he fixes his price according to the price he has to pay for spirits.

Q. If the general price is higher, he will not make any more or any less than he did before?—A. He is always very anxious to buy his spirits just as cheap as he possibly can, but I have noticed that he is more prosperous when the product is controlled by the combinations. He objects, though, seriously to any combination, and would rather buy of the outside distillers.

Q. Why?—A. Because he dislikes the idea of being controlled in his business. He wants to be placed in a position so that he can say, "I will give you so much for those goods," and not say, "I want so many goods." Besides, he dislikes very much the system of rebates. After 3 or 4 or 5 years' experience with the rebates of the Distilling and Cattle Feeding Company, the rectifiers are very much averse

to tying themselves up to any combination that is liable at any time to put on rebates. I have met a great many wholesale dealers in the last 2 years, and they have all told me that they would buy of me in preference to the trust at the same price. I have never met a single buyer who has said he would buy of the trust in preference to outside distillers.

REBATE SYSTEM OF THE PRESENT COMBINATION.

Q. Does the present combination have a rebate system the same as the former one?—A. They have to a certain extent.

Q. What are their rates?—A. Their rates at the present time are made only to the distributors. They charge them a specific price, on which they give them 1½ cents rebate at the end of 5 months.

Q. Provided they can say they have dealt with no one else?—A. Provided they trade with the trust houses, i. e., the American Spirits Manufacturing Company and the Standard Distilling and Distributing Company. They attempted also to put rebates on some of the wholesale dealers who were able to buy in carload lots, but the wholesale dealers objected so seriously that they were unable to force the system upon them, in fact, they tried it on one or two parties and made lower prices, but immediately the wholesale dealer turned to the outside distilleries to buy, and the result was they abandoned the idea of trying to put on a rebate to the wholesale dealers, although all the distributors of the trust houses are getting a rebate at the present time.

EFFECT OF COMBINATIONS ON THE ORIGINAL OWNERS.

Q. What was the effect of these combinations upon the original distillers who went into them? What about your own case, for example? Why did you go in, and why did you go out?—A. I went into the first trust because I was glamourised with the pictures that were painted of fancy profits, and also because of the intimations that, if I did not go in, the trust would get after my customers and make life a burden to me. There were many difficulties. I objected to losing my individuality very much. I was quite a young man at the time and did not like to go into a combination and lose control of my business, but after some time I agreed to do it. I regretted it from the day I went in, although I secured very good profits for a long time.

Q. Your profits for a while increased decidedly compared with what they had been before?—A. They did not increase compared with what we had been making in the pools; but they increased to more than what they were before the pools were organized. It wiped out our individuality entirely with the trade, and we became merely agents of the trust. They employed me in several different capacities after they stopped running our distillery, none of which were agreeable to me.

Q. What kind of work did you do?—A. I was employed as a salesman in certain districts in California, but more especially to induce some recalcitrant members of the old combinations to come into the trust. It did not take very long to convince them that they ought to do so.

Q. What methods did you employ to get them in?—A. The methods consisted in cutting prices to their especial customers who had been doing business with them for years.

Q. (By Representative LIVINGSTON.) Pretty good argument, was it not?—A. Yes, sir. We went to those customers and offered them spirits at prices which the other men did not want to meet. They were not the quoted prices but private prices made at the time. It took but 3 or 4 days to accomplish what we set out to do.

REAL PRICES NOT THE SAME AS QUOTED PRICES.

Q. (By Mr. JENKS.) Are the real prices of the product of the American Spirits Manufacturing Company the same now as their quoted prices, with the exception of the 1½ cent rebate?—A. The prices that were quoted in the fall of 1898 have not been changed, but the actual prices of the distillery products that we are now selling are some 3 or 4 cents below the quoted prices. It has come about gradually through the trust and the outsiders getting each other's trade.

Q. Then, the real price is the quoted price, less about 3½ cents and the rebate?—A. That will be about the price.

Q. The real price is, then, about 5 cents below the quoted price?—A. No; they sell at about 4 cents below.

Q. Counting the rebate in, too?—A. Yes.

Q. About 4 cents below is the real price. How long has that been true?—A. Well, it commenced a little right at the start. The quoted price was always about half a cent below the actual price.

Q. What do you mean by the beginning?—A. July, 1898. The price to the trade continued at about half a cent below the quoted price up to February 1. Since the new distillery in Terre Haute went into operation, there has been a gradual cutting of prices, secretly, to the trade, until at the present time the actual prices of spirits and alcohol are about 4 cents below the quoted prices.

Q. How was it under the preceding combinations—the Distilling and Cattle Feeding Company and the Distillers and Cattle Feeders' Trust? Counting out the rebates, were the quoted prices the same as the real, or was there a good deal of cutting?—A. During the time of the rebates the quoted price was 7 cents higher than the actual price charged by the outside dealers. Of course, the quoted price was the price the trust charged to their customers.

Q. Then they took off the rebate of 7 cents?—A. Oh, yes, the rebate certificates were redeemed afterwards, but the outside dealers always sold at 7 cents below the quoted price.

THE BONDED WAREHOUSE SYSTEM.

Q. (By Representative LIVINGSTON.) In what way does the United States Government befriend these dealers?—A. They are not benefited in any way that I can see, except so far as they are influenced by—

Q. (Interrupting.) I mean, what direct benefit, if any, does the United States Government give the distillers of whisky; and if any, how?—A. I think the greatest benefit is in compelling us to keep accurate records, so that we know more about our business than we would otherwise. The Government's action results in the small dealers keeping such close account of their daily productions that they know at all times just exactly what they are doing.

Q. That is an indirect benefit. Is there not a direct benefit? When whisky is put into a bonded warehouse, does not the Government bear the loss on account of evaporation and give you all the profits?—A. I think you state that question in a prejudiced way.

Q. Can you state it in a better way?

Q. (By Mr. FARQUHAR.) Explain that whole system.—A. The Government allows 8 years in which to pay the tax, and for 4 years of that they do not charge for the evaporation; they regauge the package at the end of 4 years and levy the tax on what they find in the barrel at that time.

Q. (By Representative LIVINGSTON.) What is the percentage of evaporation in that first 4 years?—A. It evaporates about 9 gallons per barrel of 48 gallons.

Q. About 9 gallons?—A. That would be about 20 per cent.

Q. When you take it out after another 4 years do you regauge it again?—A. We regauge it again.

Q. Who bears the loss then?—A. The distiller bears the loss after the first 4 years, and I want to state to the commission that that law has produced the most disastrous results to the distillers.

Q. When the 8 years have about expired and you have not sold it, can you not ship it abroad and keep it and then bring it back with certain privileges?—A. We can leave it abroad just as long as we want to, and age gives it value. We can then bring it back and keep it in a bonded warehouse, and we are allowed 8 years to pay the tax.

Q. That makes 11 years?—A. Eleven years.

Q. (By Mr. PHILLIPS.) About what does it evaporate in the second 4 years?—A. It evaporates less in the second 4 years than in the first 4 years.

Q. What per cent?—A. I am working on 7 years; 7 years is the oldest whisky I have in stock and I am losing in the neighborhood of 17 gallons.

Q. (By Representative LIVINGSTON.) That ripens the whisky, if I understand it?—A. That ripens the whisky.

Q. Granting that the Government pays for the loss by evaporation for the first 4 years and you for the next 4, how much is the value of the whisky increased in that time by ripening?—A. Since that law was passed our experience has been that it worked the other way.

Q. How do you mean?—A. That the ripe whisky has sold for less at the age of 8 years than they were able to get for it when it was 4 years old in previous times. The law caused an overproduction of the finer grades of whiskies and resulted in lots of 8-year-old whisky being sold for less money than 2 or 3 year old whiskies.

Q. Where did you sell any such whisky as that?—A. We sell it all over the United States.

Q. Among the Indians, or where? Do you mean to tell me that the man who drinks whisky in Washington or New York pays as much for green whisky 4 years old as for 8-year-old or ripe whisky?—A. You misunderstand me; I mean the wholesale dealers in the way they buy them. For instance, we will suppose that they buy at the original gauge 8-year-old whisky of the distillers at 55 cents. For 8-year-old whisky they will pay only 45 cents. The reason for that is that the wholesaler pays the tax on the extra evaporation between the fourth and eighth years. He pays the tax on something that he does not get to give to the trade, i. e., the Government receives taxes on nothing. The result is that the price of the old whisky in its original form is less than the new that has been produced, which is very disastrous to the whole trade.

Q. Who bears the expenses for the first four years that the whisky is in the bonded warehouse?—A. The distiller.

Q. Do you mean all the preliminaries, the help, the rent of the warehouse, etc.?—A. Yes.

Q. Why is it put in bonded warehouses? Why not put it in your own?—A. We do not have the tax to pay in the bonded warehouse. Then we really do put it in our own, for we own the bonded warehouses ourselves, and they are only called bonded because they are in charge of the Government.

Q. You pay all the running expenses?—A. We pay all the running expenses; but we do not carry even our own keys.

Q. (By Mr. JENKS.) Do you carry the insurance?—A. We carry the insurance and every expense connected with the business.

Q. (By Representative LIVINGSTON.) And then get less for it than before it is ripened?—A. That has been the experience so far.

Q. Do you not think that that will break up the bonded warehouse system?—A. We hope Congress will enact a law levying the tax on what is in the barrel when it leaves the bonded warehouse. The present method results in disaster to the men employed in the business, creates a hardship on the trade, and does not benefit the Government.

Q. (By Senator DANIEL.) No matter how old the whisky may be?—A. No.

Q. Do you mean it should be taxed at the time it is sold?—A. At the time it goes into the general avenues of trade. That is the only proper way to get a fine and unadulterated liquor on the market. It should be taken out in charge of the Government and the tax paid according to what is found in the barrel.

Q. (By Representative LIVINGSTON.) Is the proof of the whisky raised or lowered by storing it?—A. That depends upon the condition of the warehouse. If it is dry and warm, it will increase; if it is cold and damp, it will decrease.

Q. (By Senator DANIEL.) Decrease in what respect?—A. In proof and strength. We put it in originally at about 100, and 200 is pure alcohol. It will increase from 100 to 125 in 4 or 5 years where heat is employed.

Q. (By Representative LIVINGSTON.) Can you, then, put in water enough to reduce it to 100?—A. Yes, they allow us to do that.

Q. (By Mr. JENKS.) How does the bonded warehouse system affect the product handled by these combinations?—A. It only affects them generally for 5 or 6 months. They care nothing for the bonded period except for the temporary storage; for their product is immediately marketable.

Q. (By Representative LIVINGSTON.) Are you now speaking of the trust?—A. I am now speaking of the trust production and also of the distillery I operate.

Q. Did he not ask you as to the effect of these bonded warehouses upon the trust?

Q. (By Mr. JENKS.) I asked how it concerned the trust.—A. It gives them a chance to handle their liquor so that they do not have to pay the tax until the trade demands it, which is generally in the course of 2 or 3 days, but which has been about 2 or 3 months.

COMBINATION NOT ESSENTIAL TO ECONOMY IN PRODUCTION.

Q. Have any methods besides the cutting of prices in special localities been employed by the combination in order to induce other people to come in?—A. They employ every means they know to induce others to come in—competition, intimidation, throat-cutting prices. Oftentimes they try to purchase their plants.

Q. Do you know of any cases where they have bought out rivals at more than a fair price in order to get them out of the way?—A. They have almost always had to do that.

Q. Can the individual distiller with a good sized distillery manufacture as cheaply and get as much in the way of by-products, etc., as the combination?—A. After a certain point he can, but too small a distillery is operated with less

economy, both in production and in the cost of labor. A reasonable sized distillery can perhaps compete with them, because it can average better in prices.

Q. (By Mr. PHILLIPS.) What would you call a reasonable sized distillery?—A. A reasonable sized distillery would be one of 1,500 bushels. That would not produce quite as much liquor and the labor would cost a little more per gallon, but not very much.

Q. (By Mr. JENKS.) Can a single independent distillery of 5,000 bushels manufacture as cheaply and get as much out of the raw material as any distillery managed by the great combination?—A. I think that a 5,000-bushel distillery can be operated as cheaply as any, both in respect to production and labor.

Q. Does any saving result from combination, so far as the manufacturing process is concerned, provided a man has a distillery of 5,000 bushels?—A. The combination of different distilleries makes no saving to anybody except, of course, that they can stop running some plants and make more profit out of the others.

Q. That is to say, so far as they really control the output?—A. Yes, sir; the combined distillers themselves have no particular advantage. The independent distiller can, on an average, sell his goods at the same or a better price than the trust, because the trade is inclined to favor him. The combination can not produce any more liquor per bushel of corn than the independent distiller, nor can their labor be made any cheaper after a certain limit is reached. A distillery consuming from 3,000 to 5,000 bushels is the most favorable size so far as labor is concerned.

Q. Does a great combination among the distillers afford any advantages in the buying of raw materials, fuel, etc.?—A. There is no saving in the buying of fuel or grain. I can buy 1 or 2 cars of corn just as cheap as the combination can buy 100,000 bushels.

Q. Has the combination been able to secure any better rates in the transportation of their product than the independent distillers?—A. I am unable to answer that. I know they have received very good rates at times, but I am unable to say whether they received better than I did.

Q. (By Senator DANIEL.) What rates do they give them?—A. I should say the regular tariff.

Q. (By Representative LIVINGSTON.) What rates do you get?—A. At the present time the railroads are pretty stiff on their rates, and I do not believe there is any cutting. There has been cutting in rates, but, I believe, not since the 1st of last January. I should not want to say that I received any rebates; that is against the law.

Q. You would not want to say that you did not, either, would you?—A. Well, that would depend upon what court I was placed before.

Q. (By Mr. JENKS.) Then, as regards the sale of liquor, you are inclined to think that the independent distiller has an advantage over the trust?—A. I think he has at the present time.

TRUST HAS AN ADVANTAGE IN SELLING IN FOREIGN MARKETS.

Q. Is that true with regard to both domestic and foreign markets?—A. I think the trust has the advantage in foreign markets.

Q. Why?—A. For the reason that when foreigners do buy they buy in large lots, 5,000 barrels at a time, and the only distiller that is able to offer 5,000 barrels is the large combination. They are also enabled to reach the foreign markets by having agents in so many different countries, which they are able to pay, but which the independent distillers are unable to support. In that way the trust is able to work up and hold the foreign trade in China and Japan, for example, where they have had an agent. The foreign trade, though, does not secure any more profitable rates than we get in this country, but it has the effect of relieving them of the surplus.

WORK OF WITNESS WHEN IN THE COMBINATION.

Q. (By Mr. PHILLIPS.) You stated some time ago that you were employed in disagreeable work when connected with the combination, such as inducing other persons to come into it. In what other capacity were you employed that was not very agreeable during that time?—A. I did not say that the employment was disagreeable. The fact of being a mere clerk of the corporation was the disagreeable part. I was employed also as manager of the Kansas City distillery for a while for the purpose of bringing it up to the highest state of perfection. It had been operated at a disadvantage by the trust, and they wanted somebody who had a knowledge of the latest methods to bring it to the highest state of efficiency. They sent me there for 5 or 6 months to bring about that result or demonstrate that the locality was unfavorable.

Q. You have given us some reasons why you went into the combination, but you have not told us why you went out.—A. I simply sold out my stock certificates in the Distilling and Cattle Feeding Company because it became very speculative and the prices were such as to induce a sale. I also sold out about the time that my salary as manager expired. At its expiration they did not see fit to renew it, and I did not demand it. In that way I became disconnected with the trust.

Q. Did you get what would be called an unusual salary while working for the combination?—A. My brother and I owned a distillery that was connected with the trust, and we received jointly \$5,000 a year for managing a distillery that was not operating.

Q. (By Mr. JENKS.) Did you not have any work to do?—A. I had no work to do after the distillery was closed.

Q. It was a fair salary?—A. It was a fair salary for doing nothing, but it was not too large if the distillery had been in operation.

Q. (By Mr. PHILLIPS.) Will you say whether you think it more profitable to operate individually or as a part of the combination?—A. I went into another line of business shortly after, called the rye-whisky business, and leased one of the trust's old houses that they were not operating. Of course that business did not compete with them in any way, but it was not active enough to suit me, and later (1897) I went into the spirit and alcohol business again. I leased another distillery for that purpose, and did not build. I found one already built that suited me, and I am operating it outside of the trust at the present time. When the Standard Distilling and Distributing Company was organized they tried to buy it through me, but failing in that, they went directly to the owners and bought it right out from underneath my shoulders; so that when my lease expires, which it will in the course of 4 or 5 months, I will be thrown out of that distillery and shall either have to build or go out of the business.

Q. (By Mr. JENKS.) They will then be rid of another competitor?—A. I suppose their object was to get rid of me as a competitor, thinking, perhaps, that I would not rebuild.

Q. (By Mr. PHILLIPS.) Do I understand that you have now no connection with the combination or trust?—A. None whatever.

Q. You are operating at present independently?—A. I am operating independently, and have been for the last 2 years.

EFFECT OF THE COMBINATIONS UPON WAGES.

Q. (By Mr. JENKS.) What has been the effect of these combinations upon wage-earners in the distilling business? Have they employed as many, on the whole, as were employed before? Have they paid as good wages, etc.?—A. I do not think they employ quite as many in all the distilleries, although wages have not changed in the last 20 years. All the employees of these distilleries receive very good wages. Their work is not hard and is very agreeable; they all seem to be satisfied. I have never known of distillery employees being dissatisfied with their salary or wages. They seem to enjoy the life, and did not object when the trust was organized. The trust increased wages in some of the minor positions and made them uniform in all the different distilleries. I believe they also at that time increased prices to the coal operators.

Q. So Mr. Greenhut testified. What was the effect? Was there permanent improvement?—A. Not with the coal operators or barrel makers. At first, when the trust was having a profitable business, they kept up prices to these different people, both the barrel makers and coal dealers receiving a fair profit; but when they began to have competition they brought everybody down to the closest possible margin, and coal at the present time is cheaper than ever before in the history of the distilling business. We are buying it every day at from \$1 to \$1.10 per ton in the bins of the distillery.

Q. (By Mr. RATCHFORD.) What kind of coal is that?—A. Common coal.

Q. Lump coal?—A. Bituminous coal. Unscreened, it is sold at \$1 a ton; screened, it is sold at \$1.15 per ton.

Q. (By Mr. PHILLIPS.) How many laborers are employed in a distillery running from 3,000 to 5,000 bushels per day, and what would their average wages be?—A. A distillery of that capacity requires from 40 to 60 men, perhaps 80, including the cattle feeders. The manufacture of spirits and alcohol does not require a very large quantity of labor.

Q. About what is the average wage?—A. The lowest wage is about \$11 per week; from that it runs up to \$30 per week for the more experienced men; the average would be perhaps \$18.

COMBINATION NECESSARY IN THE DISTILLING BUSINESS.

Q. (By Mr. JENKS.) From your experience, do you think the present combination is likely to succeed permanently, two former ones having failed?—A. I think competition will, in the end, bring about the downfall of all trusts. Still, I do not think our business can succeed for many years without some form of combination. We seem to be unable to get profits in the business without some form of combination. In fact, we almost always have to sustain losses when there is not a combination. I believe, however as I said before, that no form of trust can be perpetuated. There will be mishaps in the distilling business the same as in any other. I do not believe that legislation will be as effective in bringing the relief that people want as the natural course of events. I do not believe the people are so much oppressed by the trust's manipulation of prices as by the speculation in stocks and the disastrous results that follow to the original proprietors, who cease to be a part and parcel of the business world.

SPECULATION AND OVERCAPITALIZATION THE GREATEST EVILS OF THE TRUST SYSTEM.

Q. Then you think that this social fact and the speculation in stocks coming from overcapitalization are the two greatest evils in the trust system?—A. It seems so to me. I do not believe the evil results to the public are as great as pictured by people generally. I have never been able to see that any trust with which I have been connected has been oppressive to the people, and I have not observed that the prices established by other trusts have been at all hurtful to the public at large. As individuals, we buy as much as we are able; and when we find the price of an article is too high we curtail our wants to correspond with the capacity of our purses.

Q. Does not that hurt us any?—A. It results in no injury to us; it averages up so that, in the long run, benefits accrue to individuals. There is no form of trust that makes money but that also produces good results to the individuals connected with it. Immediately the distribution of their surplus wealth brings good results in other places, which perhaps counteracts the evils of the trust. That is my idea of the question.

RELATION OF COMBINATIONS TO THE DISTRIBUTION OF WEALTH.

Q. (By Mr. PHILLIPS.) Do you believe that an accumulation of \$100,000,000 in the hands of a corporation or an individual can really accomplish in any benevolent work or work for the people at large as much good as it would if left in its natural channels?—A. I think the chances are that one hundred millions could not be produced without the business methods of the combination, or, if it were, that it would be distributed so gradually that you would never notice the benefit of it.

Q. But if it were distributed so that we could not take note of it, would not that be more beneficial than the devoting of large sums to benevolent work?—A. I will not dispute the position that large fortunes are undesirable, but I believe they have never been accumulated in a way that is not beneficial to the people at large. I do not believe there are any disastrous effects to the public except so far as public feeling is turned against the man with a large fortune, resulting in socialistic and anarchistic sentiments.

Q. Would not general individual fortunes be much greater if it were not for the vast accumulations of recent years?—A. I believe these large accumulations have been a great benefit to the industry of the country, because they have made possible commercial enterprises and produced results that no single individual or small company could ever hope to attain. For instance, the Standard Oil Trust has solved the problem of pumping oil from Pennsylvania to Chicago; no single individual could ever have accomplished that with the small sums ordinarily invested in the oil business.

Q. Could not that have been done by an ordinary corporation just as well as by the trust? Is not the building of a pipe line much less expensive than a railroad?—A. Of course, that might have come about; but at the same time I have noticed, especially in our own case, that trusts are always employing men to experiment in new directions, both in working up trade and in lessening the cost of production. They have developed trade in foreign countries where there was none before; they have taken up and investigated new patents and made every possible effort to increase the volume of business.

Q. (By Mr. JENKS.) Can you point out any specific improvements in the distilling business which the combinations have made and which would not have

been made just as soon by private individuals?—A. There are quite a number of little things.

Q. Mention some special ones.—A. One concerns the amount of production. They have always employed a chemist, who has pointed out the mistakes of the yeast makers, and thereby enabled them to secure a higher average production per bushel of corn than was secured by individuals before the trusts came into existence.

Q. (By Mr. PHILLIPS.) Is it not a fact, however, that almost all the patents controlled by trusts and monopolies are the work of individuals, and that they do not originate with the monopolies?—A. I think that is true.

Q. (By Mr. JENKS.) Then, you are inclined to think after all, that if there is sharp competition among individuals new patents will probably be taken out that will ultimately become useful?—A. I think greater benefits are derived from patents when they go into the hands of large corporations, because the ordinary individual is generally unable to demonstrate to the world that his patent is worth anything. Put into the hands of a company, its utility is soon demonstrated. They push it and advertise it and get it to the trade, making people believe it is worth something, whether it is or not.

Q. (By Mr. PHILLIPS.) Do you believe that any individual, by his own efforts, unaided by discriminating laws, is capable of earning a hundred million dollars in 10 or 15 years?—A. I do not believe so. I believe such large accumulations are derived, not through the ordinary operations of business, but rather through the multiplication of stock certificates. A fair dividend on the stock gives value to it, but as a matter of fact a hundred million dollars has not been produced. A man may apparently be worth a hundred millions, while his real property is not more than a tenth of that. In fact, this was true of the original Standard Oil Company.

Q. But are there not well-authenticated instances of individuals dying in this country who were worth \$100,000,000? Why should one man be able to acquire so much more than another, having equal intellect and advantage?—A. It is not the difference in ability; but I do not believe you can get up any form of legislation that will stop such things under our present conditions.

LEGISLATION WILL NOT CORRECT THE EVILS OF TRUSTS.

Q. (By Mr. JENKS.) You have taken the position that stock-speculation, stock-watering, etc., are, perhaps, the greatest evils resulting from combinations. Have you any remedy to suggest?—A. Practically, I think these evils correct themselves and that legislation never eliminates them. Whatever laws you may enact to correct these evils and to regulate trusts, they will find ways of evading more rapidly than you can follow up with legislation.

Q. (By Mr. PHILLIPS.) But do not trusts levy tribute on the people? Do not some of the trusts exercise a more absolute power in fixing the prices of commodities than any king or emperor could?—A. I believe they do at times; but the minute they attempt to secure an arbitrary profit, you will find other investors going into the business, and then the evil is corrected more quickly than you could legislate it away. That is my idea on the subject; you may take it for what you think it worth.

TWENTY-FOUR PER CENT DIVIDENDS.

Q. (By Mr. JENKS.) Were there any dividends paid on either the certificates of the Distillers' and Cattle Feeders' Trust or on the stock of the Distilling and Cattle Feeding Company which you say was watered at the rate of about 4 to 1?—A. We received 6 per cent dividends for about all the time I was interested in either the trust certificates or in the stock of the Distilling and Cattle Feeding Company. The dividends were issued on the par value of the stock.

Q. As a matter of fact, then, the actual profits were about 24 per cent?—A. Yes, on the original cost of the plants.

Q. Did that continue until the concern went into the hands of a receiver?—A. Until very nearly that time.

Q. (By Mr. A. L. HARRIS.) Upon what basis is stock usually watered? For example, what was the basis in your combination?—A. Well, they issued four shares of stock for each share of the original cost of the property and the cash put in.

TRUST FIXED THE SELLING PRICE FOR DISTRIBUTERS.

Q. In speaking about the rebate system a little while ago you said that the distributor was required not to buy of any other distillery. Was it also made a condition that he should not sell below a certain price?—A. Do you mean the distributor?

Q. Yes; I mean the distributor.—A. I am not certain as to that point. At the present time the distributor is obliged to sell at a specific price. That is the present situation, but not the condition that existed years ago.

Q. (By Mr. JENKS.) Does the present American Spirits Manufacturing Company fix the price for the distributor and insist upon his living up to it?—A. Well, I think they fix the price, but the distributors have an association among themselves, known as the Distributors' Association, through which they agree to sustain certain prices that are regulated among themselves, although they may be dictated by the officers of the trust.

Q. (By Mr. A. L. HARRIS.) Do you remember the facts relied upon in the case of *Greene v. The United States*, in the habeas corpus proceedings, southern district of Ohio, several years ago?—A. I do not remember that at all. Was it connected with our company?

Q. It was connected with the Distilling and Cattle Feeding Company, but perhaps it was before you were in it?—A. I have known Mr. Greene all my life, but I do not remember that case.

Q. Do you remember that he was indicted along with others in Massachusetts?—A. Yes; I remember that.

Q. He was in Cincinnati and was arrested there, and when a requisition was made upon the Governor of Ohio for delivering him to the Massachusetts officers, he applied for a writ of habeas corpus. Was not the fact stated in the indictment that the distilling company had required the distributor not to sell below a certain price?—A. Yes; I remember the case to a certain extent, but my remembrance is not clear enough for me to give any definite idea on the question. My remembrance is that it was in the nature of a blackmailing case. I can not tell much about it at the present time; we had so many cases of that kind that my memory is not definite in regard to it.

ORGANIZATION OF THE UNITED STATES SPIRITS COMPANY.

Q. (By Mr. JENKS.) What do you know about the United States Spirits Company that was said to have been organized in Cincinnati about the middle of 1898 to distribute the country's output of alcohol and spirits?—A. I know of that in a general way.

Q. Can you not give some details with reference to that business?—A. I have a mere idea in regard to it; I had a copy of their proceedings, showing the prices to the wholesale trade and the prices to be charged to the retail trade. It came to me indirectly through one of the individual members. I got it as a matter of information so that I would know how to arrange my own prices.

Q. Do you know whether they have control, as distributors, of a very large part of the country's product at present?—A. They only control it so far as the trust gives it to them. The trust places all its product in the hands of distributors, but there are two distributing houses that belong to the trust, so that it is a distributor in competition with these local distributors who do not hold any stock in the trust. H. H. Shufelt & Co.'s plant belongs to the Standard Distributing Company, but the distributing house itself belongs to the American Spirits Manufacturing Company. In New York there is a large distributing house known as the American Distributing Company, which is owned by the Standard Distributing and Distilling Company. They own 2 or 3 more distributing houses in New York, one of which, I believe, is known as the National. They also have a distributing house in Cincinnati known as the Mill Creek Distilling Company. All of these are owned by the trust, which goes into competition with regular distributors; but, at the same time, they all belong to the association of which you were speaking—the United States Spirits Company.

COMBINATION OF RYE AND KENTUCKY WHISKY DISTILLERS.

Q. Do you know anything of the combination among the distillers or rye whisky and Kentucky whisky for the purpose of controlling all of their product?—A. I have been informed by many Kentucky distillers that they had been given options on their plants by the Kentucky Distillers and Warehouse Association. I know of one or two transactions being completed and the money paid, and I have read that quite a number of others were consummated also.

Q. Being in the rye-whisky business yourself, have you received any such proposition?—A. In no way whatever. I have had some conversation with the attorneys who were connected with the promotion of this combination, but have received no offers, nor any indication that there would be any offers.

THE CONTROL OF PRICES.

Q. (By Mr. A. L. HARRIS.) If a trust is able to control 80 per cent of the consumptive demand for any article or necessary of life, is it in a position to control prices?—A. A trust can control prices on an 80 per cent basis, provided they allow their competitors to get what trade they want and simply take what is left. In our line of business the competitors always seem to have the first choice, our product being a staple article. Of course, in staple articles a man can compete more easily with a trust than in articles which, you might say, are specialties. Any man who makes alcohol can sell it. But when he comes to offer rye whisky, his special brand may have a particular quality that makes a difference in the trade, and for that reason the trust might own 80 per cent of the rye-whisky plants and might, having the best brands, control 99 per cent of the trade.

QUESTION OF WAGES RESUMED.

Q. (By Mr. KENNEDY.) Do the wage-earners in your business have steady employment the year round?—A. For the last 20 years there has been pretty steady employment; it is very seldom that the distillers close down, and when they do the men are employed in making repairs.

Q. Are there ever very many who follow the business out of employment?—A. Very seldom; there have been a few men who have lost their places through radical changes who have been unable to get back, and who have had to seek other kinds of employment.

Q. Are they organized in any instance?—A. Only the engineers; there is no other organization of which I know.

Q. Have you stated the proportion of the distilleries of the United States that are now in the combinations, and the proportion that are outside?—A. In the manufacture of alcohol and spirits, about 75 per cent of the production is by the combinations and about 25 per cent by the outside distillers. This is not the proportion as to capacity, but the proportion of the amount that is being produced at the present time. For instance, there are about 30,000 bushels being manufactured into spirits and alcohol by the trust, and about 10,000 bushels by those outside of the trust.

PRESENT INDUSTRIAL CONDITIONS LIKELY TO CONTINUE.

Q. Do you believe that the evolution now going on in the industrial world will, if unchecked, eventually result in placing the industries of this country in the control of a few thousand men?—A. I do not think so. I believe that the present conditions in trade will continue. New men will be coming into the different lines at all times in such a way as to produce new competition and create practically the same state of affairs that we have now.

Q. (By Mr. PHILLIPS.) On a larger scale, do you think?—A. I do not think we shall have combinations on a larger scale; but there will be competition on a larger scale.

Q. (By Mr. KENNEDY.) Is it not generally feared at the present time that all manufacturing industries will fall under the control of a few large combinations?—A. I am one of those who believe that there will be more diversification in the future than now; that the small trader will come in and buy a factory because of special aptitude in his line of business. Still I think a multiplication of large combinations will continue for the next 10 years, but even while that continues small traders will be coming in and conducting their business, and the combinations can not fight the small trader as they do companies more nearly their equals.

Q. (By Representative OTJEN.) Can they not do the way they did with the California people—lower the price and crush them out?—A. That results more from a scare than anything actually accomplished. In a staple article a man does not need to sell to the same customer every day. For instance, in former times, before I entered into the trust, I used to have 8 or 10 customers that took all the spirits and alcohol I produced; but during the last 2 years, by changing the policy of my business, as it were, I have sold to at least 150 different companies and people, changing my trade very rapidly, and getting fully as good prices as if I had continued trading with 2 or 3 men.

Q. (By Mr. JENKS.) Do you mean that you have been driven out of special markets and have gone into others?—A. That is it exactly, and to other individuals, changing my trade quite rapidly.

EFFECT OF TRUSTS UPON SMALL TOWNS AND CITIES.

Q. (By Mr. PHILLIPS.) What will be the effect of combinations of capital and concentration of industry upon the smaller cities and towns when the large cities become the centers of organization?—**A.** I think that depends more upon the question of transportation and freight rates than anything else.

Q. What effect will it have on the financial conditions of the smaller places if they do their banking business in New York, Chicago, Philadelphia, etc.?—**A.** I never could see that that was detrimental to smaller places. I live in a moderate-sized city. After I had established a credit in Chicago, I could go up there in times of disaster and bring money down to Peoria; and it seems to me to be beneficial, rather than otherwise, because the large Chicago bankers, when they have confidence in a man, extend him more credit than my bankers would dare.

Q. Do you have any idea that, in the course of a few years, when industries are more generally combined, with central offices in Chicago or New York, money will be taken there very largely and the bank accounts in smaller places diminished?—**A.** They do that now. Our company, as it was originally organized, always kept a New York account. At first they kept a large Peoria account, which seemed to be beneficial; but I doubt very much whether in the long run such changes in banking methods as you suggest will be detrimental to the smaller cities. The small city only needs enough capital to do its business with. Anything beyond that is unnecessary.

THE GENERAL EFFECTS OF TRUSTS.

Q. Upon the whole, do you think trusts detrimental or beneficial?—**A.** I think they are beneficial so far as they insure profitable returns, but they destroy the individuality of the original proprietors.

Q. And of many of the employees?—**A.** I do not know that it affects their individuality so much, but it does that of the proprietors. They disappear from view so far as their influence in the business is concerned.

Q. When a number of plants are put under one management it necessarily relieves foremen, superintendents, and traveling salesmen of a great deal of work, does it not?—**A.** It relieves some traveling salesmen, but not many foremen. I think a great majority of them are kept in employment.

Q. But are not a great many plants closed down?—**A.** That, of course, is to be expected, but it also increases other expenses; more men are employed in the offices to keep the records and look after the machinery of the large corporation. It always seems to me that it takes more high-salaried men, proportionately, to control a large corporation than a small one. I am speaking with reference to our line especially.

Q. (By Mr. KENNEDY.) Do you think that trusts have their most baneful effects upon the proprietors of the concerns that originally go into them?—**A.** So far as their individuality and personality is concerned they cease to be a factor in the business in which they were formerly a power. They lose their prestige in the business world.

Q. (By Mr. PHILLIPS.) Do they not spend most of their time cutting off coupons?—**A.** I can not say that. My observation has been that the majority of them invest in stocks, the value of which disappears.

Q. Perhaps they prefer to spend it in foreign countries?—**A.** In some lines of industry that is true. It has also been true of a great many of the original proprietors in the distilling business. A great many are growing old and wish to get out of the business. The most baneful influence that I have seen is upon the young men who would naturally succeed their fathers. They seem to have no place in the world. They wish to do something, but fear to fight the trusts. They do not wish to risk the little money they have. Eventually, I think, they will find a place—possibly in some other line. The risk for their little money seems great.

Q. (By Mr. C. J. HARRIS.) Can't they invest in trust stocks?—**A.** They have not the same faith in trust stocks that some others have; they know how much water they contain.

Q. (By Mr. JENKS.) After the formation of the Distillers and Cattle Feeders' Trust were not many of the distilleries that went in abandoned?—**A.** A great many were.

Q. There were 81 that went into the trust?—**A.** Yes.

Q. How many of the 81 were abandoned?—**A.** I should judge over 60 of them.

Q. Then did not many employees of these 60 distilleries have to look for other kinds of work?—**A.** Yes; but a great many of the 60 had not been operated for some years before, because under our system of pools we paid so much

into the treasury for the purpose of giving them time to cease operations. They had been kept quiet in that way, and a majority were dead before we organized the trust.

Q. But if they had been owned and controlled by individual distillers would they not have been running more or less all the time?—A. No; on the contrary, I think the majority of the 60 would have been wiped out of existence by competition, and would have rotted down and been sold for old junk and metal; they would have disappeared from view.

REASONS WHY THE SUPPLY OF DISTILLERIES HAS EXCEEDED THE DEMAND.

Q. (By Mr. A. L. HARRIS.) What caused the supply of distilleries to exceed the demand?—A. At different times the business has been very profitable, and that has always caused an increased number of distilleries to be built. The large exports to Europe from 1874 to 1879 was one thing in particular that caused an overproduction of distilling plants. We could not make alcohol fast enough to supply the wants of Europe. That condition was caused by the failure of the potato crop in Germany, out of which they make their alcohol. We also sold more or less in France, Italy, and Africa. It would go out in 20,000 barrel lots; that was really the cause of the organization of our first pools; when our trade suddenly stopped we had a great overproduction in distilleries; you can see at a glance why we could not make any money if all attempted to run, and consequently we adopted the pooling method.

SHOULD TRUSTS BE PLACED UNDER GOVERNMENT SUPERVISION?

Q. (By Mr. PHILLIPS.) If there is anything that has not been covered, anything that you desire to state to the commission now in your own way, we would be pleased to hear it.—A. I do not believe that I have any particular ideas on the subject other than I have expressed. I volunteered something half an hour ago that about covered my views. I might say again that I do not believe the evils of combination can be cured by legislation.

Q. Have you any remedial legislation to propose in that regard?—A. No, none whatever; but I believe it would be a good thing to take some action to prevent the watering of stock.

Q. Do you believe trusts should be put under Government supervision, similar to that of the national banks, and compelled to make a full public statement of what they are doing?—A. As a private individual, operating a factory, I should not like to have my business subjected to public criticism.

Q. Do you think it would be beneficial to the public to have some kind of an official examination?—A. I think that statements are frequently made for the purpose of influencing public opinion and manipulating the stock market. Such statements should be more carefully reviewed and the public given more accurate information. That would have a beneficial effect in regard to stock speculation.

Q. (By Mr. JENKS.) I understood you to say that you thought it had been decidedly beneficial to the distilling business to have the rigid Government supervision of distilleries that there is now, because it induced the officers of the distilleries to be more careful in their bookkeeping and methods of doing business, etc. Do you think such supervision might be beneficial in other lines of industry?—A. I think all large combinations accomplish the same result in their statistical departments that is accomplished by the Government in the records of the distilleries; and therefore you would not be accomplishing anything, except that the records kept would be made public.

Q. Are such statistics as reliable and useful as Government statistics?—A. Statistics furnished by large corporations generally show the favorable side of things. Things are generally made to look well on paper for the influence that it will have on the stock market. This is especially true in our business. The statements are always rose-colored, and the disastrous features are never made known to the public.

Q. (By Mr. PHILLIPS.) Would they be stated if there were a law requiring it?—A. I am unable to say whether or not such a law would be beneficial; it might if it were not too inquisitorial. That is what the large corporations dislike; they object to having their private affairs inquired into.

Q. If it were a condition of their charter, it would be proper and right, would it not? If they receive their charter from the State, should they not be amenable to the State?—A. Of course the law is that anything the State grants it can control or take away. Therefore, if such conditions were made when the charter was granted it might be beneficial.

AFFIDAVIT.

STATE OF ILLINOIS, *County of Peoria, ss:*

I swear that the statements made by me of my own knowledge in the foregoing report of my testimony before the Industrial Commission are true, and that all other statements I believe to be true.

CHARLES C. CLARKE.

Sworn and subscribed to before me this 9th day of August, 1899.

WILLIAM S. PARRY,
Notary Public.

[SEAL.]

WASHINGTON, D. C., May 15, 1899.

TESTIMONY OF GEN. JOHN McNULTA,

Receiver of the Distilling and Cattle Feeding Company.

The commission met at 11 a. m., Monday, May 15, 1899, Vice-Chairman Phillips presiding. Gen. John McNulta, receiver of the Distilling and Cattle Feeding Company, testified.

Q. (By Mr. JENKS.) Will you be kind enough to state your full name and address?—A. John McNulta, Chicago; office in the First National Bank building

RECEIVERSHIP OF THE DISTILLING AND CATTLE FEEDING COMPANY.

Q. Will you explain to us briefly what your connection with the Distilling and Cattle Feeding Company has been, and how you came to be put in charge there?—A. I was appointed receiver of the Distilling and Cattle Feeding Company on the 4th of February, 1895, by the United States circuit court for the northern district of Illinois, northern division, in what is known as the *Olmstead case*, *Olmstead et al. v. The Distilling and Cattle Feeding Company*. I was appointed in the first instance as the special representative of the court. On the 28th of January Mr. Joseph B. Greenhut and Mr. E. F. Lawrence were appointed receivers, the former having been president of the company. A stockholders' committee intervened and applied for the removal of Mr. Greenhut upon the ground that he had been engaged in stock speculations, was short on whisky stock, and that his interests were adverse to the trust. He was removed. Mr. Lawrence, a director of the First National Bank of Chicago, was retained as the representative of the interest by which he was nominated. Mr. John J. Mitchell, president of the Illinois Trust and Savings Bank, on the nomination of another interest, was appointed receiver. I was appointed on the nomination of the court as the special representative of the court. The triple receivership continued from the 4th of February until the 23d of March, when Mr. Mitchell and Mr. Lawrence resigned. I was continued as sole receiver and am still acting in that capacity, the active business of the trust being, however, substantially closed. There are a few small properties or interests undisposed of and some claims unsettled. The active work, or the most active work, of the trust ran through a period of about 2 years and 6 or 7 months.

Q. Will you kindly tell us what your regular occupation was before?—A. I am a lawyer and have practiced my profession for 30 years or more.

HISTORY OF THE ORGANIZATION.

Q. Can you give us some detailed information with reference to the Distilling and Cattle Feeding Company; for example, its name, its date of organization, place of incorporation, place of business, etc.?—A. I have made statements, or had statements made from the books, which I have numbered and called exhibits, that I deem more reliable than my memory, and I brought them here. I wish to apologize to the commission for not coming as fully prepared on this matter as I ought. The active work of this trust has been off my hands for some time, and I have other very pressing work which keeps me very close. My hours are long and I have not been able to give the personal attention to it that I should like to have done. But I have had my secretary, who went through this work with me and is an expert and who has full knowledge of the books and accounts, aid me in the preparation of these papers. I offer you here Exhibit 1, which gives a list of the distilleries, capital stock, and other matters pertaining to the Distillers and Cattle Feeders' trust, covering substantially the ground covered by your question.

EXHIBIT 1.

No.	Houses.	Location.	Secretary.	Capital stock.	Number of shares.	Number of trustees.	Other officers.	Transfers.	Remarks.
83	Barrington Distilling Co.	Chicago, Ill.	Thos. Hutchinson	\$100,000	1,000	999	1	All right.	
1	Great Western Distilling Co.	Peoria, Ill.	J. B. Greenhut	100,000	1,000	999	1	do.	
2	Peoria Distilling Co.	do.	Wm. McLean	150,000	1,500	1,498	2	do.	
3	The Woolter Bros. Distilling Co.	do.	Samuel Woolner	350,000	3,500	3,499	2	do.	
4	Monarch Distilling Co.	do.	F. T. Corning	250,000	2,500	2,498	2	do.	
5	Messoury Distilling Co.	St. Louis, Mo.	A. Bevis	100,000	1,000	998	2	do.	
6	The Madraz & Hobart Co.	Cincinnati, Ohio	W. N. Hobart	75,000	750	748	2	do.	
7	The White Mills Distilling Co.	do.	Geo. K. Duckworth	50,000	500	499	0	do.	
8	The Storrs Distilling Co.	Chicago, Ill.	O. L. Perin	50,000	500	499	0	do.	
9	The Miller Distilling Co.	Hamilton, Ohio	Geo. L. Miller	100,000	1,000	998	1	do.	
10	The Hamilton Distilling Co.	Chicago, Ill.	R. W. Caldwell	150,000	1,500	1,498	2	do.	
11	The Phoenix Distilling Co.	Cincinnati, Ohio	Geo. T. Burroughs	50,000	500	498	2	do.	
12	The Orange Valley Distilling Co.	Peoria, Ill.	B. F. Walsh	100,000	1,000	998	2	do.	
13	Manhattan Distilling Co.	do.	S. F. Clarke	150,000	1,500	1,490	2	do.	
14	Northern Distilling Co.	St. Louis, Mo.	H. Schwabacher	100,000	1,000	998	10	do.	A. Woolner transfer certificate No. 6. Should be signed by L. H. Greene.
15	Tennessee Distilling Co.	Chicago, Ill.	L. Tenschler	100,000	1,000	999	1	All right.	
16	P. H. Rice Distilling Co.	St. Louis, Mo.	T. J. Rice	200,000	2,000	1,998	2	do.	
17	Bremen Distilling Co.	St. Louis, Mo.	A. Sessinghaus	70,000	700	699	1	do.	
18	The Roselle Distilling Co.	Lawrenceburg, Ind.	D. F. Walsh	100,000	2,000	1,998	2	do.	Certificate No. 8, J. B. G.
19	Rock Springs Distilling Co.	St. Louis, Mo.	Z. W. Tinker	40,000	400	399	1	All right.	Certificate No. 16. Body says 111; should be 110.
20	The Mayflower Distilling Co.	Cincinnati, Ohio	Geo. F. Dieterle	100,000	1,000	998	2	do.	
21	The Robeson & Stegeman Distilling Co.	Newport, Ky.	J. H. Stegeman	75,000	750	748	2	All right.	
22	Martin Distilling Co.	Kansas City, Mo.	John W. Speas	200,000	2,000	1,998	2	do.	
23	Independence Distilling Co.	Independence, Mo.	do.	25,000	250	248	2	do.	
24	The Brighton Distilling Co.	Cincinnati, Ohio	M. S. Hoffheimer	100,000	1,000	998	2	do.	
25	Clarke Bros. Distilling Co.	Peoria, Ill.	Chauncey D. Clarke	100,000	1,000	998	1	do.	Chauncey D. Clarke, secretary, has no certificate of stock in name of Chas. C. Clarke.
26	The Dorsal & Wulfsberg Distilling Co.	Covington, Ky.	F. Wulfsberg	50,000	500	499	1	All right.	
27	The Covington Distilling Co.	do.	G. Holbrook	25,000	250	249	1	do.	
28	The Eagle Mills Distilling Co.	Peoria, Ill.	John D. Bush	150,000	1,500	1,498	2	do.	
29	The Eagle Mills Distilling Co.	Indianapolis, Ind.	John F. Pfeffer	100,000	1,000	999	2	do.	
30	Standard Distilling Co.	Peoria, Ill.	Oscar Furst	75,000	750	749	1	do.	
31	John S. Miller Distilling Co.	Sterling, Ill.	W. H. Miller	10,000	100	99	1	do.	
32	Canton Incorporated Distillery	Canton, Ill.	Jno. G. Harstein	50,000	500	499	1	do.	
33	Meiners Distilling Co.	Milwaukee, Wis.	G. Meiners	75,000	75	74	1	do.	
34	Pleasant Valley Distilling Co.	do.	Jno. W. O'Neill	50,000	500	499	1	do.	
35	The Beach Creek Distilling Co.	Foster, Ohio	John A. Parks	25,000	250	248	2	do.	
36	Krusse Bros. Distilling Co.	Peoria, Ill.	F. G. Kruse	40,000	400	398	2	do.	
37	The Hogan Valley Distillery	Aurora, Ind.	H. W. Smith	300,000	6,000	5,998	2	do.	

EXHIBIT 1—Continued.

No.	Houses.	Location.	Secretary.	Capital stock.	Number of shares.	Number of trustees.	Other officers.	Transfers.	Remarks.
39	Wabash Distilling Co.	Terre Haute, Ind.	John Beggs	\$200,000	4,000	3,998	2	All right.	Trustees hold 3 shares instead of 1.
40	The Shelby Distillery Co.	Shelbyville, Ind.	John E. Beggs	30,000	600	598	2	do.	
41	Willow Springs Distilling Co.	Omaha, Nebr.	H. Suesenbach	250,000	2,500	2,498	2	do.	
42	The Nebraska Distilling Co.	Nebraska City, Nebr.	George L. Woolsey	100,000	1,000	998	2	do.	Certificate does not state amount of capital stock.
43	The Crown Distilling Co.	Pekin, Ill.	H. P. Westerman	65,000	650	649	1	do.	
44	The Valley Distilling Co.	West Harrison, Ind.	Henry W. Voss	25,000	500	499	1	do.	
45	The Patriot Distilling Co.	Patriot, Ind.	Chas. H. Davis	10,000	200	199	1	do.	Do.
46	The Rodenberg Distilling Co.	Lawrenceburg, Ind.	F. Rodenberg	50,000	1,000	999	1	do.	
47	The Cumminsville Distilling Co.	Cincinnati, Ohio	Henry Babe	30,000	60	58	2	do.	
48	Fayette Distilling Co.	Albany, N. Y.	Chas. Tracy	10,000	1,000	998	2	do.	Do.
49	Beaver Valley Distilling Co.	Trebelna, Ohio	Wm. N. Silver	15,000	150	148	2	do.	
50	Great Eastern Distilling Co.	Peoria, Ill.	M. Farrelly	75,000	750	748	2	do.	
51	Pfeiffer Distilling Co.	Lebanon, Ill.	C. J. Pfeiffer	100,000	1,000	999	1	do.	Do.
52	The Dair Distilling Co.	W. Harrison, Ind.	Chas. E. Dair	50,000	500	499	1	do.	
53	The Licking Distilling Co.	Covington, Ky.	Louis Block	10,000	100	99	1	do.	
54	National Distilling Co.	Chicago, Ill.	Chas. Powell	100,000	1,000	999	1	do.	Certificate does not state capital stock, par value, etc.
55	The Barker Distilling Co.	Peoria, Ill.	W. C. Foster	135,000	1,350	1,348	2	do.	
56	The Hamburg Distilling Co.	Peoria, Ill.	E. W. Wilson	50,000	1,000	998	2	do.	
57	The Antique Distilling Co.	Midvale, Ky.	Chas. L. Mills	50,000	500	499	1	do.	Certificate No. 9 made out to W. N. Corning.
58	The Shamrock Distilling Co.	Higginsport, Ohio	Wm. Duffey	25,000	250	248	2	do.	
59	The Riverton Alcohol Works	Riverton, Ill.	H. B. Miller	30,000	300	299	1	do.	
60	The Maddox Distilling Co.	Dayton, Ky.	L. O. Maddox	48,000	480	479	1	do.	Certificate No. 9 made out to W. N. Corning.
61	Enterprises Distilling Co.	Pekin, Ill.	P. W. Dunne	75,000	750	749	1	do.	
62	The Davis Distilling Co.	Portsmouth, Ohio	P. W. Dunne	25,000	250	248	2	do.	
63	The Fairmount Distilling Co.	Cincinnati, Ohio		27,000	54	54	0	do.	Certificate No. 9 made out to W. N. Corning.
64	The Dayton Distilling Co.	Dayton, Ohio	L. Herancourt	10,000	100	99	1	do.	
65	The Carroll Distilling Co.	Wide Awake, Ky.	E. J. Mack	100,000	1,000	998	2	do.	

This exhibit contains the names of all the different houses in the company, 65 of them the location of each, the name of the secretary of each, the capital stock and number of shares of each, the number of shares held by the trustees and by the other officers, the nature of the transfers, and some remarks with reference to a few of the facts presented there.

Q. Has the general statement in this exhibit ever been printed?—A. I think not. The date of the organization of the Distilling and Cattle Feeding Company was February 11, 1890. The transfer of the properties was made, on the books of the Distilling and Cattle Feeding Company, on April 1, 1890.

Q. What was the nature of the product manufactured by this organization?—A. The product was spirits and alcohol, with small quantities of gin and whisky and blended goods generally, such as are put up by the distributing house of H. H. Shufeldt & Co. of Chicago. The refuse was used for cattle-feeding purposes.

Q. These minor products, then, were practically all manufactured at the Shufeldt distillery?—A. Practically all of them. Now and then, at the close of the distilling season, they ran off some whisky.

THE STOCKS OF THE COMPANY.

Q. Can you give us the details with reference to the amount of stock authorized and the amount issued, common and preferred?—A. Common stock to the amount of \$35,000,000 was authorized, and the full amount was eventually issued. There was no preferred stock authorized or issued; and there being no preferred stock, there were no dividends or profits of any kind on the same. The treasury stock was eventually all issued. There was nothing in the by-laws covering the issue or use of treasury stock. The total amount of bonds authorized was \$8,000,000. One million was issued, and I believe that, at a later day, the authority to issue the balance was revoked; \$2,500,000 of them, however, were put up as collateral for the repayment of money held on rebates. There were no bonds paid off. The total amount of bonds outstanding at the date of the receivership was \$1,000,000, with \$2,500,000 held by the trustees as collateral for rebates. The bonds were issued in the spring or summer of 1893. My recollection is that they were 20-year bonds. The rate of interest was 6 per cent. Four hundred thousand dollars of these bonds were issued to take up \$200,000 of indebtedness, as I recollect it; i. e., \$400,000 of the bonds were issued for \$200,000 in cash, through brokers. Two hundred thousand dollars in bonds were issued for \$100,000 in cash to certain officers of the company. There were none of these bonds issued in exchange for property. Perhaps my statements in regard to Exhibit 1 have been misleading to you.

THE DISTILLERS AND CATTLE FEEDERS' TRUST.

Exhibit 1 gives a list of 65 distilleries, which I believe went in, or were the first 65 houses that went in, to form the Distillers and Cattle Feeders' Trust, and not the Distilling and Cattle Feeding Company. The Distilling and Cattle Feeding Company having bought outright the properties and interests of the Distillers and Cattle Feeders' Trust, and all records of the Distillers and Cattle Feeders' Trust having been destroyed, it is impossible to give any better information than that contained in Exhibit 1.

Q. Was anything at all brought out in court or elsewhere as to why the books of the Distillers and Cattle Feeders' Trust were destroyed; who destroyed them, etc.?—A. I made diligent inquiry upon that subject and demanded the papers from the officers of the old company, but with no satisfactory results. The general response was that they were lost, destroyed, not in existence, etc. I never succeeded in getting them. When I took possession of the office at Peoria, with all the papers of the Distilling and Cattle Feeding Company, the trust papers were not there, and could not be found. So far as I am aware they never have been found, and I am satisfied they are destroyed.

Q. Did you find the papers of the Distilling and Cattle Feeding Company apparently intact?—A. Yes; apparently intact, but they had been separated. There was some little controversy between the receiver and the officers of the company as to which were the papers of the company and which were the private papers of the individuals. It ended in a dispute about 2 safes which were in the office and which were locked. It was insisted by certain of the officers of the company that they contained only private papers. But the safes were the property of the company, and I proposed to investigate. We got into something of a rumpus. They refused to open them; and I was compelled to get some locksmiths, who cut one safe open, and prepared to blow the other one open with dynamite, but before it was found necessary to do that an expert from

Chicago succeeded in opening it. In that safe we found a number of papers which we decided belonged to the Distilling and Cattle Feeding Company, and kept them and used them.

Q. Were the others turned over to the individual officers to whom they belonged?—A. Their private papers were separated and turned over to them. There were 3 expert accountants appointed—that is, during the triple receivership, 1 nominated by each of the receivers appointed by the court to operate under the direction of the receivers. They operated during the triple receivership, and under my direction during the sole receivership. One of these experts prepared these papers which I present to you to-day. He has had control of the papers, but the trust papers were not found, and could not be found. The stocks of these various distilleries were not listed, and there is no way of arriving at their market value at the time they entered into the trust or into the Distilling and Cattle Feeding Company. Exhibit 2 gives a list of the distilleries that were finally included in the trust, which exceeds the number in the original statement by 20. There is a column giving the date of entering the trust, by which is meant the date on which the distillery was taken into the trust. Under the head of "Distillery" is the name of the corporation. Under the head of "Location" is given the name of the town in which located. "R" shows that the house was a running house. "Not R" means that the house was not running, and "Shares" shows the number of shares in the Distillers and Cattle Feeders' Trust that were issued for the property.

EXHIBIT 2.—Name and locality of distilleries running and not running at time of transfer to Distilling and Cattle Feeding Trust.

No.	Date of entering trust.	Distillery.	Location.	Running.	Shares.
1	Feb. 2, 1888	Antique Distilling Co.	Kenton County, Ky.	No	1,870
2		Atlantic Alcohol Works	Atlantic, Iowa	No	846
3	Jan. 12, 1888	Brighton Distilling Co.	Cincinnati, Ohio	Yes	4,845
4	Nov. 14, 1887	Beach Creek Distilling Co.	Dayton, Ohio	No	248
5	Dec. 15, 1887	Beaver Valley Distilling Co.	Trebeins, Ohio	No	2,087
6	Jan. 23, 1888	Barker Distilling Co.	Peoria, Ill.	Yes	2,245
7	Oct. 3, 1887	Bush & Brown Distilling Co.	do	Yes	3,220
8		Bay View Distilling Co.	San Francisco, Cal.	No	
9	Aug. 16, 1887	Bremen Distilling Co.	St. Louis, Mo.	No	1,436
10	July 18, 1887	Birmingham Distilling Co.	Chicago, Ill.	Yes	9,248
11	Dec. 27, 1887	Cummingsville Distilling Co.	Cummingsville, Ohio	No	400
12	Sept. 20, 1887	Clarke Bros. Distilling Co.	Peoria, Ill.	Yes	3,687
13	Dec. 13, 1887	Crown Distilling Co.	Pekin, Ill.	No	2,250
14	Feb. 22, 1888	Carroll Distilling Co.	Wide Awake, Ky.	Yes	1,580
15	Sept. 22, 1887	Covington Distilling Co.	Covington, Ky.	No	808
16	Nov. 2, 1887	Canton Distilling Co.	Canton, Ill.	No	352
17		Comanche Alcohol Works	Comanche, Iowa	No	350
18	Feb. 23, 1888	Dayton Distilling Co.	Dayton, Ky.	No	
19	Jan. 28, 1888	Davis Distilling Co.	Portsmouth, Ohio	No	1,380
20	Jan. 2, 1888	Dair Distilling Co.	Harrison, Ind.	No	600
21		Dorsel & Wulfstange	Covington, Ky.	No	1,250
22	Oct. 18, 1887	Eagle Mills Distilling Co.	Indianapolis, Ind.	No	725
23	Mar. 6, 1888	Enterprise Distilling Co.	Pekin, Ill.	No	2,090
24	Feb. 28, 1888	Fairmount Distilling Co.	Cincinnati, Ohio	No	
25	Jan. 2, 1888	Farrington Distilling Co.	Piqua, Ohio	No	
26	Dec. 1, 1887	Fayette Distilling Co.	Albany, N. Y.	No	1,325
27		Firmenich	Peoria, Ill.	No	
28	Dec. 31, 1887	Great Eastern Distilling Co.	do	Yes	3,078
29	July 22, 1887	Great Western Distilling Co.	do	Yes	21,437
30	Aug. 3, 1887	Hamilton Distilling Co.	Hamilton, Ohio	Yes	5,887
31	Nov. 20, 1887	Hogan Valley Distilling Co.	Aurora, Ind.	No	2,808
32		International	Des Moines, Iowa	No	5,000
33	Aug. 1, 1887	Independence Distilling Co.	Independence, Mo.	No	
34		Iowa Alcohol Works	Iowa City, Iowa	No	407
35	Oct. 28, 1887	J. S. Miller	Sterling, Ill.	No	1,203
36	Jan. 23, 1888	J. W. Johnson	Peoria, Ill.	No	
37	Nov. 30, 1887	Kruse Bros. Distilling Co.	Wesley City, Ill.	No	265
38		Kuhlman & Teepen	Brocklyn, Ind.	No	
39	Dec. 28, 1887	Lacking Distilling Co.	Covington, Ky.	No	850
40	July 22, 1887	Maddux & Robert Distilling Co.	Cincinnati, Ohio	Yes	6,308
41	Aug. 24, 1887	Mayflower Distilling Co.	do	Yes	2,744
42	Aug. 15, 1887	Manhattan Distilling Co.	Peoria, Ill.	Yes	6,955
43	July 22, 1887	Monarch Distilling Co.	do	Yes	22,847
44	Nov. 4, 1887	Melners Distilling Co.	Milwaukee, Wis.	No	1,374
45	Feb. 18, 1888	Maddux Distilling Co.	Dayton, Ky.	No	2,700
46	Sept. 10, 1888	Martin Distilling Co.	Kansas City, Mo.	Yes	3,743
47	July 14, 1887	Missouri Distilling Co.	St. Louis, Mo.	Yes	8,408
48	Aug. 6, 1887	Miller Distilling Co.	Chicago, Ill.	Yes	4,025
49		W. H. McCormick	Beardstown, Ill.	No	180
50	Aug. 18, 1887	Northern Distilling Co.	Peoria, Ill.	Yes	8,517
51	Jan. 1, 1888	National Distilling Co.	Milwaukee, Wis.	No	1,600

EXHIBIT 2.—Name and locality of distilleries running and not running at time of transfer to Distilling and Cattle Feeding Trust—Continued.

No.	Date of entering trust.	Distillery.	Location.	Running	Shares.
52		Northwestern	Chicago, Ill.	No	1,000
53		Nebraska City Distilling Co.	Nebraska City, Nebr.	Yes	2,857
54	Aug. 8, 1887	Orange Valley Distilling Co.	Cincinnati, Ohio	Yes	4,075
55	Dec. 11, 1889	Ohio Distilling Co.	Lynchburg, Ohio	Yes	-----
56	Dec. 9, 1887	Patriot Distilling Co.	Patriot, Ind.	No	481
57	July 16, 1887	Peoria Distilling Co.	Peoria, Ill.	No	14,013
58		Pacific Distilling Co.	San Francisco, Cal.	No	-----
59	July 14, 1888	Petersburg Distilling Co.	Petersburg, Ky.	Yes	-----
60	Aug. 8, 1887	Phoenix Distilling Co.	Chicago, Ill.	Yes	10,325
61	June 12, 1888	Pfeffer Distilling Co.	Lebanon, Ill.	Yes	1,250
62	Nov. 4, 1887	Pleasant Valley Distilling Co.	Milwaukee, Wis.	No	-----
63		Patoka	Patoka, Ind.	No	-----
64	Nov. 7, 1887	Rodenberg Distilling Co.	Lawrenceburg, Ind.	No	300
65	Sept. 2, 1887	Rossville Distilling Co.	do	Yes	4,157
66	Sept. 6, 1887	Robson & Stegeman	Finchtown, Ky.	Yes	3,480
67	Sept. 3, 1887	Rock Springs Distilling Co.	St. Louis, Mo.	No	2,502
68	Feb. 3, 1888	Riverton	Riverton, Ill.	No	1,310
69	July 16, 1887	Storrs Distilling Co.	Cincinnati, Ohio	Yes	19,026
70	Jan. 30, 1888	Shamrock Distilling Co.	Higginsport, Ohio	No	-----
71	Oct. 29, 1887	Standard Distilling Co.	Peoria, Ill.	No	1,464
72	Dec. 6, 1887	Shelby Distilling Co.	Shelbyville, Ind.	No	3,172
73	Dec. 8, 1887	St. Joe	St. Joseph, Mo.	No	-----
74		St. Paul Distilling Co.	South St. Paul, Minn.	Yes	-----
75		Ed. Stevens	New Richmond, Ohio	-----	-----
76	Aug. 16, 1887	Teuscher Distilling Co.	St. Louis, Mo.	Yes	4,540
77	Jan. 22, 1888	Towle Distilling Co.	Hammond, Ind.	No	-----
78	Nov. 3, 1887	Valley Distilling Co.	West Harrison, Ind.	No	310
79		H. H. Brocke	Napoleon, Ohio	-----	-----
80	July 18, 1887	White Mills Distilling Co.	Cincinnati, Ohio	No	6,726
81	Dec. 6, 1887	Wabash Distilling Co.	Terre Haute, Ind.	Yes	9,814
82	July 23, 1887	Woolner Distilling Co., No. 8	Peoria, Ill.	Yes	23,003
83	do	Woolner Distilling Co., No. 7	do	No	3,882
84	Dec. 8, 1887	Willow Springs Distilling Co.	Omaha, Nebr.	Yes	6,027
85	Jan. 24, 1888	Hamburg Distilling Co.	Pekin, Ill.	Yes	2,690
86	Aug. 19, 1887	P. H. Rice	Chicago, Ill.	Yes	4,225

Q. Did you find out the basis upon which the trust certificates were issued to the proprietors of the distilleries?—A. No; I reached no reliable data on that point except what is shown here in the papers.

ADDITIONAL DISTILLERIES PURCHASED.

In addition to the distilleries on this list, which were, at the time of the formation of the Distilling and Cattle Feeding Company, a part of the Distillers and Cattle Feeders' Trust, the Distilling and Cattle Feeding Company purchased the Riverdale Distillery, Riverdale, Cook County, Ill.; the Calumet Distillery, on the Calumet River, Cook County, Ill.; the H. H. Shufeldt Distillery, Chicago, Ill.; the Star and Crescent Distilleries, at Pekin, Ill.; the Central Distilleries, in St. Louis, Mo., and the Nebraska City Distillery, Nebraska City, Nebr. This Nebraska City Distillery was a part of the trust, and was sold by the trust, or the Distilling and Cattle Feeding Company, for \$10,000, with a guaranty that it would not be used for distilling purposes. Two or three years later the Distilling and Cattle Feeding Company bought it from the purchaser for \$410,000.

Q. Do you mean that it was sold in the first place by the company for \$10,000, and afterwards repurchased for \$410,000?

Q. (By Mr. PHILLIPS.) Were any improvements put on it?—A. Not any considerable improvements.

Q. (By Mr. JENKS.) Was there any other reason why it was sold at so low a rate and repurchased at a higher rate?—A. Not that I know of, except the matter of control.

Q. What do you mean by the matter of control?—A. The control of the output.

Q. Was the sale made to persons not connected with the trust?—A. It was sold to outsiders who agreed to eliminate it from the market, but they violated their agreement and the company bought it back again to eliminate it. It was bought back in connection with 3 other distilleries—the Central Distillery, of St. Louis, and the Star and Crescent Distilleries, of Pekin, Ill. In connection with this transaction there was a debt, or difference, as claimed by me in my effort to collect from the business of the company, of about \$290,000. That is, one individual who was an officer of the company went to the individual owners of these distilleries and made a purchase, or contract of purchase, and then sold the distilleries to the

Distilling and Cattle Feeding Company. The difference between what he bought them for from the owners and what he sold them for to the Distilling and Cattle Feeding Company was about \$290,000.

Q. Was this individual an officer of the company?—A. He was an officer at one time. That, among other things, constituted the basis of a bill filed by me against a number of individuals, including the officers of the company, to recover \$800,000. The other causes grew out of the use of the funds of the company in stock speculations in New York.

USE OF THE FUNDS OF THE COMPANY IN STOCK SPECULATIONS.

Q. (By Mr. JENKS.) Can you give some of the details with reference to the use of the funds of the company by the officers in stock speculations?—A. In order to go into the details accurately it would be necessary to have the books and figures before me. In a general way, I set up in the bill that they had used the funds of the company in buying and selling stock and had lost a very large amount of the company's money. I do not remember the exact amount.

Q. That is, they had used the funds of the company to buy stocks for themselves and to protect margins for themselves?—A. Nominally, I think, for the company.

Q. Nominally for the company?—A. Yes. But the theory proceeded upon was that they were buying stocks for the company and selling stocks as individuals. As individuals they were getting a good market; as officers, a very bad one. We have never come to a final hearing on that bill, therefore I can not tell what would have been the judicial results; but the difference from the standpoint that I made was about \$800,000 to the trust.

It is impossible to give the cost of building and equipping the plants. The only houses that were purchased for money were the Riverdale, for which about \$300,000 was paid; the Calumet, for which about \$500,000 was paid; the H. H. Shufeldt, for which about \$1,600,000 was paid; the Star and Crescent, for which about \$700,000 was paid; the Central Distillery, of St. Louis, for which about \$850,000 was paid, and the Nebraska City Distillery, for which about \$425,000 was paid. I notice a difference between this statement of the amount paid for the Nebraska City Distillery and the one I have already made. The difference, I take it, is in the cost.

Q. These are the ones paid for in cash?—A. Yes; in cash.

PLAN OF ORGANIZATION OF THE DISTILLERS AND CATTLE FEEDERS' TRUST.

Q. Is that all on that point?—A. Yes. In Exhibit 3, which I present here, I give the plan of organization of the Distillers and Cattle Feeders' Trust, which is as full an account of this organization as we were able to dig out in Peoria in 1895, at the time of the examination of the accounts of the Distilling and Cattle Feeding Company:

EXHIBIT 3.—*Distillers and Cattle Feeders' Trust agreement, dated May 10, 1887.*

1. The trust herein created is to be vested in nine trustees.
2. W. M. Hobart, Geo. K. Duckworth, L. H. Green, P. J. Hennessy, Alfred Bevis, Joseph B. Greenhut, W. H. Corning, Adolph Woolner, and J. H. Francis were appointed trustees, to hold their office until May 1, 1888, or until their successors are elected.
3. The trustees shall prepare certificates showing the interests of each beneficiary in said trust, said certificates to be divided into shares of the par value of \$100 each.
4. No certificates shall be issued except for stock as hereinafter provided, and the par value of the certificates issued shall represent, as nearly as possible, the actual cash value of the stock held by the trustees in trust.
5. Each subscriber to the trust agrees to assign absolutely to the trustees the number of shares of capital stock of the particular corporation or corporations indicated in article 6 of this agreement; in consideration of which said trustees do hereby agree to execute and deliver to each subscriber trust certificates as above specified for the number of shares, which certificates, at the par value thereof, shall represent the cash value of the stock so delivered. The value of the capital of any corporation, whose stock shall be assigned to said trustees, shall be first agreed upon between said trustees and the stockholders willing to transfer the same, and after it is agreed upon there shall be no discrimination in the purchase price as between other stockholders of same corporation transferring at same time.

6. This agreement shall take effect as soon as those holding a majority of stock in the following corporations, formed or to be formed, to wit, The Storrs Distilling Company, by the Mill Creek Distilling Company; the Maddux-Hobart Company, by Maddux, Hobart & Co.; the White Mills Distilling Company, by Geo. K. Duckworth; the Great Western Distilling Company, Monarch Distilling Company, Woolner Bros. Distilling Company, Peoria Distilling Company, Birmingham Distilling Company, by the Chicago Distilling Company; Missouri Distilling Company, by Mound City Distilling Company, have transferred the same to said trustees.

Thereafter said trustees and their successors shall have power to purchase other stocks of said companies, or of companies organized for conducting same business, or any of the business hereinbefore specified, and may issue therefor certificates of trust equal at par value to the cash value of the stocks so purchased, or shall have power to lease the premises of such companies, paying therefor such rental as they may deem proper, and whenever in their judgment it is for the best interests of the trust to lease rather than purchase.

7. All stocks sold and transferred to said trustees shall be held by them and their successors for the benefit of all the owners of said trust certificates. No stocks so held by said trustees shall be sold or surrendered by said trustees during the continuance of this trust without the consent of a majority, in number and value, of the trust certificates: *Provided, however,* That said trustees may from time to time assign such shares of stock as may be necessary to qualify any person or persons as directors of any companies, the stocks of which are held by said trustees.

8. Said trustees shall have power to cause corporations to be formed for the purposes and with the necessary powers for carrying on distilling and kindred business: *Provided,* That the stock of such corporations shall be issued for cash or for property at its cash value, and shall be issued or be purchased by said trustees in the manner provided in section 6 of this agreement.

9. Said trustees shall safely keep all moneys received from dividends or interest upon stocks or money held in trust, and shall distribute the same, as well as all moneys received from sales of trust property, by declaring and paying monthly dividends upon said trust certificates, as funds accumulate, which are not needed for the uses and expense of the trust. The trustees shall keep separate accounts of receipts from dividends and interest and of receipts from trust property.

10. Trustees shall render to the holders of trust certificates at each annual meeting a statement of the receipts and disbursements of the trust for the year. They shall also, whenever demanded by a majority in value of the holders of trust certificates, furnish a true and perfect inventory and appraisal of all property held in trust, and a statement, as full as possible, of the financial affairs of the various companies whose stocks are held in trust.

11. Said trustees shall exercise supervision, so far as their ownership of stock enables them to do, over the several corporations or associations whose stock is held by said trustees. They shall elect, or endeavor to elect, the directors and officers thereof, who shall be paid reasonable compensations for services; they may elect themselves as such directors and officers.

12. None of the powers of trustees can be exercised except by unanimous vote of their full number, either in person or by proxy, except in the election of officers as provided in the by-laws: *Provided,* That no proxy of a trustee can be given to any person other than a trustee; and in case of disagreement among trustees on any matter, a majority of the trustees may call a special meeting of the holders of certificates, as herein provided for, and to whom shall be submitted the matter of disagreement, and a decision of a majority in value of the holders of trust certificates present, in person or proxy, shall be final.

The trustees may appoint from their own number an executive committee and other committees composed wholly or partly of persons not trustees.

13. Trustees may employ and pay such agents and attorneys as they may find it necessary to employ in management of such trust.

14. Each trustee shall be entitled to a salary of \$10 per day. Such may be increased by a majority of certificate holders.

15. Trust shall have principal office in Chicago, subject to change by vote of trustees. There should be a safe or vault for the safe deposit of the stocks held in trust.

16. All powers and duties vested in the trustees appointed shall be exercised by their successors.

17. Elections for trustees to succeed those herein appointed shall be held annually. At first annual election 8 trustees shall be elected for 1 year, 3 trustees for 2 years, and three trustees for 3 years. Thereafter 8 trustees shall be elected annually for a term of 3 years, to take the place of those retiring. Trustees

elected to fill vacancy shall hold office only for the unexpired time of said vacancy.

18. No person eligible as trustee, unless actual owner of not less than 500 shares trust certificates at time of election, which must stand in his name on the trust books, and continue so, as well as actual ownership, during his term of service.

19. Trustees are elected by owners of trust certificates, and no stock shall be voted which has not stood in owner's name 30 days prior to election.

20. Annual meeting of owners of trust certificates for election of trustees and other business, shall be held at the office of trustees on the Wednesday nearest April 15, of each year. Trustees must call meeting whenever requested by one-third in value of the trust certificates.

21. By-laws must be in conformity with this agreement.

22. Trustees may fill vacancy in their number or call meeting of owners of trust certificates for the purpose.

23. Trustee or trustees appointed by any court to fill vacancy or vacancies shall hold his or their offices only until his or their successors shall be appointed or elected in manner above provided for.

24. Trustees must attend every meeting of the board of trustees, either in person or by proxy. If any trustee is absent from 3 successive meetings, or fails to be represented by proxy at such meetings, his office shall be considered vacant, and filled as heretofore provided.

25. Whenever any change shall occur in the board of trustees the legal title to the stock or other property held in trust shall pass to and vest in successors of said trustees without any formal transfer thereof. But the board of trustees must obtain formal transfer from any retiring trustee, or from his executor, if retirement be caused by death.

26. The trust shall continue for 25 years and shall thereafter continue until terminated by a vote of two-thirds in value of the holders of certificates at meeting called for the purpose.

At same meeting the holders of certificates may decide, by a vote of 51 per cent of their number, the mode in which the trust affairs shall be wound up; the trustees continuing to hold office for that purpose.

27. This agreement was signed on May 10, 1887, by the Great Western Distilling Company, per J. B. Greenhut, secretary, capital stock of owner company, \$100,000; Peoria Distilling Company, per Wm. McLean, secretary, capital stock of owner company, \$100,000; Missouri Distilling Company, per Mound City Distilling Company, by A. Bevis, vice-president; Storrs Distilling Company, per Mill Creek Distilling Company, by Thomas T. Gaff, president; White Mills Distilling Company, per George K. Duckworth; Birmingham Distilling Company, per Chicago Distilling Company, P. J. Hennessy, treasurer, capital stock of owner company, \$50,000; Maddux-Hobart Distilling Company, per Maddux-Hobart & Co.; Woolner Bros. Distilling Co., per A. Woolner, treasurer, original capital stock, \$200,000, increased in 1885 to \$350,000; Monarch Distilling Company, per George J. Gibson, treasurer, capital stock of owner company, \$250,000.

THE WESTERN EXPORTERS' ASSOCIATION.

The Distillers and Cattle Feeders' Trust was immediately preceded by an association known as the Western Exporters' Association. This association allowed each distillery in it a certain number of bushels as its capacity, and then pro rated the consuming capacity of the country among the various distilleries. Any distillery mashing more bushels than were allowed it had to export the excess of alcohol or spirits produced at its own cost. If the total output of the number of bushels allowed by the association produced more goods than the country would consume, then the association exported the goods and stood the loss on this export out of an assessment on each member of the association, which was regulated at a certain amount per bushel.

In the ordinary acceptation of the word, the Distillers and Cattle Feeders' Trust was not promoted.

Q. Who fixed the assessment upon each one of these different companies for the payment of the expenses of exportation?—A. They had an organization, and a committee did that work.

DISTILLERS' AND CATTLE-FEEDERS' TRUST NOT PROMOTED.

As I was saying, in the ordinary conception of the word the Distillers' and Cattle Feeders' Trust was not "promoted." The 9 trustees were paid as well or possibly better for their properties than the bulk of those joining the association, but they had at that time the best properties in the country.

Q. Is it a matter of record that they were paid more in proportion? Is that something which can be proved?—A. No; that is an inference from the prices. They were selling, and did the first selling. They sold to themselves and made tolerably good bargains.

Q. Were they substantially the ones who fixed the values on all of the plants?—A. I think so.

SAVINGS OR LOSSES THROUGH COMBINATIONS.

Q. Including their own?—A. My recollection of this is not distinct, but that is what I infer.

In reference to the savings or losses in advertising, there are no statistics. The cost of advertising at any time is purely nominal in the spirit-distilling business, from the nature of the business.

As to savings or losses in transportation, it is doubtful whether any advantages were secured by them that could not be secured by an outside distiller at the same time. There was nothing saved by filling orders from the nearest plant, owing to the fact that purchasers very frequently, if not generally, designated what particular distiller's goods they desired.

ADVANTAGES OF PEORIA AS A DISTILLING POINT.

Q. Would purchasers from New York, for example, be likely to designate a St. Louis distillery instead of a Cincinnati distillery, and pay the difference in freight?—A. They would be very apt to. Peoria was the general center. The conditions at Peoria were felt to be better for distilling than at any other point in the country.

Q. Can you give any estimate as to how much better; what per cent?

Q. (By Mr. PHILLIPS.) And the reason?—A. I can give you the reason, but the per cent I will have to figure out. Peoria is in the center of a very large corn-producing section. Corn is cheap, and there is a good market at Peoria and vicinity. It is also in the vicinity of the coal mines, and coal is furnished very cheap—as cheap, perhaps, as anywhere. More important than all other things together, however, is the water supply. They have an illimitable supply of cold water, running at a temperature of about 54° F., and not varying to exceed 2° at any time during the whole year. That vein of water runs under the bank of the river close by the whole river front, where the distilleries are. Temperature being a dominating factor in distilling, that water supply gives an efficiency to the distilleries there that could not be secured by the use of ice.

Q. (By Mr. PHILLIPS.) Is it artesian water?—A. No; practically an underground river. It is pumped from wells about 30 feet deep. It is drawn from a stratum of gravel, and is cold and illimitable in supply. Cincinnati is a good producing point, but I think not so good as Peoria. Pekin, 10 miles down the river from Peoria, is as good a point as Peoria, with the exception that its corn market is not so extensive.

Q. (By Mr. JENKS.) Do you think the advantage of a Peoria distillery over a Chicago distillery is as much as 10 per cent?—A. I can not estimate the per cent, but it would be considerable; I should not be surprised at all if it were nearly that much. The additional cost of real estate is one of the adverse conditions in Chicago. The value of land is much greater than in Peoria, and they also lack the cold-water facilities. Chicago is, however, a good grain market.

Q. Is corn cheaper there than at Peoria?—A. Of course the markets are not uniform, but as a rule it is not. The difficulty of handling corn in Chicago—the switching from point to point—adds considerable to the cost.

Q. Is it more difficult than at Peoria?—A. Yes, because more transfers of cars are required in order to reach the district drawn from.

Q. Is there any other raw material at Peoria that is of consequence besides corn? Do they use rye?—A. That is not a rye country. Rye and barley are brought from the north; there is very little of it produced down there.

Q. (By Mr. PHILLIPS.) Do they make rye whisky there?—A. Some. The Clark distillery is a rye-whisky distillery.

Q. (By Mr. JENKS.) Where does the rye come from?—A. It comes from Nebraska, Minnesota, the Dakotas, and other points. There is not a uniform local production in the region of Peoria; rye and barley generally come from farther north. In other words, in the corn-belt section corn-growing land can not, as a rule, be used profitably to grow the smaller grains. There is greater profit in raising corn until a rotation of crops is necessary, and then they generally grow oats.

Q. Does Chicago have any advantage over Peoria in the cattle-feeding part of the industry?—A. None at all; Peoria has the advantage.

Q. Why?—A. First, in a large city you can not or are not permitted, for sanitary reasons, to have large herds of cattle; you have to go outside the city limits. The Riverdale and Calumet distilleries were arranged for cattle feeding, and they were not absolutely prohibited from it, but they would have been if reopened. I think the city authorities would not have permitted cattle feeding at the Calumet any longer. In both of these distilleries ice is a considerable amount of the cost, and in icing there is a lack of that uniformity in temperature which they get in spring water at Peoria. I may illustrate with a case that I investigated in the Monarch distillery at Peoria, observing and following the mash. They put 900 bushels of fine-ground cornmeal into a cooker and cooked it under pressure at a temperature of 325° for about 15 minutes. After removing the pressure and reducing the temperature they turned in the malt-meal mash from another tank which converted the starch into sugar. They then ran it off by gravity into a big tank below. I do not remember the temperature at this stage, but it was very much lower than it was in the cooker. From the lower tank, holding 900 bushels, they forced it by steam pumps through 40,000 feet of pipe which was jacketed its entire length by a water pipe. That is, there was a smaller pipe running inside of the larger one. A stream of cold water from the well beneath the distillery was forced through the larger pipe from the opposite end, so that the warm mash ran for 40,000 feet inside of a stream of cold water, separated only by the thickness of a thin metal pipe. By lessening or increasing the quantity of cold water going through, the temperature of the mash, when it came to the fermenting tub, could be regulated to a fraction of a degree. In the ice distilleries there would necessarily be irregularity in the temperature, and therefore in the product. There would be variations in the ice, producing greater cooling effects at some times than others.

PATENTS AND IMPROVED PROCESSES.

There were no patents, that I know of, owned or controlled by the Distillers and Cattle Feeders' Trust, or the Distilling and Cattle Feeding Company.

Q. Were there not, perhaps, some better processes that they used and that were more or less secret?—A. Yes. Those processes, as I understand it, consisted mainly in the character of the yeast used—the fermenting germs. I attempted to get some knowledge of that subject, and one of the experts there, in a conversation, claimed that there was almost an infinite variety of fermenting germs—between 360 and 400 distinct germs, divided into a number of families, which I do not remember, as I did not go into their genealogy. Some of those germs are more potent than others, and, when a particularly good species is obtained, great care is exercised in propagating them and in preventing other species getting mixed with them in the yeast. When they get the best kind the yeast is more efficient, and a small quantity of it is considered of great value. I heard them talk about distillers giving from \$500 to \$2,500 for a half-gallon jug of yeast. Of course, gentlemen, I do not vouch for that. But it is true that the men who advance in the line of that study become the foremost men in the distilling business; the per cent of spirit yielded, to the extent of determining profit or loss, depends upon the skill of the yeast maker, who is the distiller. I believe that now, or even at the time when I operated the distilleries, less disparity appeared in the yeast than in former times.

Q. When the different distilleries united, did those who had the better yeast give free use of it to the others?—A. I can not say that I remember about that. The houses that went in first were the most efficient; that is, they produced a larger per cent. I take it for granted that, as they were interested in all the distilleries, they sent their yeast to all. I do not know that they guard with great care their yeast and their methods. When I took possession, I found there employed some of the best-known yeast makers and most skillful chemists in that line in the country. They were applying the most advanced methods and using the best-known appliances.

Q. Are there any other methods in which there might be an advantage in case of combination?—A. Do you mean methods of operation?

Q. Yes.—A. I do not think of anything now.

Q. As you had charge of the work, I thought possibly there might be some other special thing that you could mention.—A. Yes; in machinery and in methods of handling and cooking they are advancing right along, and have made great progress within a few years.

There were practically no by-products manufactured by the Distilling and Cattle Feeding Company. Fusel oil has always been produced in the manufacture of spirits, and the refuse or slop has always been used for cattle feeding;

that is, fusel oil has always been produced in this modern process. By the old process of distillation I understand that they did not take the fusel oil out of the spirit, but everything that came from the still went into the barrel.

Q. Do you not think there was some improvement in that particular when the different companies were organized in one great company?—A. Not at all; they all used the same general process and followed the same general methods.

No statistics as to the cost of superintendence or of labor, either before or after the organization of the trust or the company, can be obtained. It is supposed that large houses can be operated more cheaply than small ones, though it is claimed that this point is not even settled now between houses running 3,000 bushels and houses running 12,000 bushels daily. My own opinion is that, the larger the house, with like conditions and management, the less will be the cost of production.

THE DISMANTLING OF DISTILLERIES AND ITS EFFECT.

Q. When these different companies came together, is it true that a number of establishments were closed that had been running before?—A. A large number of the smaller houses were closed; it would have been unprofitable to have run them; they were what they call dismantled. The house was purchased and the machinery taken out. What could be used in a larger house was so used and the balance was sent to the scrap heap. The shell only of the old house was left.

Q. Then, if there were 35 or 40 distilleries dismantled in this way, would not the presumption be that the number of superintendents was lessened correspondingly?—A. Yes; the number would be lessened. The concentration of the working forces would necessarily lessen the amount of superintendence and decrease the cost of production.

Q. Were overseers left in charge of the plants that had been dismantled?—A. In some cases there were simply watchmen to keep the building from being destroyed; in some cases the buildings were abandoned absolutely.

Q. Is it true that in a number of cases the distilleries were simply suspended for a time and the former managers continued on salaries, with nothing to do?—A. That occurred in some cases for short intervals. But I do not remember any instances in which the houses were kept up for long periods and the managers paid, unless by agreement, as in the case of the 5-year agreement.

Q. What was that 5-year agreement?—A. The distillery was purchased and brought into the trust with the understanding that the owner should be continued as manager at a salary of \$800 a month.

Q. Did that apply to all of the distilleries that were taken in—the 81 or the 65?—A. My memory does not serve me on that. I should think that in some of the smaller ones it did not; it would apply only to the distilleries that were strong or producing concerns, and which it was necessary to get out of the way solely because they were market disturbers. Some smaller distilleries would not warrant an expense of that kind.

Q. Would the manager of a small one be paid a salary correspondingly less, but yet a regular salary?—A. I do not remember; that is a matter of detail for which I should have to go to the records.

As to traveling salesmen, there were none for the company proper. The only traveling salesmen were those employed by the house of H. H. Shufeldt & Co. in the distributing business. Its purchase by the Distilling and Cattle Feeding Company did not change their number or affect the rate of wages.

There are no statistics on the subject of labor. The labor is comparatively a small part of the cost of production of spirits and alcohol.

Q. Would not the same general observation apply there as in the case of the superintendents, viz., that where distilleries were closed a number of men were thrown out of employment?—A. Yes; I think so.

IMPROVED PROCESSES (RESUMED).

As to raw material, the principal cost is in corn and barley, rye or barley, or other malt, which is bought in the open market, on the board of trade or in the usual way, in large quantities. The increase in the amount of spirit produced from a given amount of grain by the larger houses in the last 5 years has been only slight, and that increase is owing to the improved methods, which were open to any one to use. The increase of yield in the small distilleries over that produced by the old and primitive methods, still in use, has been small.

Q. Improvements of that kind can hardly be ascribed, then, to the formation of the combination?—A. Not at all; it is the use of the improvements on a large scale. The increase of the yield over that produced by the old and primitive methods,

still in use in many, indeed most, of the small distilleries, however, is very great. I have another paper which I present to you and which covers that ground. The product during my time—and I think it still runs about the same—was somewhere from 4.70 to 4.85; that is, 4.70 to 4.85 gallons of spirits per bushel. Some of the smaller houses get down so low, I believe, as 3½ gallons to the bushel. The higher yield is due to the larger capacity, the methods, and machinery.

There has been no specialization, each distillery continuing to make its own brands and being known by its brands. The products of certain distilleries are sought for by particular customers.

PRODUCTION OF SPECIALTIES BY CERTAIN HOUSES.

There are also specialties produced by certain houses. They have a brand of whisky or gin that has become popular—as, for instance, the Shufeldt gin, which became very popular and commanded a higher price in the market than any other brand. The other houses, however, are spirit houses; i. e., they make spirits and alcohol, but in that you will find that buyers—especially compounders—often call for brands from a certain distillery, and that not always the distillery nearest to them.

Q. Did the popularity of the Shufeldt gin continue after the distillery was purchased?—A. Yes; and increased. But these gentlemen were not after gin just at that time; they were after the plant as a spirit-producing plant.

Q. Does not your last statement practically shut out the question of good will in the purchase of a plant?—A. The good will, no doubt, had a money value; but they would not, I think, have bought it for the good will alone. It was bought in order to control the output from it.

Q. The main thing was to get rid of the competition?—A. Yes; to get rid of the competition in spirits, not in gin or whisky. The gin and whisky were simply an incident. If they had made gin and whisky, and that alone, and kept out of the spirit business, I do not think they would have been disturbed. I think they might have continued in the field of the regular whisky manufacture, i. e., the old-style product.

THE MANUFACTURE OF GIN.

Q. (By Mr. PHILLIPS.) From what kind of material do they make gin, particularly the excellent quality of which you have been speaking?—A. I might answer that question from the standpoint of a layman, and say that the whole thing has just one base—pure spirits, chemically, common alcohol.

Q. (By Representative OTJEN.) It is a question of mixing, is it not?—A. Yes; it is a question of mixing, of preparing it. The base of the whole thing is pure spirit, or chemical alcohol, not commercial alcohol. There is a distinction between high-proof spirits and commercial alcohol. Commercial alcohol is not so highly refined as spirits; i. e., it has more of fusel oil and acids in it. The Shufeldt gin is a carefully prepared high-proof spirits. In the preparation they have a formula which is a secret with the house, or at least was a secret until they showed it to me as an officer of the court; but I soon forgot it, so that in substance it remains a secret yet. With absolutely pure spirits, distilled water, juniper berries, and other vegetable material they make an infusion, and that infusion is the gin. I became convinced, in studying the question with the chemist, that it was a purer spirit and a better gin than anything that was imported. In other words, it is pure ethyl and distilled water, compounded with juniper berry and other vegetable juices, which give it its medicinal properties. Most if not all the gin made in this country is made in this way.

Q. (By Mr. PHILLIPS.) Is not pure gin made directly from juniper berry?—A. That is the theory, I think, that is generally advanced, but I understand it is not the fact; it would be worth less than if it were made of pure corn or any other grain. Starch is the basis, and there is little, almost no starch, in the juniper berry, while it is abundant in corn and as pure as it can be got. The starch is converted into sugar by the use of the malt, and then the sugar is converted by yeast into the spirit globule, which is evaporated by heat. Now, where they get the pure globule, or purify it, leaving it as they do in this process without the other chemical elements that go with it, or where the pure ethyl is obtained, I do not know. The chemists claimed to me that 16 chemical elements come out of the still in the vapor. The ethyl, or the pure spirit, is the one they want. Now, in the spirit made from corn by the modern process they get it in its purity; and in going over that question I was led to believe that in Holland, where they make gin, they do not make it out of the juniper berry, or by our process, but out of grain, or potatoes, or something that has starch in it. But there the juniper ber-

ries and other vegetable materials are ground up and cooked with the mash, and are put through the still by the old process without any purification of the spirit.

Q. (By Mr. JENKS.) When the Shufeldt distillery was purchased by the Distilling and Cattle Feeding Company did they not also purchase this secret process?—A. Yes; the man that had the secret process stayed there; and they were entitled to it and got it.

Q. Have they made that process generally known to the other houses of the company?—A. I think not. When I went into the place which they call their laboratory I had the man show me how he did it, his formula, the berries, roots, and herbs that he used. He told me the proportions of each, how they separated them, and how they used them; it was not known outside; they kept the secret closely.

Q. Does not the American Spirits Manufacturing Company control that process now, and can they not use it in every one of their distilleries, if they want to?—A. Yes; if they want to, but I don't think they will do it. They have not as yet.

Q. Do you think it would overstock the market with that particular kind of gin?—A. Well, it is a matter of value that appeals to them. There is no reason why they should give it away that I know of. One plant makes all the gin that they need of that kind. I do not know what they have done with it. There are other distilleries that make gin, but I think nothing anywhere near as good as Shufeldt gin; they certainly had not up to the time of my investigation of that matter.

HIGHLY REFINED SPIRITS USED IN THE MANUFACTURE OF GIN.

Q. Then you do not think that the claim that the great combinations enjoy special advantages in secret processes of manufacture holds true in this particular case?—A. I do not think it does in the case of Shufeldt gin, but that is limited somewhat to this infusion. The production of the spirit which is the base of Shufeldt gin is common to them all, and is generally done by double or treble distilling. They have triple-distilled spirit which they call "Sunbeam." There is but very little water in it. I do not remember now, but I think it contains 96 per cent of spirit. There is just enough water to hold the spirit in liquor form and prevent it from going to vapor. In order to demonstrate to me that it was absolutely pure, or as pure as it could be made, the chemist dropped a piece of pure white quicklime into a tumbler full of it, letting it fall easily, so as not to splash the spirit. The quicklime had no more than settled on the bottom than the tumbler was empty, the lime having absorbed the water, allowing the spirit to go off in vapor. Nothing remained in the tumbler but the damp slaked lime, which still retained its pure white color. This experiment also showed the difference between the modern process of distillation and the old one, where fusel oil and everything that comes from the still goes into the liquor and ultimately into the stomach of the man who drinks it. I agreed with the chemist in the conclusion that gin made from pure spirits is the best, and that the cheap, so called, common rotgut corn whisky, made from refined spirits, is the purest whisky that man can make. It is a mere question of palatability and age. It is unpalatable in the beginning, but is improved by age, so that in the end it is the best and is free from anything that is injurious. At least, that is my opinion, and it is also the opinion of a number of chemists with whom I conferred on the subject.

Q. The question is suggested to me whether this was the commissary whisky of war times?—A. I was not posted on distillation at the time of the war; I was at the other end of the line; but I am inclined to think not. Most of the whisky furnished the Army was produced prior to the time when the new processes for extricating the fusel oil and the acids were applied. Most of the old commissary whisky was just weakened, rectified, high wines; yet I do know that under the conditions many of the men in the Army estimated it to be good. I have been informed that some of the best made during the later part of the war was by the modern process.

Q. Have you anything further with reference to the specialties of different plants?—A. I know of nothing further that I can give you on that point, unless you call my attention to something. I know of no figures or data that would go to show that there has been any loss in efficiency through lack of the stimulus of competition. Competition has certainly been strong except for very short periods. The central office has kept track of the various distilleries—that is, the central office of the Distilling and Cattle Feeding Company kept track of the various distilleries, by means of daily reports which covered all journal entries of the purchase of grain or shipment of goods, and which showed the daily production, every bushel of grain distilled, etc. The quality and character of the output depended largely on the trade, the customer giving notice if the goods received by

him were satisfactory. The company also had inspectors visiting and checking the various plants, and samples of goods were sent to the head office from time to time.

THE DISTRIBUTERS OF THE DISTILLING AND CATTLE FEEDING COMPANY.

The Distilling and Cattle Feeding Company sold only to special agents who were known as distributors. A list of these distributors is given on the back of the rebate voucher used by the Distilling and Cattle Feeding Company. A copy of the rebate voucher and a list of the distributors is given in Exhibit 4, which I present to you here.

EXHIBIT 4.

[Face of voucher.]

PEORIA, ILL., - , 189 . No.

Subject to the conditions named herein, and for the purpose of securing the continuous patronage of the within-named purchaser, the successors and assigns of the same, for its product

DISTILLING AND CATTLE FEEDING CO.,

Six months from the date of this purchase voucher.

Will pay to - , of - , purchaser —, - dollars (\$ - -)

Being a rebate of 7 cents per proof gallon on — proof gallons of the Distilling and Cattle Feeding Company's product purchased this day. This voucher will be valid and payable only upon condition that the above-named purchaser, the successors and assigns of the same, from the date of this voucher to the time of its payment, shall have bought their supply of such kinds of goods as are produced by the Distilling and Cattle Feeding Company, and all compounds thereof, exclusively of one or more of the dealers named on the back hereof, until further notified, and shall also have subscribed to the certificate on the back hereof.

DISTILLING AND CATTLE FEEDING CO.
By J. B. GREENHUT, President.

When due forward to the *German-American National Bank of Peoria, Ill.*, where this voucher is payable without exchange or other charge.

Stamped across face: Not transferable nor negotiable.

[Back of voucher.]

It is hereby certified that from the date of this voucher to the maturity thereof the within-named purchaser, and the successors and assigns of the same, have purchased all of their supply of such kind of goods, and their compounds, as are produced by the Distilling and Cattle Feeding Co., exclusively from one or more of the dealers named hereon.

Dated -

James A. Webb & Son, New York, N. Y.
Curtiss & Co., New York, N. Y.
Thomas B. Kerr, New York, N. Y.
Ross & Keany, New York, N. Y.
J. L. Hasbrouck & Co., New York, N. Y.
Eastern Distilling Co. and Ridgewood Redistilling Co., New York, N. Y.
Geo. W. Kidd & Co., New York, N. Y.
E. N. Oook & Co., Buffalo, N. Y.
Columbia Distilling Co., Albany, N. Y.
H. & H. Reiners, Brooklyn, N. Y.
Carstairs, McCall & Co., Philadelphia, Pa.
Dougherty & Downs, Philadelphia, Pa.
Nicholas J. Griffin, Philadelphia, Pa.
Charles S. Hahn, Philadelphia, Pa.
Boyle & McGlynn, Philadelphia, Pa.
Beattie & Hay, Philadelphia, Pa.
Empire Distilling Co., Boston, Mass.
D. T. Mills & Co., Boston, Mass.
A. L. Webb & Son, Baltimore, Md.
James Walsh & Co., Cincinnati, Ohio.
Maddux, Hobart & Co., Cincinnati, Ohio.
Millcreek Distilling Co., Cincinnati, Ohio.
Union Distilling Co., Cincinnati, Ohio.
Hoffheimer Bros., Cincinnati, Ohio.
Elias Block & Sons, Cincinnati, Ohio.
Freiberg & Workum, Cincinnati, Ohio.
The Old 76 Distilling Co., Cincinnati, Ohio.
W. W. Johnson & Co., Cincinnati, Ohio.

Henry W. Smith & Co., Cincinnati, Ohio.
Hirsch, Loewenstein & Levi, Cincinnati, Ohio.
Fleischmann & Co., Cincinnati, Ohio.
W. L. Weller & Sons, Louisville, Ky.
Terre Haute Distilling Co., Terre Haute, Ind.
Chicago Distilling Co., Chicago, Ill.
United States Distilling Co., Chicago, Ill.
Abel, Ames & Co., Chicago, Ill.
Empire Distilling Co., Chicago, Ill.
The Riverdale Distillery, Chicago, Ill.
Henry H. Shufeldt & Co., Chicago, Ill.
The Calumet Distillery, Chicago, Ill.
Corning & Co., Peoria, Ill.
H. Schwabacher, Peoria, Ill.
John Meiners & Son, Milwaukee, Wis.
National Distilling Co., Milwaukee, Wis.
The St. Paul Distillery, South St. Paul, Minn.
Mound City Distilling Co., St. Louis, Mo.
Teuscher & Co., St. Louis, Mo.
Mound City Distilling Co., Kansas City, Mo.
Her & Co., Omaha, Neb.
Lillenthal & Co., San Francisco, Cal.
J. & A. Freiberg, Cincinnati, Ohio.
Mihalovitch, Fletcher & Co., Cincinnati, Ohio.
Rheinstrom Bros., Cincinnati, Ohio.
The Cook & Bernheimer Co., New York, N. Y.
The Wm. Bergenthal Co., Milwaukee, Wis.

THE PRICE OF SPIRITS.

Q. Were the prices fixed by the Distilling and Cattle Feeding Company upon its products uniform throughout different sections of the country?—A. There was some difference in price in different markets, because of nearness or remote-

ness of the source of production, but outside of that their prices were very uniform. They did not, however, hold the market, except for a while. Other distilleries grew up around them like mushrooms in the night. A number of men sold distilleries to them for stock, and then sold their stock and built more distilleries. In some cases the company bought 2 or 3 distilleries from the same parties, and finally distilleries were built faster than they could buy them.

Q. Was the competition resulting from the high price fixed by the company the real cause of the difficulties into which it finally fell?—A. That, together with speculations in the stock of the company, was very largely the cause. The stock was listed in New York, and men interested in it speculated in it and failed to hold its value up.

Q. How much was the price advanced under this combination?—A. I do not remember.

Q. Have you a list of the prices?—A. I do not think I followed the prices of the stock.

Q. I mean the prices of the products?—A. I will give that to you. The stock was down, I think, to about 7½ or 8 at the beginning of the receivership, and during the receivership it went back to about 22 or 23. The distilleries that were bought in by the new company were purchased practically on the basis of 28½ for the stock.

THE REBATE SYSTEM.

Q. Going back to the rebate system, what, on the whole, do you think was its effect on the business? The rebate certificate you have offered in evidence provided for a rebate of 7 cents per gallon; in addition to that was there another rebate to the distributor?—A. The distributor had 2 cents a gallon.

Q. So that 9 cents on the whole was withheld for 6 months. What was the general effect?—A. I do not think its effect was good. It demoralized the trade and created bad feeling among the customers, so that there was a general disposition to get out of it. I think the rebate system was started at a time when the company had almost entire control of the market, and when it looked as though it would get complete control. There was no alternative for buyers except to start distilleries of their own, and so they submitted to it, but always regarded it as a great burden.

Q. Did the company institute the rebate system solely for the purpose of controlling the output?—A. Yes; they went to a customer, and in terms, either expressed or implied, told him that he might stay in the business if he would let them supply him with goods. Some of the distributors had a very large business. If they desired to continue in it they could do so only under the rebate system, for if they refused they would be left without a supply, the company having substantial control of all the plants. Having once got in, however, the system became burdensome, because it was not long until new houses commenced competing and underselling the company in the market.

Q. Is the feeling among wholesalers with reference to the rebate system so hostile that, on the whole, they will give preference to independent distillers who operate without this system?—A. I think it hardly possible ever to start the rebate system again, at least within the memory of the men who had experience with it.

Q. You are informed, then, that the American Spirits Manufacturing Company has not adopted the rebate system?—A. They have never thought of that, and I do not think they ever will. My understanding is, from conferences I have had with the officers, that they will not attempt it. There are two things that they will avoid—first, the rebate system, and, second, any attempt to control the market in order to hold the price above what it ought to be.

THE MARKET MAY BE CONTROLLED BY CHEAPENING PRODUCTION.

On the contrary, they will seek to control the market by cheapening the cost of production. That is the only way, in my opinion, they can ever do it; and I do think they can do it in that way.

Q. Do you remember whether the old Distillers and Cattle Feeders' Trust, so far as the officers are concerned, made any attempt along that line?—A. Not very much; I did not find any conspicuous evidence of it in the records. The tendency seemed to be the other way. They tried to increase the price and corner the market.

Q. That is, it was the officers themselves who tried to push prices up as well as the stockholders?—A. Yes; after the concern reached the point where they controlled a large proportion of the output of spirits. I think that is really where they made their mistake. If they had depended on controlling the market by cheapening the product, they would have secured control and kept it. If the present company continues to do that, the chances are they will get it yet.

METHODS OF DRIVING OUT COMPETITION.

Q. Did you find any evidence that the company sent agents into special localities to make prices low enough to the customers of competitors to drive them out of business?—A. I think that is probable; that is one of the common tricks of the trade, and those gentlemen are experts at it. But I must say that these distributors are as a class the ablest and straightest set of men I ever came in contact with. They are intelligent and honest.

Q. Of course my question applies to the company and not to the distributors.—A. The company resorted to the same methods to get trade.

Q. Did you find other sharp practices for the purpose of getting rid of competitors besides that of cutting prices?—A. I do not think any methods were employed outside of the ordinary ones among competitors, but I did not go into the details of that question. There had been a very sharp fight in California, and special rates were offered there by the company. When I took charge there was an outside distillery that had been built up by parties who had sold their original plant to the trust and who were establishing a trade and securing customers out there, so that the distributors of the Distilling and Cattle Feeding Company were being crowded out of the market. It was one of the first problems I met, and one of the first I acted upon, which I did, of course, considering the circumstances, in a very mild and equitable manner.

METHOD ADOPTED BY THE RECEIVER.

Q. Have you anything further with reference to cutting prices?—A. No; nothing more. That method is practiced right along. To be entirely frank, when I discovered the condition of affairs in California I called in men of experience in that line and wanted to know what would settle these gentlemen and bring them down to work. They said, "Take their customers;" so I gave an order to take them, and lowered prices. They cut just below my rates. I had a large stock on hand and proposed to take the customers. They didn't get the customers in the end and soon came to terms. That is the ordinary method of doing business.

Q. (By Mr. KENNEDY.) The independent houses came to terms?—A. Yes; they had some trade there. They were trying to get trade by underselling.

They were just following the practice of the trust?—A. Just exactly, sir.

(By Mr. JENKS.) Then the Distilling and Cattle Feeding Company simply beat them at their own game?—A. That, of course, seems to be the fact. It was merely the question of holding the goods on hand until they depreciated in value or letting them go off on some other market. I thought better to just cut prices right then, and did so. I knew the opposition would have to shut up their distillery in a few weeks if they kept on, for I should have emptied all the warehouses on the market. They soon came to the conclusion that it would be best to hold prices above the cost of production. That is a common method of settling controversies of such a character.

Q. You think it better to sell at a fair price?—A. Yes; not an exorbitant price, but one that will give a fair living profit. When a man produces goods and sells them below cost of production he is not doing a fair business, and the only way to make him do so that I know of is just simply to cut a little below him. In this case I deemed it expedient. My competitor soon found that he was spending his capital and that I was taking care of property which I should have had to sell at marshal's sale ultimately, if not otherwise disposed of, and which would not have brought one-half the market value.

Q. (By Mr. FARQUHAR.) You mean that your competitor was either spending his own capital or cheating his creditors?—A. Yes.

Q. (By Mr. KENNEDY.) You sold below the cost of production, then, in order to bring him to time?—A. Yes; I sold below the cost of production, but there was nothing secret about it. It was open, and I made it perfectly plain to him. When he fixed his price, I made a price, I think, 2 cents a gallon under his and notified him that when he came down to that price I would go 2 cents lower, and keep going until I had emptied the warehouses. He seemed to think that I would do it. I held this trade alone, however.

Q. (By Mr. JENKS.) Was this method followed by the old trust in order to drive competitors into combining with them?—A. I think it was.

Q. The result, then, in certain cases was the same as in this case where you and your competitor practically agreed upon prices?—A. That is it. Each man knew of the product of the other companies. He saw what was a reasonable profit and knew what prices must be secured in order to obtain that profit. By common consent we agreed to sell in that way. The competitor had his customers and supplied them; we had ours and supplied them. If he took our customers by cutting prices, we took his in the same way.

Q. Now, after the agreement, did you think between you and all your associates, did you carry all of them?
A. Yes.

Q. Then, allowing for difference in freight rates, you had prices substantially uniform throughout the country?—A. Yes. The prices were not absolutely the same everywhere, but the price was fixed according to the cost of production. The average cost differed in different plants, probably from one-half to one cent. We took an average and tried to obtain from 1½ to 2 cents profit. The cost of production was based upon the price of corn at the time. As corn went up the price of spirits went up, and as corn went down the price of spirits went down at the rate of one-half cent a gallon for every 5 cents variation in the price of corn. All agreed to abide by that, and, as a rule, they did. It fared well for a while, but they did not stand long to the agreements.

Q. If prices had been fairly maintained upon the basis which you fixed, what dividends did you calculate to pay?—A. I have no recollection on that, but I was not calculating to pay dividends. It was a question of handling the goods and getting out of business as soon as possible. My calculations were not based at all upon dividends upon the capital, but wholly on the cost of production.

Q. But were not the other parties to the agreement counting on making some money, so far as their plants were concerned?—A. You can calculate that on the cost of production; the amount of capital does not cut any great figure; if you make from 1 to 1½ cents a gallon on spirits you can compute what the profit will be. It varies, of course, according to the cost of production, and that varies according to the price of corn. We followed the board of trade price of No. 2 corn on the Chicago market. If No. 2 corn went up 2 cents, the market price of spirits went up one-half cent. I think that is the rate; my figures may be wrong, but the method is all right. The profit would be determined according to the number of bushels mashed, and would bear no relation to the amount of stocks or shares outstanding in the distillery that mashed.

Q. (By Representative OWEN.) About how long did this understanding as to prices continue in operation, or was it lived up to?—A. It was made some time in February of 1890 and continued until some time in July, probably about 5 or 6 months, when the stock speculations in New York broke it up.

Q. Did you find the arrangement beneficial?—A. I think it was, or I should not have gone into it. I was an officer of the court; I studied things in all aspects as an officer of the court charged with the preservation of the property interests in my case. I think it was beneficial and fair. I think it was honest, I think I was performing my duty in looking after that trust property.

It made some profit for the interests I represented, but not much. Its best effect was in preventing heavy losses, which without it would have been inevitable. They had an umpire who watched the markets; and when corn went up, he raised the price of spirits to correspond by sending out telegrams. In other words, I was the umpire, and being the officer of the court and having no interest, the other men thought I would likely be as fair about it as anybody else. When the price of corn rose I sent out telegrams to all these men that spirits had gone up, and when it fell I notified them that spirits had gone down. In a word, I fixed and settled the price.

Q. (By Mr. KENNEDY.) Did the market keep you pretty busy sending telegrams?—A. No; the markets did not fluctuate often. A 5-cent fluctuation of that time was very rare; there was no complaint. I followed the market and the results were satisfactory, but the profits were only moderate; they probably did not average more than a cent a gallon. The important thing it did was to prevent the sacrifice of the large stock on hand.

NOW THE PRISON AGREEMENT WAS BROUGHT UP.

Q. (By Representative OWEN.) Will you explain in what way the market was kept?—A. Yes; one of the important things was that there was a fair market was indicated by the market on the Chicago board of trade, and all the distilleries and others in the country followed that market. The market was kept by the board of trade, and the distilleries and others in the country followed that market. The market was kept by the board of trade, and the distilleries and others in the country followed that market.

Exhibit 2.—Statement of rebates for years ending March 31, 1893, 1894, 1895, and ten months ending January 31, 1895.—Continued.

Year ending March 31, 1893.		
Gallons.		
27,513,532.05 at 9 cents		\$2,476,994.05
21,537,135.02 at 8 cents		1,723,050.80
1,132,594.02 at 7 cents		79,281.58
5,230,281.03 at 2 cents		104,606.20
Shufeldt, 2,555,759.90		51,115.98
Riverdale, 555,451.15		11,109.02
No rebate, 1,518,967.43		30,379.49
33,798,153.70		1,100,938.06
Less amount refunded		18,490.34
		1,082,447.72
Year ending March 31, 1894.		
Gallons.		
27,513,532.05 at 9 cents		\$2,476,994.05
21,537,135.02 at 8 cents		1,723,050.80
1,132,594.02 at 7 cents		79,281.58
5,230,281.03 at 2 cents		104,606.20
Shufeldt, 2,555,759.90		51,115.98
Riverdale, 555,451.15		11,109.02
No rebate, 1,518,967.43		30,379.49
33,798,153.70		1,100,938.06
Less amount refunded		18,490.34
		1,082,447.72
Ten months, ending January 31, 1895.		
Gallons.		
9,332,105.64 at 9 cents		\$839,889.56
456,145.92 at 7 cents		31,930.21
5,230,281.03 at 2 cents		104,606.20
Shufeldt, 1,694,621.15		33,892.43
Riverdale, 555,451.15		11,109.02
No rebate, 1,508,796.30		30,175.26
18,947,424.79		1,100,938.06
Less amount refunded		18,490.34
		1,082,447.72

Further information regarding rebates is as follows:

The 2-cent rebate was 2 cents paid to distributors at the end of 5 months from the date of purchase, this rebate being a continuance of the rebate inaugurated under the old trust arrangement, and was continued until January 28, 1895, the date of the passing into the hands of the receivership.

The 5-cent rebate applied only to the distributors' customers or wholesale dealers, being allowed to them on their purchases from distributors, and due 6 months after date of purchase. This was instituted on May 25, 1890, and continued until November 25, 1891, when there was an advance of the voucher rebate to 7 cents. This continued until about the last of September or first of October, 1894. The exact date of the discontinuance is not obtainable.

There was no regular 9-cent rebate, it being made up of the 2-cent distributors' and 7-cent customers' or wholesale dealers' rebates.

SELLING PRICE OF SPIRITS.

Q. (By Mr. JENKS.) What have you to say to the question of the average selling prices of the chief products?—A. Exhibit 6, which I present here, gives the average net price received for spirits for each quarter, from April 1, 1891, to January 31, 1895, and also the average cost of production during those years.

Exhibit 6.—Average net price, i. e., without the tax, of spirits per gallon for each quarter and each year; also average cost of production for each year.

	Fiscal years ending March 31—				10 months ending Jan. 31, 1895.	Present price.
	1891.	1892.	1893.	1894.		
Wholesale price	Cents. 12.50	Cents. 12.50	Cents. 12.50	Cents. 12.50	Cents. 12.50	Cents. 12.50
Net price	12.50	12.50	12.71	12.50	12.50	12.50
Cost of production	12.50	12.50	12.50	12.50	12.50	12.50
Profit	0.00	0.00	0.21	0.00	0.00	0.00
Net price	12.50	12.50	12.71	12.50	12.50	12.50
Cost of production	12.50	12.50	12.50	12.50	12.50	12.50
Profit	0.00	0.00	0.21	0.00	0.00	0.00
Net price	12.50	12.50	12.71	12.50	12.50	12.50
Cost of production	12.50	12.50	12.50	12.50	12.50	12.50
Profit	0.00	0.00	0.21	0.00	0.00	0.00
Net price	12.50	12.50	12.71	12.50	12.50	12.50
Cost of production	12.50	12.50	12.50	12.50	12.50	12.50
Profit	0.00	0.00	0.21	0.00	0.00	0.00
Net price	12.50	12.50	12.71	12.50	12.50	12.50
Cost of production	12.50	12.50	12.50	12.50	12.50	12.50
Profit	0.00	0.00	0.21	0.00	0.00	0.00
Net price	12.50	12.50	12.71	12.50	12.50	12.50
Cost of production	12.50	12.50	12.50	12.50	12.50	12.50
Profit	0.00	0.00	0.21	0.00	0.00	0.00
Net price	12.50	12.50	12.71	12.50	12.50	12.50
Cost of production	12.50	12.50	12.50	12.50	12.50	12.50
Profit	0.00	0.00	0.21	0.00	0.00	0.00
Net price	12.50	12.50	12.71	12.50	12.50	12.50
Cost of production	12.50	12.50	12.50	12.50	12.50	12.50
Profit	0.00	0.00	0.21	0.00	0.00	0.00
Net price	12.50	12.50	12.71	12.50	12.50	12.50
Cost of production	12.50	12.50	12.50	12.50	12.50	12.50
Profit	0.00	0.00	0.21	0.00	0.00	0.00
Net price	12.50	12.50	12.71	12.50	12.50	12.50
Cost of production	12.50	12.50	12.50	12.50	12.50	12.50
Profit	0.00	0.00	0.21	0.00	0.00	0.00
Net price	12.50	12.50	12.71	12.50	12.50	12.50
Cost of production	12.50	12.50	12.50	12.50	12.50	12.50
Profit	0.00	0.00	0.21	0.00	0.00	0.00
Net price	12.50	12.50	12.71	12.50	12.50	12.50
Cost of production	12.50	12.50	12.50	12.50	12.50	12.50
Profit	0.00	0.00	0.21	0.00	0.00	0.00
Net price	12.50	12.50	12.71	12.50	12.50	12.50
Cost of production	12.50	12.50	12.50	12.50	12.50	12.50
Profit	0.00	0.00	0.21	0.00	0.00	0.00
Net price	12.50	12.50	12.71	12.50	12.50	12.50
Cost of production	12.50	12.50	12.50	12.50	12.50	12.50
Profit	0.00	0.00	0.21	0.00	0.00	0.00
Net price	12.50	12.50	12.71	12.50	12.50	12.50
Cost of production	12.50	12.50	12.50	12.50	12.50	12.50
Profit	0.00	0.00	0.21	0.00	0.00	0.00
Net price	12.50	12.50	12.71	12.50	12.50	12.50
Cost of production	12.50	12.50	12.50	12.50	12.50	12.50
Profit	0.00	0.00	0.21	0.00	0.00	0.00
Net price	12.50	12.50	12.71	12.50	12.50	12.50
Cost of production	12.50	12.50	12.50	12.50	12.50	12.50
Profit	0.00	0.00	0.21	0.00	0.00	0.00
Net price	12.50	12.50	12.71	12.50	12.50	12.50
Cost of production	12.50	12.50	12.50	12.50	12.50	12.50
Profit	0.00	0.00	0.21	0.00	0.00	0.00
Net price	12.50	12.50	12.71	12.50	12.50	12.50
Cost of production	12.50	12.50	12.50	12.50	12.50	12.50
Profit	0.00	0.00	0.21	0.00	0.00	0.00
Net price	12.50	12.50	12.71	12.50	12.50	12.50
Cost of production	12.50	12.50	12.50	12.50	12.50	12.50
Profit	0.00	0.00	0.21	0.00	0.00	0.00
Net price	12.50	12.50	12.71	12.50	12.50	12.50
Cost of production	12.50	12.50	12.50	12.50	12.50	12.50
Profit	0.00	0.00	0.21	0.00	0.00	0.00
Net price	12.50	12.50	12.71	12.50	12.50	12.50
Cost of production	12.50	12.50	12.50	12.50	12.50	12.50
Profit	0.00	0.00	0.21	0.00	0.00	0.00
Net price	12.50	12.50	12.71	12.50	12.50	12.50
Cost of production	12.50	12.50	12.50	12.50	12.50	12.50
Profit	0.00	0.00	0.21	0.00	0.00	0.00
Net price	12.50	12.50	12.71	12.50	12.50	12.50
Cost of production	12.50	12.50	12.50	12.50	12.50	12.50
Profit	0.00	0.00	0.21	0.00	0.00	0.00
Net price	12.50	12.50	12.71	12.50	12.50	12.50
Cost of production	12.50	12.50	12.50	12.50	12.50	12.50
Profit	0.00	0.00	0.21	0.00	0.00	0.00
Net price	12.50	12.50	12.71	12.50	12.50	12.50
Cost of production	12.50	12.50	12.50	12.50	12.50	12.50
Profit	0.00	0.00	0.21	0.00	0.00	0.00
Net price	12.50	12.50	12.71	12.50	12.50	12.50
Cost of production	12.50	12.50	12.50	12.50	12.50	12.50
Profit	0.00	0.00	0.21	0.00	0.00	0.00
Net price	12.50	12.50	12.71	12.50	12.50	12.50
Cost of production	12.50	12.50	12.50	12.50	12.50	12.50
Profit	0.00	0.00	0.21	0.00	0.00	0.00
Net price	12.50	12.50	12.71	12.50	12.50	12.50
Cost of production	12.50	12.50	12.50	12.50	12.50	12.50
Profit	0.00	0.00	0.21	0.00	0.00	0.00
Net price	12.50	12.50	12.71	12.50	12.50	12.50
Cost of production	12.50	12.50	12.50	12.50	12.50	12.50
Profit	0.00	0.00	0.21	0.00	0.00	0.00
Net price	12.50	12.50	12.71	12.50	12.50	12.50
Cost of production	12.50	12.50	12.50	12.50	12.50	12.50
Profit	0.00	0.00	0.21	0.00	0.00	0.00
Net price	12.50	12.50	12.71	12.50	12.50	12.50
Cost of production	12.50	12.50	12.50	12.50	12.50	12.50
Profit	0.00	0.00	0.21	0.00	0.00	0.00
Net price	12.50	12.50	12.71	12.50	12.50	12.50
Cost of production	12.50	12.50	12.50	12.50	12.50	12.50
Profit	0.00	0.00	0.21	0.00	0.00	0.00
Net price	12.50	12.50	12.71	12.50	12.50	12.50
Cost of production	12.50	12.50	12.50	12.50	12.50	12.50
Profit	0.00	0.00	0.21	0.00	0.00	0.00
Net price	12.50	12.50	12.71	12.50	12.50	12.50
Cost of production	12.50	12.50	12.50	12.50	12.50	12.50
Profit	0.00	0.00	0.21	0.00	0.00	0.00
Net price	12.50	12.50	12.71	12.50	12.50	12.50
Cost of production	12.50	12.50	12.50	12.50	12.50	12.50
Profit	0.00	0.00	0.21	0.00	0.00	0.00
Net price	12.50	12.50	12.71	12.50	12.50	12.50
Cost of production	12.50	12.50	12.50	12.50	12.50	12.50
Profit	0.00	0.00	0.21	0.00	0.00	0.00
Net price	12.50	12.50	12.71	12.50	12.50	12.50
Cost of production	12.50	12.50	12.50	12.50	12.50	12.50
Profit	0.00	0.00	0.21	0.00	0.00	0.00
Net price	12.50	12.50	12.71	12.50	12.50	12.50
Cost of production	12.50	12.50	12.50	12.50	12.50	12.50
Profit	0.00	0.00	0.21	0.00	0.00	0.00
Net price	12.50	12.50	12.71	12.50	12.50	12.50
Cost of production	12.50	12.50	12.50	12.50	12.50	12.50
Profit	0.00	0.00	0.21	0.00	0.00	0.00
Net price	12.50	12.50	12.71	12.50	12.50	12.50
Cost of production	12.50	12.50	12.50	12.50	12.50	12.50
Profit	0.00	0.00	0.21	0.00	0.00	0.00
Net price	12.50	12.50	12.71	12.50	12.50	12.50
Cost of production	12.50	12.50	12.50	12.50	12.50	12.50
Profit	0.00	0.00	0.21	0.00	0.00	0.00
Net price	12.50	12.50	12.71	12.50	12.50	12.50
Cost of production	12.50	12.50	12.50	12.50	12.50	12.50
Profit	0.00	0.00	0.21	0.00	0.00	0.00
Net price	12.50	12.50	12.71	12.50	12.50	12.50
Cost of production	12.50	12.50	12.50	12.50	12.50	12.50
Profit	0.00	0.00	0.21	0.00	0.00	0.00
Net price	12.50	12.50	12.71	12.50	12.50	12.50
Cost of production	12.50	12.50	12.50	12.50	12.50	12.50
Profit	0.00	0.00	0.21	0.00	0.00	0.00
Net price	12.50	12.50	12.71	12.50	12.50	12.50
Cost of production	12.50	12.50	12.50	12.50	12.50	12.50
Profit	0.00	0.00	0.21	0.00	0.00	0.00
Net price	12.50	12.50	12.71	12.50	12.50	12.50
Cost of production	12.50	12.50	12.50	12.50	12.50	12.50
Profit	0.00	0.00	0.21	0.00	0.00	0.00
Net price	12.50	12.50	12.71	12.50	12.50	12.50
Cost of production	12.50	12.50	12.50	12.50	12.50	12.50
Profit	0.00	0.00	0.21	0.00	0.00	0.00
Net price	12.50	12.50	12.71	12.50	12.50	12.50
Cost of production	12.50	12.50	12.50	12.50	12.50	12.50
Profit	0.00	0.00	0.21	0.00	0.00	0.00
Net price	12.50	12.50	12.71	12.50	12.50	12.50
Cost of production	12.50	12.50	12.50	12.50	12.50	12.50
Profit	0.00	0.00	0.21	0.00	0.00	0.00
Net price	12.50	12.50	12.71	12.50	12.50	12.50
Cost of production	12.50	12.50	12.50	12.50	12.50	12.50
Profit	0.00	0.00	0.21	0.00	0.00	0.00
Net price	12.50	12.50	12.71	12.50	12.50	12.50
Cost of production	12.50	12.50	12.50	12.50	12.50	12.50
Profit	0.00	0.00	0.21	0.00	0.00	0.00
Net price	12.50	12.50	12.71	12.50	12.50	12.50
Cost of production	12.50	12.50	12.50	12.50	12.50	12.50
Profit	0.00	0.00	0.21	0.00	0.00	0.00
Net price	12.50	12.50	12.71	12.50	12.50	12.50
Cost of production	12.50	12.50	12.50	12.50	12.50	12.50
Profit	0.00	0.00	0.21	0.00	0.00	0.00
Net price	12.50	12.50	12.71	12.50	12.50	12.50
Cost of production	12.50	12.50	12.50	12.50	12.50	12.50
Profit	0.00	0.00	0.21	0.00	0.00	0.00
Net price	12.50	12.50	12.71	12.50	12.50	12.50
Cost of production	12.50	12.50	12.50	12.50	12.50	12.50
Profit	0.00	0.00	0.21	0.00	0.00	0.00
Net price	12.50	12.50	12.71	12.50	12.50	12.50
Cost of production	12.50	12.50	12.50	12.50	12.50	12.50
Profit	0.00	0.00	0.21	0.00	0.00	0.00
Net price	12.50	12.50	12.71	12.50	12.50	12.50
Cost of production	12.50	12.50	12.50	12.50	12.50	12.50
Profit	0.00	0.00	0.21	0.00	0.00	0.00
Net price	12.50	12.50	12.71	12.50	12.50	12.50
Cost of production	12.50	12.50	12.50	12.50	12.50	12.50
Profit	0.00	0.00	0.21	0.00		

PRODUCTION AND COST OF SPIRITS.

Q. Does that period cover the time of the Distilling and Cattle Feeding Company?—A. It does. Exhibit 7, which I present here, shows the production and cost per gallon at the various running houses of the Distilling and Cattle Feeding Company for the years ending March 31, commencing in 1891, and continuing until the beginning of the receivership. It is impossible to give the average monthly price paid for the raw material used, there being no statistics kept on that point. It would take several months to complete reliable data.

Q. Have you any figures that cover the period before the Distilling and Cattle Feeding Company was organized?—A. During the period of the trust?

Q. Yes.—A. I have no such statistics; the papers are all gone.

EXHIBIT 7.—Comparative statement: Gallons produced, cost per gallon, and profit or loss for fiscal years ending March 31, 1891, 1892, 1893, 1894, and 10 months ending January 31, 1895.

Name.	Fiscal year ending Mar. 31, 1891.			Fiscal year ending Mar. 31, 1892.		
	Gallons produced.	Cost per gallon.	Profit or loss.	Gallons produced.	Cost per gallon.	Profit or loss.
		<i>Cents.</i>			<i>Cents.</i>	
The Manhattan Distillery.....	3,137,434	12.77	\$306,232.79	2,427,435	14.36	\$143,590.23
The Northern Distillery.....	3,227,850	12.70	322,784.54	2,719,088	14.88	163,187.73
The Great Western Distillery.....	7,172,544	12.30	771,575.13	5,417,988	14.10	407,481.00
The Woolner Distillery.....	6,677,580	12.36	701,116.96	5,642,584	12.86	365,459.07
The Monarch Distillery.....	3,307,762	16.30	237,586.28	5,067,576	15.27	362,367.22
The Barker Distillery.....	2,247,076	12.82	245,611.10	2,068,887	15.07	124,351.26
The Peoria Distillery.....	0	0	0	0	0	0
The Hamburg Distillery.....	881,194	16.44	65,697.73	1,305,519	13.80	63,271.12
The Enterprise Distillery.....	0	0	0	0	0	0
The Star Distillery.....	0	0	0	0	0	0
The Crescent Distillery.....	0	0	0	0	0	0
The Consolidated Distillery.....	5,248,813	13.39	532,391.60	3,906,460	15.51	218,800.44
The Morris Distillery.....	99,574	18.29	5,081.99	68,143	17.06	2,274.86
The Maddux & Hobart Distillery.....	235,021	14.44	5,363.20	17,870	31.08	2,502.21
The Latonia Distillery.....	814,573	16.90	39,781.18	632,239	18.73	13,301.73
The Shufeldt Distillery.....	0	0	0	2,854,244	14.92	239,523.29
The Calumet Distillery.....	0	0	0	2,537,516	15.25	117,947.16
The Riverdale Distillery.....	908,173	21.57	36,058.46	981,016	23.86	51,123.54
The Phoenix Distillery.....	1,265,832	15.40	87,044.55	0	0	0
The Missouri Distillery.....	1,455,995	14.88	124,717.99	1,471,904	16.66	77,842.68
The Central Distillery.....	0	0	0	0	0	0
The Wabash Distillery.....	4,088,161	12.36	449,312.76	3,892,340	14.06	237,729.70
The Willow Springs Distillery.....	2,855,788	12.40	300,210.07	2,505,907	14.51	161,030.04
The Nebraska City Distillery.....	0	0	0	0	0	0
The St. Paul Distillery.....	2,776,181	14.19	109,568.82	1,973,134	15.26	111,802.95
The Des Moines Malt House.....	0	0	27,706.87	0	0	4,774.26
The Riverdale Distilling Co.....	0	0	0	0	0	22,175.08
Independence Distributing Co., old.....	0	0	0	0	0	5,007.31
Independence Distributing Co., new.....	0	0	0	0	0	0
The Monarch Distillery, No. 5.....	978,066	11.30	78,761.72	0	0	0
Total.....	47,149,012	13.36	4,479,568.89	45,809,884	15.05	2,738,100.07

Name.	Fiscal year ending Mar. 31, 1893.			Fiscal year ending Mar. 31, 1894.		
	Gallons produced.	Cost per gallon.	Profit or loss.	Gallons produced.	Cost per gallon.	Profit or loss.
		<i>Cents.</i>			<i>Cents.</i>	
The Manhattan Distillery.....	3,089,729	11.94	\$173,899.14	1,697,629	15.74	\$29,324.08
The Northern Distillery.....	2,302,381	13.01	114,117.77	1,474,161	11.73	52,154.51
The Great Western Distillery.....	6,156,304	11.35	392,395.79	4,843,415	11.35	137,794.94
The Woolner Distillery.....	5,898,699	11.90	347,910.50	2,968,898	11.84	131,002.31
The Monarch Distillery.....	5,496,011	22.77	381,150.38	4,178,935	12.42	128,676.07
The Barker Distillery.....	1,471,628	12.61	75,406.40	308,496	12.15	4,922.39
The Peoria Distillery.....	739,236	12.29	4,893.09	0	0	2,692.39
The Hamburg Distillery.....	1,645,445	12.88	43,043.98	0	0	3,920.14
The Enterprise Distillery.....	45,520	25.69	1,149.22	0	0	1,434.39
The Star Distillery.....	338,563	13.01	7,954.11	199,342	14.61	3,322.21
The Crescent Distillery.....	1,537,493	11.36	32,089.73	1,125,325	12.69	3,322.21
The Consolidated Distillery.....	3,893,589	13.35	305,395.28	4,997,927	12.69	305,395.28
The Morris Distillery.....	512,333	14.33	5,394.78	167,870	14.33	2,222.21
The Maddux & Hobart Distillery.....	498,496	12.24	5,383.34	0	0	2,222.21

Notes.—The operation of the Nebraska City Distillery for 1894 would show a loss of a few dollars, owing to the fact that about 250,000 gallons were not paid for in advance of the year 1894.

Statement 7.—Comparative statement: Gallons produced, cost per gallon, and profit or loss for fiscal years ending March 31, 1901, 1902, 1903, 1904, and 10 months ending January 31, 1905.—Continued.

Name.	Fiscal year ending Mar. 31, 1902.			Fiscal year ending Mar. 31, 1904.		
	Gallons produced.	Cost per gallon.	Profit or loss.	Gallons produced.	Cost per gallon.	Profit or loss.
		Cents.			Cents.	
The Latonia Distillery	1,122,729	12.55	\$28,251.51	755,893	15.74	\$32,127.39
The Sheffield Distillery	3,471,910	12.69	515,290.15	2,672,901	12.88	342,018.99
The Calumet Distillery	1,767,499	12.83	90,194.94	0	0	712.94
The Riverdale Distillery	1,008,314	19.61	5,595.21	888,408	18.41	89,470.65
The Phoenix Distillery	0	0	50.18	0	0	0
The Missouri Distillery	1,593,990	14.06	90,379.98	132,956	16.12	2,328.18
The Central Distillery	995,714	14.08	1,900.47	867,843	15.95	12,245.19
The Wabash Distillery	4,552,921	12.03	276,731.85	2,558,237	11.53	76,790.47
The Willow Springs Distillery	2,719,228	11.81	205,889.89	1,152,745	11.43	84,753.23
The Nebraska City Distillery	723,893	12.23	43,079.79	518,269	14.02	2,394.65
The St. Paul Distillery	2,264,961	12.53	128,116.92	1,781,557	12.19	65,408.35
The Des Moines Malt House	0	0	551.70	0	0	6,892.83
The Riverdale Distilling Co.	0	0	43,611.25	0	0	2,704.08
Independence Distributing Co., old ..	0	0	29,401.71	0	0	19,561.49
Independence Distributing Co., new ..	0	0	0	0	0	27,562.73
The Monarch Distillery, No. 5	0	0	0	0	0	0
Total	51,774,829	12.81	2,315,534.86	30,510,843	12.71	1,005,467.74

Name.	Ten months ending Jan. 31, 1905.		
	Gallons produced.	Cost per gallon.	Profit or loss.
		Cents.	
The Manhattan Distillery	1,188,067	12.34	\$143,280.04
The Northern Distillery	308,150	11.70	188,517.04
The Great Western Distillery	2,441,705	12.00	1152,120.55
The Woolner Distillery	1,387,913	11.94	55,632.63
The Monarch Distillery	2,249,142	12.05	19,894.25
The Barker Distillery	0	0	4,890.59
The Peoria Distillery	0	0	523.20
The Hamburg Distillery	0	0	4,494.71
The Enterprise Distillery	0	0	4,190.81
The Star Distillery	0	0	20,526.71
The Crescent Distillery	414,080	12.72	12,300.76
The Consolidated Distillery	1,035,830	12.22	147,892.95
The Storrs Distillery	31,503	12.25	694.19
The Maddux & Hobart Distillery	0	0	3,474.20
The Latonia Distillery	490,228	14.52	12,505.29
The Sheffield Distillery	1,221,545	14.25	185,099.27
The Calumet Distillery	0	0	5,513.05
The Riverdale Distillery	601,361	22.20	23,723.30
The Phoenix Distillery	0	0	1,112.01
The Missouri Distillery	0	0	17,561.37
The Central Distillery	445,022	12.52	1,449.09
The Wabash Distillery	598,825	12.40	51,561.25
The Willow Springs Distillery	404,110	10.95	228,753.79
The Nebraska City Distillery	242,880	12.26	225,799.50
The St. Paul Distillery	905,324	12.05	177,053.59
The Des Moines Malt House	0	0	1,079.14
The Riverdale Distilling Company ..	0	0	0
Independence Distributing Co., old ..	0	0	0
Independence Distributing Co., new ..	0	0	15,009.88
The Monarch Distillery, No. 5	0	0	0
Total	14,272,465	12.11	522,302.23

The above houses show an increase of profit in proportion to amount of their product as they were enabled to withdraw prior to the advance of tax, August 25, 1904.

CHARACTER OF THE STATISTICS.

By Mr. Sawyer. Do these tables which you are presenting contain Government statistics in regard to this trust that have never been published and are reliable? I think there is only one part here that is Government statistics—that is the last showing the amount of the production of spirits. The other

tistics are taken from the books, papers, and bills of the Distilling and Cattle Feeding Company.

Q. Were they gathered under your direction?—A. No; before I took charge, at the time when the receivership began. As receiver I took possession of the office and all the books and accounts of the company. I had all the books and accounts examined by experts to determine the operations of the company from its organization up to the time of the receivership. I examined into their methods of business, and the character of the business, and particularly with reference to the question as to whether there had been any misappropriation of the funds of the corporation. I was representing, as the officer of the court, the stockholders and the creditors with a view to ascertaining the facts. These data were taken from the books by the experts. I took them first for my own use, and have had one of the experts in charge (Mr. E. H. Harrison) make these exhibits which I am presenting to you.

Q. (By Mr. JENKS.) You consider these statistics entirely trustworthy, being taken from the books of the company?—A. They are entirely reliable.

Q. Have they ever been published before in such form as this?—A. I do not think they have ever been published in any form. I do not see how they could be. There may be some things that have been published, but I do not see how the cost of production, for example, could have been published. The Government has nothing to do with the cost.

Q. (By Mr. KENNEDY.) Of course the Government has nothing to do with that; but were not most of them gathered under a sort of Government direction, you being an officer of the Government?—A. Yes; in that sense they were. I got all of this information as an officer of the United States circuit court, being appointed receiver to take charge of this property and control and direct it under the orders of the court. The papers and books of the company were thoroughly examined, but not with this particular object in view. Exhibit 7 shows, as I have said, the gallons produced, the average cost, and the profit or loss at each distillery and for the whole country. Exhibit 8 shows the sales of product by months.

EXHIBIT 8.—*Comparative statement of sales by months for the fiscal years ending March 31, 1889, 1890, 1891, 1892, 1893, 1894, and 1895.*

Year ending March 31—	April.	May.	June.	July.	August.
1889.....	2,551,552.98	3,086,291.97	2,202,226.53	2,398,344.48	2,699,794.64
1890.....	2,808,991.00	3,214,901.00	2,787,200.00	3,048,064.00	3,498,448.00
1891.....	3,626,936.34	3,990,639.44	3,245,621.78	3,555,986.69	3,543,978.02
1892.....	3,175,058.99	2,887,275.08	3,149,888.56	3,258,791.30	3,414,721.84
1893.....	3,963,127.81	3,769,601.66	3,089,451.46	2,938,453.81	3,507,982.96
1894.....	2,615,194.62	2,623,336.62	2,636,589.87	2,180,943.36	1,745,822.69
1895.....	1,839,089.44	2,024,595.64	2,386,045.22	2,412,065.42	2,577,124.13
Total.....	20,674,960.18	21,596,641.31	19,373,903.42	19,730,626.95	21,216,762.69

Year ending March 31—	September.	October.	November.	December.
1889.....	3,954,493.00	3,678,530.00	2,920,040.24	2,365,944.90
1890.....	3,222,149.00	4,191,156.00	4,200,894.00	3,999,672.00
1891.....	3,593,510.32	4,016,120.96	3,849,157.09	4,445,251.39
1892.....	3,320,804.65	4,378,478.68	4,256,376.40	4,873,293.65
1893.....	4,048,453.21	4,629,890.90	5,078,893.39	5,228,002.25
1894.....	3,720,478.53	3,516,308.64	3,531,408.75	3,423,875.59
1895.....	269,727.01	896,402.59	1,562,423.94	1,390,999.02
Total.....	20,791,610.72	26,247,101.27	25,718,652.81	26,670,214.85

Year ending March 31—	January.	February.	March.	Total.
1889.....	4,473,782.00	2,975,675.00	3,016,346.45	26,667,211.29
1890.....	3,420,275.00	3,206,532.00	3,276,935.00	40,538,259.69
1891.....	3,785,572.76	3,321,816.69	3,687,423.42	43,728,711.71
1892.....	4,170,629.78	4,102,093.15	4,172,327.84	45,982,977.69
1893.....	2,604,454.33	3,689,332.63	3,308,222.96	35,067,654.37
1894.....	2,947,422.42	3,247,235.45	3,223,938.22	22,722,122.79
1895.....	1,323,037.18	2,291,153.62	1,424,104.84	24,522,926.26
Total.....	23,308,122.43	22,276,410.44	21,429,722.69	267,947,222.24

Exhibit 9 shows the statistics of the Internal-Revenue Department as to the number of proof gallons of whisky produced in the country. Below that is a statement of the number of gallons of spirits and alcohol, and a small amount of whisky and gin, that were produced by the Distilling and Cattle Feeding Company during the same years. I call your special attention, however, to the fact that the statistics of the Internal-Revenue Department are not simply for spirits and alcohol, but cover everything that can be classed under the head of whisky or alcohol, namely, all the Kentucky bourbons, Pennsylvania ryes, fruit brandies, and every form of liquor that was covered by the 90-cent and \$1.10 tax. Exhibit 9 is worthy of your consideration. This exhibit shows the bushels of grain used during 1890, 1891, 1892, 1893, and 1894, a total of 126,787,596, of which there was used by the Distilling and Cattle Feeding Company 45,804,333; and the total gallons produced, 548,492,824, of which there was produced by the Distilling and Cattle Feeding Company 214,597,314. The average yield per bushel of the whole is 4.326. The average yield of the Distilling and Cattle Feeding Company's distilleries is 4.685.

EXHIBIT 9.

1. Comparative statement of material used and spirits produced in the United States during the fiscal years ending June 30, 1890, 1891, 1892, 1893, and 1894, as per report of Commissioner of Internal Revenue, 1894.

Years.	Bushels used.	Gallons produced	Yield per bushel.
1890.....	25,202,901	107,618,120	4.270
1891.....	26,347,641	114,176,077	4.338
1892.....	26,499,827	112,512,723	4.257
1893.....	29,080,409	123,545,017	4.266
1894.....	19,716,818	87,340,897	4.426
Total.....	126,787,596	548,492,824	4.326

A report showing the increase in yield by modern methods as compared with earlier and more primitive methods in the seventies—1870 to 1880—is asked for. The distilleries calculated their yields in quarts of high wines at that time. Twelve to 14 quarts was a good yield, meaning 8 to 8½ gallons. At the time of the organization of the Distilling and Cattle Feeding Company they were making a finish yield of 4.75, or a yield in high wines of 4.90, meaning 4.9 gallons. The finish yield now is, perhaps, 4.90, and the yield in high wines 5.05 gallons. Since the organization of the Distilling and Cattle Feeding Company there has been little gain, except by the use of copper in all parts of the distillery in place of the old wooden tubs.

2. Comparative statement of material used and spirits produced by the Distilling and Cattle Feeding Company during fiscal years ending March 31, 1890, 1891, 1892, 1893, and 1894.

Years.	Bushels used.	Gallons produced.	Yield per bushel.
1890.....	8,481,699	39,682,736	4.671
1891.....	10,012,421	47,149,012	4.708
1892.....	9,858,873	45,509,884	4.616
1893.....	11,023,683	51,774,888	4.696
1894.....	6,425,657	30,510,548	4.742
Total.....	45,804,333	214,597,314	4.682

Q. During that time the Distilling and Cattle Feeding Company was producing considerably less than half of the total output of the country, was it not?—A. Yes; less than half of the entire output; but that Government statement covers the whisky, which they were not manufacturing. It does not show their proportion of the spirits and alcohol.

PROFITS OF THE DISTILLING AND CATTLE FEEDING COMPANY.

Q. Can you give us their percentage of the production of spirits and alcohol?—
A. I have nothing here that shows what the percentage is. Exhibit 10, which I
present here, gives the dividends paid by the Distilling and Cattle Feeding
Company:

EXHIBIT 10.—Dividends paid on outstanding stock.

	Amount.	Per cent.
April 1, 1890, to March 31, 1891	\$1,280,053.40	4
April 1, 1891, to March 31, 1892	1,590,022.25	5½
April 1, 1892, to March 31, 1893	874,876.30	2½

In the beginning these were monthly dividends. Later they were quarterly dividends, all profits being declared in the nature of dividends, and no redistribution being made to former owners, dividends being on outstanding stock. Later, instead of declaring dividends, they purchased property; about \$4,000,000 was invested in distilleries. These profits were invested in the distilleries which I have already mentioned, in answer to a former question, as being purchased, viz: Riverdale, \$300,000; Calumet, \$500,000; Shufeldt, \$1,600,000; Star and Crescent, \$700,000; Central, \$850,000, and Nebraska City, \$425,000. The distilleries in Peoria, and certain of the better properties, were enlarged and kept up.

I know of no charge for the annual depreciation. The plants which were not used were dismantled and the buildings disposed of to the best advantage possible. The supreme court of Illinois declared the organization of the Distilling and Cattle Feeding Company a trust.

Q. (By Mr. JENKS.) Were these distilleries on ground owned by the trust or company, or were they all on leased ground?—A. They were nearly all on leased ground. Their plan of operation, in substance, was to acquire ownership of the buildings, and lease the ground for a term of 20 to 25 years, for which they paid rent at the rate of 6 per cent on an estimated value of the ground, which was revised every 5 years.

Q. Did they continue to pay rent on the ground after the distilleries were dismantled?—A. Yes; they paid that until after the receivership. Soon after that I applied for and obtained an order from the court to abandon those properties, or a large number of them; they had no value.

Q. (By Mr. PHILLIPS.) What became of the ground?—A. It reverted to the owners of the fee.

Q. Original owners?—A. The original owners of the fee. Then there were claims set up for the rent of the ground during the remainder of the period of the lease; and I think one, at least, or two of those claims are still pending. That demand was resisted on the ground that the contract was void, being in violation of the trust laws and a restriction of trade. That was my answer in those cases, and they have not yet come to an official issue in the courts on any one of them.

COURT DECISION ON THE DISTILLING AND CATTLE FEEDING COMPANY.

Q. (By Mr. JENKS.) Did the court of Illinois decide that this company was an illegal combination?—A. It did. I have the case right here, and will refer to it. *Distilling and Cattle Feeding Company v. People*, 156 Illinois, 448. In the organization of the Distilling and Cattle Feeding Company it was sought to evade the law which was infringed by the Distillers and Cattle Feeders' Trust, whereby a number of distilleries put their stock into the trust, or rather put their stock into the hands of trustees and took the certificates of those trustees instead of their stock. Finding that that was in violation of the law, they then adopted another method, and organized a corporation under the general law of Illinois. The Distilling and Cattle Feeding Company bought these properties, taking stock for the purpose; that is, there were \$35,000,000 of certificates of the trustees of the Distillers and Cattle Feeders' Trust that were converted into \$35,000,000 of stock of the Distilling and Cattle Feeding Company. The point is made that the new effort to form a trust was faulty, because they took stock instead of money. As I understand it, they now make new corporations and buy outright plants of old corporations by selling the stock of the new. I do not see a particle of difference between the one and the other.

Q. (By Mr. JENKS.) What was done in this special case? Was a share of stock issued for each trust certificate that was delivered?—A. Yes.

an exchange of one for the other?—A. Yes; of one for the other, dollar for dollar.

Q. Then the trustees who had been elected by the certificate holders were reelected by the new stockholders as directors of the new company?—A. They were substantially the same set of men, though there may have been a few changes. In a word, the Distillers and Cattle Feeders' Trust converted itself into a corporation, known as the Distilling and Cattle Feeding Company, by getting articles of incorporation and getting stock in that corporation in lieu of the old trust certificates.

Q. (By Mr. PHILLIPS.) Was that decided to be illegal?—A. Yes. The main question, however, is not that; it is the attempt to control the trade of the country; in other words, the cornering of the market, the reaching out beyond the legitimate limits of one manufacturing enterprise.

Q. (By Mr. JENKS.) Was the decision made under a special trust law of Illinois or the common-law doctrine of restriction of trade?—A. The trust law of Illinois. It was a proceeding in quo warranto, a judgment of ouster; judgment was rendered by the circuit court and an appeal was taken to the supreme court. Pending that appeal a bill was filed by the officers of the company for the appointment of a receiver, on the ground of the insolvency of the company, its inability to pay its debts, and the insufficiency of its assets. It is not clear that they were relying upon the fact that it manifestly would have been unable to meet its obligations when due. If it had been closed up under any other process than it was, the assets would have been insufficient to meet the obligations; but, as I will show later, the assets proved abundant.

WHAT WOULD BE THE POSITION OF OTHER TRUSTS IN ILLINOIS.

Q. (By Mr. PHILLIPS.) Would such corporations as are now being made, and have been for the last year or more in New Jersey, in your opinion be declared illegal under the trust law of Illinois?—A. I think they would not stand the test of the trust law of Illinois; and I do not think the expedient resorted to in paying for stock in money would help them a particle; I think they are all illegal.

Q. Under your law?—A. Under the laws of Illinois. It is merely a question of pushing the cases to a final decision before our courts. They are all in contravention of the law. I am of the opinion that they would be illegal, irrespective of common law.

my opinion, I should say they would. It was opinion upon a state of facts that I do not know.

Q. (By Representative LIVINGSTON.) How would these trusts of which you have been speaking stand under the Sherman law; would it cover them?—A. I think it would, but of course only such of them as come under Federal jurisdiction. I think it is more a matter of the enforcement of the law than the making of the law.

ALL TRUSTS NOT DANGEROUS.

Nevertheless, I do not regard all of these industrial trusts as dangerous, as some people do, because I do not think it is possible for them to exist and hold up prices for any long period of time, as in the case of this distilling company, and as it would be in any enterprise that can be started with a small amount of capital. As I said to you awhile ago, they may start a trust and buy up a hundred or two hundred distilleries or factories in any other industry, but the only way they can keep them in operation is by keeping the cost of production below what it can be kept by small concerns. The moment they reach out for more than a reasonable profit on the cost of production, that moment other plants will be created faster than any trust can buy them up. I brought out in my statement this morning the exceptional advantages of Peoria. There is one 12,000-bushel distillery there—the Great Western, the new distillery. They can mash and put in spirits every day, when running at full capacity, 12,000 bushels of grain.

Q. (By Representative OTTEN.) About 50,000 gallons?—A. Nominally 60,000 gallons, or a trifle under. When it comes out of the still it is higher than when it goes into the barrel; there is a considerable loss. My opinion is that they can put their feet at Peoria and absolutely control the spirit market of America, and, bearing discriminating customs laws, of the world, by cheapening the product; but they can not do it by cornering the market and raising the price.

Q. (By Mr. JENKS.) Do the several corporations which have sold their entire properties to the central, or so-called trust corporation, remain in existence?—A. Do you mean all the old corporations?

Q. Yes.—A. Some of them remain in existence, but many of them have died out, and are forgotten. Some of them held their organization until along toward the last.

RELATIONS BETWEEN THE TRUST AND THE COMPANIES ENTERING INTO IT.

Q. Was that under the trust form?—A. Yes, under the trust form. The property yet owned in these companies, or most of them at least, that I now think of (my memory does not serve me just at this moment, for it is some time since I have been working on these details), became part of the Distilling and Cattle Feeding Company's property. The buildings alone belonged to the company and stood on leased ground. The owners of the fee were generally the owners of the old plant. They continued to receive their rental. Now, in case of some of the old plants, one that I have in mind in particular, there was a purchase of the buildings and a rental of the ground, and then a rental of the buildings back to the original owners. That is a little complicated; let me give it to you again. Suppose A and B owned a piece of land with a distillery upon it. The Distilling and Cattle Feeding Company bought the buildings and machinery for, say, \$250,000. They had a lease upon the ground for 25 years, the usual lease. They then leased the buildings back to A and B, the original owners, for \$1 a year, in the meantime paying the annual rental on the ground of, say, \$2,000—I do not remember what the amount was, but it was not less than that—in quarterly installments, but getting a dollar. In the lease of the buildings back to the original owners there was a stipulation that it should be used only for a specific purpose.

Q. (By Mr. PHILLIPS.) Was the specific purpose not to distill?—A. Well, in the case I refer to, to distill only rye whiskey.

Q. (By Mr. JENKS.) That is, not to come into competition?—A. Yes; not to come into competition. To be explicit, it was the Clark Distillery at Peoria. After awhile, and during my administration of the trust, the Clark Distillery, in the hands of the original owners, then the lessees, did start to make spirits and I at once applied for a restraining order upon them, held them up, and refused to pay them any more rent. We have not got that thing quite satisfactorily adjusted yet.

Q. Was the restraining order granted?—A. Certainly.

Q. Did it stop them for the time being?—A. Yes; because they had rented it for a specific purpose. The order still stands. We have not either of us come to a square issue before the court, because we are not certain on either side where we will land.

Q. Can you give further particulars regarding the work of the original organization and its effects?—A. The original organization made contracts with the owners of the various distilling properties, leasing the ground on which the distillery stood, and making a practical purchase of the building. They also contracted with the owners to pay them, as managers, certain sums in salaries for 5 years. At the end of 5 years, which came after the organization of the Distilling and Cattle Feeding Company, the majority of these contracts were discontinued. The rentals were dependent upon the value of the land, which was fixed by a commission of 3 at the end of each 5 years.

PLAN OF ORGANIZATION OF THE DISTILLING AND CATTLE FEEDING COMPANY.

I offer you here Exhibit 11, which is the articles of incorporation, bill of sale, and the by-laws of the Distilling and Cattle Feeding Company, covering some points that may be interesting to you.

EXHIBIT 11.

APPLICATION FOR LICENSE.

STATE OF ILLINOIS, *Peoria County*, ss.

ISAAC N. PHARSON, *Secretary of State*:

We, the undersigned, Joseph B. Greenhut, Adolph Woolner, and George J. Gibson, propose to form a corporation under an act of the general assembly of the State of Illinois, entitled "An act concerning corporations," approved April

18, 1872, and all acts amendatory thereof, and for the purpose of such organization we hereby state as follows, to wit:

1. The name of such corporation is, Distilling and Cattle Feeding Company.
2. The object for which it is formed is to carry on a general business of distilling, redistilling, and rectifying high wines, alcohol, spirits, gins, and whiskies of every kind and description, and deal in the same, in the State of Illinois and elsewhere, and owning the property necessary for that purpose; also to engage in feeding and dealing in cattle and other live stock; also malting, dealing in malt, and doing any other business incident to the main purpose of this corporation.
3. The capital stock shall be \$35,000,000.
4. The amount of each share is \$100.
5. The number of shares, 350,000
6. The location of the principal office is in Peoria, in the county of Peoria, State of Illinois.
7. The duration of the corporation shall be ninety-nine years.

JOSEPH B. GREENHUT.

ADOLPH WOOLNER.

GEORGE J. GIBSON.

STATE OF ILLINOIS, *County of Peoria, ss:*

I, J. S. Stevens, a notary public in and for the county and State aforesaid, do hereby certify that on the 80th day of January, A. D. 1890, personally appeared before me Joseph B. Greenhut, Adolph Woolner, and George J. Gibson, to me personally known to be the same persons who executed the foregoing statement, and severally acknowledged that they executed the same for the purposes therein set forth.

In witness whereof I have hereunto set my hand and seal the day and year above written.

[SEAL.]

J. S. STEVENS, *Notary Public.*

LICENSE.

State of Illinois, department of state, Isaac N. Pearson, secretary of state, to all to whom these presents shall come, greeting:

Whereas it being proposed by the persons hereinafter named to form a corporation under an act of the general assembly of the State of Illinois, entitled "An act concerning corporations," approved April 18, 1872, in force July 1, 1872, and the amendments thereto, the object and purposes of which corporation are set forth in a statement duly signed and acknowledged according to law, and this day filed in the office of the secretary of state:

Now, therefore, I, Isaac N. Pearson, secretary of state of the State of Illinois, by virtue of the power vested in and the duties imposed upon me by law, do hereby authorize, empower, and license Joseph B. Greenhut, Adolph Woolner, and George J. Gibson, the persons whose names are signed to the before-mentioned statement as commissioners, to open books for subscription to the capital stock of Distilling and Cattle Feeding Company, such being the name of the proposed corporation as contained in the statement, at such times and places as the said commissioners may determine.

In testimony whereof I hereto set my hand and cause to be affixed the great seal of state. Done at the city of Springfield this 31st day of January in the year of our Lord 1890, and of the Independence of the United States the one hundred and fourteenth.

I. N. PEARSON, *Secretary of State.*

SUBSCRIPTION OF STOCK.

ISAAC N. PEARSON, *Secretary of the State of Illinois:*

The commissioners duly authorized to open books of subscription to the capital stock of Distilling and Cattle Feeding Company, pursuant to license heretofore issued, bearing date the 31st day of January, A. D. 1890, do hereby report that they opened books of subscription to the capital stock of said company and that the said stock was fully subscribed; that the following is a true copy of such subscription, viz:

We the undersigned, hereby severally subscribe for the number of shares set opposite our respective names to the capital stock of Distilling and Cattle Feeding Company, and we severally agree to pay the said company for each share the sum of \$100, as the same shall be called for.

Names.	Shares.	Amount.	Names.	Shares.	Amount.
Joseph B. Greenhut.....	42,750	\$4,375,000	Adolph Woolner.....	42,750	\$4,375,000
Warren H. Corning.....	42,750	4,375,000	Peter J. Hennessy.....	42,500	4,262,500
William N. Hobart.....	42,750	4,375,000	Nelson Morris.....	42,500	4,262,500
Lewis H. Greene.....	42,750	4,375,000	Henry M. Kingman.....	500	50,000
H. L. Terrell.....	42,750	4,375,000			

ELECTION OF DIRECTORS.

That on the 11th day of February, A. D. 1890, at 207 North Jefferson avenue, Peoria, Ill., at the hour of 10 o'clock a. m., they convened a meeting of the subscribers aforesaid, pursuant to notice required by law, which said notice was deposited in the post-office, properly addressed to each subscriber, 10 days before the time fixed therein, a copy of which notice is as follows, to-wit:

To ————:

You are hereby notified that the capital stock of Distilling and Cattle Feeding Company has been fully subscribed, and that a meeting of the subscribers of such stock will be held at 207 North Jefferson avenue, Peoria, Ill., on the 11th day of February, A. D. 1890, at 10 o'clock a. m., for the purpose of electing a board of directors for said company, and for the transaction of such other business as may be deemed necessary.

JOSEPH B. GREENHUT,
ADOLPH WOOLNER,
GEORGE J. GIBSON,
Commissioners.

That said subscribers met at the time and place in said notice specified, and proceeded to elect directors, and that the following persons were duly elected for the term of one year, viz:

Joseph B. Greenhut, Warren H. Corning, Wm. N. Hobart, Lewis H. Greene, H. L. Terrell, Adolph Woolner, Peter J. Hennessy, Nelson Morris, H. M. Kingman.

JOSEPH B. GREENHUT,
ADOLPH WOOLNER,
GEORGE J. GIBSON,
Commissioners.

STATE OF ILLINOIS, *County of Peoria, ss:*

On this 11th day of February, A. D. 1890, personally appeared before me, a notary public in and for said county, in said State, Joseph B. Greenhut, Adolph Woolner, and George J. Gibson and made oath that the foregoing report by them subscribed is true in substance and in fact.

[SEAL.]

N. E. D. HUGGINS, *Notary Public.*

STATE OF ILLINOIS, *Peoria County, ss:*

I, Francis G. Minor, clerk of the circuit court in and for the county of Peoria, and State of Illinois, and ex-officio recorder of deeds in said county, do hereby certify that the annexed instrument was filed for record in my office on the 12th day of February, A. D. 1890, at 9.19 o'clock a. m., and has been duly recorded in book 3 on page 64, in said recorder's office.

In witness whereof, I have hereunto set my hand at my office in Peoria, the day and year above written.

F. G. MINOR, *Clerk and Recorder.*
By J. P. DURKIN, *Deputy.*

CHARTER.

State of Illinois, Department of State, Isaac N. Pearson, Secretary of State, To all to whom these presents shall come, Greeting:

Whereas a statement, duly signed and acknowledged, has been filed in the office of the Secretary of State on the 31st day of January, A. D. 1890, for the organization of the Distilling and Cattle Feeding Company, under and in accordance with the provisions of "An act concerning corporations," approved April

18, 1872, and in force July 1, 1872, and all acts amendatory thereof, a copy of which statement is hereto attached; and,

Whereas a license has been issued to Joseph B. Greenhut, Adolph Woolner, and George J. Gibson as commissioners, to open books for subscription to the capital stock of the said company; and,

Whereas the said commissioners have, on the 11th day of February, A. D. 1890, filed in the office of the secretary of state a report of their proceedings under said license, a copy of which report is hereto attached;

Now, therefore, I, Isaac N. Pearson, secretary of state of the State of Illinois, by virtue of the powers vested in me by law, do hereby certify that the said Distilling and Cattle Feeding Company is a legally organized corporation under the laws of this State.

In testimony whereof I hereunto set my hand and cause to be affixed the great seal of State. Done at the city of Springfield this 11th day of February, in the year of our Lord 1890 and of the Independence of the United States the one hundred and fourteenth.

I. N. PEARSON, *Secretary of State.*

This is to certify that the articles of incorporation of the Distilling and Cattle Feeding Company (capital stock \$35,000,000) was filed for record in my office on the 13th day of February, A. D. 1890, at 9.19 o'clock a. m., and was duly recorded in corporation record, volume 3, page 65, official records of Peoria County, State of Illinois.

Dated at Peoria this 7th day of November, A. D. 1894.

[SEAL.]

JOHN JOHNSTON, *County Recorder.*

BILL OF SALE.

Whereas the holders of certificates of the Distillers and Cattle Feeders' Trust did, by resolution, on the 11th day of February, A. D. 1890, authorize and empower the trustees of said Distillers and Cattle Feeders' Trust, on certain conditions, to sell, assign, convey, transfer, and set over to the Distilling and Cattle Feeding Company, a corporation organized under the laws of the State of Illinois, all the property, real, personal, and mixed, of every nature, kind, and description, and all moneys and bills receivable belonging to or under the control or in the hands of said trustees;

Now, therefore, in compliance with the direction of said certificate holders, and in consideration of the receipt of \$35,000,000 of the capital stock of the Distilling and Cattle Feeding Company, the receipt whereof is hereby acknowledged, we, J. B. Greenhut, Adolph Woolner, P. J. Hennessy, H. M. Kingman, Nelson Morris, W. H. Corning, L. H. Greene, H. L. Terrell, and W. N. Hobart, trustees of the Distillers and Cattle Feeders' Trust, do hereby sell, assign, convey, transfer, and set over to the Distilling and Cattle Feeding Company, its successors and assigns, all our right, title, and interest in and to all property of every nature, kind, and description in our possession or under our control as trustees as aforesaid, and we also hereby agree to see that the various corporations holding the property represented in the Distillers and Cattle Feeders' Trust and interested therein legally and properly convey to said Distilling and Cattle Feeding Company all the property of said corporations, including all leasehold interests, and also to cause all leases held by said various corporations to be duly and properly transferred to said Distilling and Cattle Feeding Company; and the said Distilling and Cattle Feeding Company, in consideration of the sale, transfer, assignment, and conveyance of all the property aforesaid by the said trustees and by the various corporations interested in said Distillers and Cattle Feeders' Trust and represented therein, does hereby agree and bind itself, its successors and assigns, to assume all the outstanding contracts of the trustees aforesaid, and also of the various corporations conveying property to said Distilling and Cattle Feeding Company as aforesaid, and to see that they are faithfully carried out and executed to the same extent as the various corporations making said contracts would be required to do, and also agree to accept said property leases, leasehold interests, and all herein required to be conveyed, assigned, and turned over to said corporation, in full payment for all the capital stock of the said Distilling and Cattle Feeding Company, turning over to said trustees an amount of stock equal at par value to the amount of said outstanding certificates of the Distillers and Cattle Feeders' Trust, and the balance of said stock being retained in the treasury of the said Distilling and Cattle Feeding Company for such use as the stockholders and directors thereof may deem for the best interests of the corporation.

In witness whereof the said trustees hereunto affix their hands and seals this 18th day of February, A. D. 1890, and the said Distilling and Cattle Feeding Company, by its president, hereby duly signs and executes this agreement on its part the day and year aforesaid.

J. B. GREENHUT.
ADOLPH WOOLNER.
NELSON MORRIS.
HENRY M. KINGMAN.
P. J. HENNESSY.

[SEAL.]
[SEAL.]
[SEAL.]
[SEAL.]
[SEAL.]

W. H. CORNING.
H. L. TERRELL.
WILLIAM N. HOBART.
L. H. GREENE.

[SEAL.]
[SEAL.]
[SEAL.]
[SEAL.]

DISTILLING & CATTLE FEEDING COMPANY,
J. B. GREENHUT, *President*.

Attest:

GEO. J. GIBSON, *Secretary*.

BY-LAWS OF THE DISTILLING AND CATTLE FEEDING COMPANY.

ARTICLE 1.—*Meeting of stockholders.*

The annual meetings of the stockholders shall be at the office of the company on the Wednesday nearest the 15th day of April, in each year, at the hour of 12 m., and on any subsequent day or days to which such meetings may be adjourned. At the first annual meeting 9 directors shall be elected by ballot, 3 of whom shall be elected for 3 years; 3 shall be elected for 2 years, and 3 shall be elected for 1 year. At each annual meeting thereafter, 3 directors shall be elected by ballot, who shall continue in office during 3 years, and until their successors are chosen and qualified. The term of office of each director shall begin on the 1st day of May following the date of the annual meeting.

In case of the death, resignation, refusal, or inability to act of any person as director, a majority of the board may fill such vacancy until the next annual meeting of the stockholders, when the vacancy shall be filled for the unexpired term by a vote of the stockholders, separate from the class to be elected at the regular election.

The said election shall be conducted by two judges appointed by the board of directors, or if such appointees are not present, the vacancy or vacancies shall be filled by the presiding officer of the meeting. Stockholders shall be entitled to one vote for each share of stock held by them, respectively, upon the books of the company, to be voted by the holder in person, or by his or her duly authorized proxy or attorney. All questions shall be decided by vote of a majority of the stock present or represented. In case the annual meeting of holders of stock should not be held on the day fixed therefor, or should be finally adjourned without completing the election of directors, such election may be held subsequently at a special meeting of stockholders called as hereinafter provided. The president and board of directors may call special meetings of the stockholders of this company at its general office, at such time as they may see fit, designating in such call the purpose of such special meeting. Notice may be given the stockholders by mail or telegraph 10 days before the time for the holding of such special meeting. No business shall be done at such special meeting except such as may be designated in the call. Special meetings may also be called as provided by law.

ARTICLE 2.—*Officers.*

The board of directors shall elect from their number a president, one or more vice-presidents, as they may determine, and a treasurer. They shall also elect a secretary, who may or may not be of their number. Such officers shall be elected by ballot, and a majority shall elect. They may also elect or appoint such officers, agents, or factors as they may deem necessary.

ARTICLE 3.—*Meetings of directors.*

Regular meetings of the board of directors shall be held each month, on such day of the month as the president may designate, by giving notice of the same 8 days previous to the date of such meeting by mail or telegraph. Special meetings of the board of directors may be held upon the call of the president, and it shall be his duty to call special meetings upon the request of 4 or more of the directors. Written or printed notice of all special meetings of directors, with a brief statement of the object thereof, shall be served on each of the directors personally, or by mail or telegraph, at least 3 days previous to the time of meeting.

ARTICLE 4.—*Order of business.*

The order of business at all meetings of the board of directors shall be as follows: (1) Reading minutes of last meeting; (2) considering all communications to the board; (3) reports of officers of the board; (4) reports of committees; (5) unfinished business; (6) original resolutions and new business.

ARTICLE 5.—*President.*

The president shall, when present, preside at all meetings of the stockholders and of the directors. He shall, together with the secretary, sign all obligations, contracts, deeds, and leases in behalf of the company, upon the direction of the directors only. The president shall also generally have the powers and perform the duties which, by law and general usage, appertain to the office. In case of the absence or disability of the president and vice-presidents, the directors shall appoint another one of their number to perform his duties ad interim.

ARTICLE 6.—*Vice-president.*

In the event of the absence or inability to serve of the president, the vice-presidents shall perform all the duties of the president, in the order of their designation.

ARTICLE 7.—*Secretary.*

It shall be the duty of the secretary to prepare and keep proper books of accounts pertaining to his office, the stock, certificate and transfer books. He shall give notice of all the meetings of the stockholders and of the board of directors, and he shall keep records of the proceedings of the same. He shall carefully preserve and keep in his custody, in the office of the company, all letters, contracts, leases, assignments, and other instruments of writing, and documents not properly belonging to the office of the treasurer, and shall perform such other duties as he may be charged with by the board of directors. The board of directors may appoint one or more assistant secretaries, with such powers and duties as may be fixed by the board from time.

ARTICLE 8.—*Treasurer.*

The treasurer shall keep full and accurate accounts of the receipts and disbursements, and take and preserve vouchers of all moneys paid out. He shall deposit all moneys received by him in the name and to the credit of the company in such bank or other place or places of deposit as the board of directors shall designate, and for that purpose shall have power to indorse all checks or other negotiable paper drawn payable to his order or to the order of the company, and shall disburse all the moneys of the company received by him as directed by the board, by checks, which shall bear his signature as treasurer and also the signature of the president or other officers designated by the board. He shall render a full and accurate statement of the accounts and of the financial condition of the company at every annual meeting of the stockholders for the fiscal year next preceding such meeting, and a correct summary statement of the accounts and finances at every regular meeting of the board of directors, and he shall likewise produce vouchers and make special and complete reports whenever required to do so by the board of directors. He shall also perform such other duties as he may be charged with by the board of directors. The treasurer shall execute a bond in the sum of \$100,000, with such surety as the directors shall approve, conditioned for the delivery to the president, or according to the order of the board in case of his decease, resignation, or discharge, all moneys, bonds, evidences of debts, vouchers, accounts, books, writings, and papers belonging to the company received by him or in his possession, charge, or custody, and for the faithful performance of all the duties of his office. The board of directors may appoint an assistant treasurer, who shall give such bond and shall have such powers and duties as may be fixed by said board from time to time.

ARTICLE 9.—*Government papers.*

All papers required by the Internal-Revenue Department of the United States Government may be executed in the name of the company by the president, or any of the vice-presidents, secretary, or treasurer, and by such other persons as may from time to time be designated by the board of directors for that purpose.

ARTICLE 10.—*Certificates of stock.*

Bound books of certificates of stock of the form and tenor determined by the directors shall be placed in the custody of the secretary, and all certificates of stock shall be signed by the president and secretary and countersigned by the treasurer.

ARTICLE 11.—*Transfer of certificates of stock.*

The certificates of stock shall, upon surrender and cancellation thereof, be transferred upon the books of the company, at the request, in writing, of the holder thereof named in the surrendered certificate or certificates, or of his legal representative, or of his attorney duly authorized by a written power of attorney filed with the secretary of the company.

In case of loss or destruction of a certificate of stock another may be issued in lieu thereof upon satisfactory proof of such loss and the giving of a satisfactory bond of indemnity. No certificates shall be transferred upon the books of the company within ten days next preceding any meeting of stockholders for the election of directors.

ARTICLE 12.—*Fiscal year.*

The fiscal year of the company shall begin on the 1st day of April and terminate upon the last day of March in each year.

ARTICLE 13.—*Amendments.*

These by-laws or any of them may be altered, amended, repealed, or added to at any regular meeting of the board of directors, by a majority of the board.

Exhibit 12 is a list of the salaries at the general offices of the company. At the commencement of the receivership the salary of the president was \$10,000 per year; that of the vice-president was, I think, \$6,000; the secretary received \$6,000, and the secretary of the president, \$2,400.

EXHIBIT 12.

General salary account for March, 1895.

Names.	Amount.	Position.
N. E. D. Higgins	\$375.00	Secretary to receiver.
W. McLean	300.00	Supervisor of distilleries.
T. E. Magee	200.00	General bookkeeper.
N. K. Beasley	200.00	Manager distillery department.
W. C. Beasley	125.00	Chief clerk distillery department.
S. D. Reynolds	100.00	Bookkeeper distillery department.
C. A. Brons	100.00	Bookkeeper and telegraph operator.
A. Schoen, one-half month	50.00	Bookkeeper distillery department.
J. S. Higgins	100.00	Do.
B. S. Green, one-half month	41.66	Do.
Stella Werschutz	100.00	Stenographer and assistant to general bookkeeper.
O. A. Myers	208.33	Manager rebate department.
D. Green	100.00	Chief clerk rebate department.
A. V. Robins	65.00	Clerk rebate department.
Carrie M. Gill	66.67	Clerk and stenographer rebate department.
John S. Stevens	416.67	General counsel.
E. S. Easton & Co.	60.00	Buying grain for distilleries.
A. Werschutz	25.00	Office boy.
B. Todd	40.00	Doorkeeper.
O. P. Stevenson	50.00	Night janitor and watchman.
B. F. Cain	60.00	Day janitor and messenger.
Walter Barker, from March 12 ..	200.00	Manager for receiver, \$300 per month.
Total	2,973.33	

Salaries of managers for March, 1895.

Names.	Amount.	Distillery.
John H. Francis ..	\$300.00	Monarch Distillery.
E. S. Easton	300.00	Manhattan Distillery.
H. Schwabacher ..	200.00	Hamburg Distillery.
W. F. Wolfner	300.00	Great Western Distillery.
J. H. Francis, Jr. ..	300.00	Woolner Distillery.
S. J. Woolner	200.00	Star and Crescent Distillery.
Jacob Ross	300.00	Central Distillery.
O. L. Perm	333.33	Consolidated Distillery.
F. J. Hennessy	416.67	H. H. Shufeldt & Co. Distillery.
John Biggs	300.00	Wabash Distillery.
Total	2,950.00	

A PLAN FOR RAISING THE PRICE OF CORN.

Exhibit 13, which I think has a bearing upon this subject—at least it was one of the important matters to me relating to the whole distilling business—is marked “An argument in favor of developing industries which will enhance the price of corn,” to which I ask your attention. When this subject was fresh in my mind I worked up the question of the relation of the distilleries to the farming interests of the country. I did it from the standpoint of a farmer, because my own personal interests are in that line, substantially all the savings of a life of hard work being invested in farms. I am specially interested in that question, and I have touched particularly upon the revenue tax, the methods of conducting the distilling business, the revenue laws, and certain laws which seem to me to need revision.

EXHIBIT 13.

An argument in favor of developing industries which will enhance the price of corn.

[Copy.]

CHICAGO, January 2, 1897.

S. M. RICE, Esq.,
Mills Building, New York.

DEAR SIR: In your favor of the 21st ultimo you say: “I have taken the liberty of using some of the material in your (my) letter of November 16, in reference to the free-alcohol matter, without, however, mentioning your (my) name. I think the arguments presented are very strong and ought to be of weight with our legislators.”

At the time of writing that letter it did not occur to me that you desired to make use of my views upon this question in the way of presenting them to Congress as information, to enable the committee of that body to reach a correct conclusion in making modifications to our existing laws; otherwise, I would have written more fully and covered more points, and should at the same time have expressed my willingness for you to use my letter in its entirety over my signature, which you are authorized now to do with this letter. If it shall appear that my opinions, reached from an experience in the management of a large number of distilleries as an officer of a United States circuit court, are of any value, I will cheerfully give them for use before any committee of Congress and upon any point that may be suggested.

The questions involved are of vital importance, not alone to the distilling interests, but to the grain-producing sections of the country—the tax on alcohol and spirits being, in effect, a tax on corn, barley, rye, and other grains used in their production.

It is well known that grain in the vicinity of Peoria and other large distilling centers commands a higher price than in the markets of the country; that the large consumption of grain in the production of spirits and alcohol enhances the prices of the cereals used throughout the whole country. Each barrel of alcohol exported is the product of from 16 to 20 bushels of grain, and, going abroad, carries with it also the value of the labor, etc., expended in its production. The product has also incidentally required an additional consumption of grain and other material of home production by the people engaged in its manufacture. The export of alcohol and spirits does not, to the slightest extent, decrease the export of grain.

The policy of taxing alcohol in every form in which it is used for beverages to the highest revenue-producing point is, I think, a correct one.

The suggestion that the tax should be the same on alcohol or spirits produced or used for similar purposes, in whatever form, is an equitable proposition, involving equality of taxation to all men upon articles of home production for similar use. It seems to me this proposition needs no argument to support it. The tax should be a specific sum on every proof gallon of alcohol used as a beverage, no matter in what form it may be used, whether as brandy, whisky, rum, gin, wine, beer, or compounded or mixed drinks or beverages.

I think, however, that the present and past inequality on this point, resulting from existing laws, arises from the lack of information upon the part of the public, and probably upon the part of many of the Representatives in Congress, as to the technical method of producing alcohol and ignorance as to the readiness with which the amount of spirit contained in any kind of a beverage can be ascertained. The amount of alcohol in a barrel of beer, wine, or any other beverage can be ascertained with the same facility and as accurately as it can be in a barrel

of whisky. There is substantially the same quantity of stimulant or intoxicant obtained at retail for a given sum whether it be invested in native wine, beer, whisky, or other drink containing alcohol.

It seems to me the making known of some of the leading facts that are understood but by comparatively few people not in the business would secure the passage of more equitable laws, which would remove the conspicuous inequality in the taxing of the whisky, wine, and beer production of the country.

In many cases the amount of alcohol produced in the juice of the grape or wine by ordinary fermentation not being sufficient for the purpose of the wine maker, regular distilleries are established, and the alcohol produced by the ordinary methods of distillation from grapes is then added to the fermented wine, thus completing what is known as a fortifying process. This distilled alcohol, as well as the alcohol produced by fermentation, is free from taxation. This wine used as a beverage carries from 8 to 10 and often as high as 15 to 17½ per cent of alcohol, while the ordinary whisky in form ready for use as a beverage carries only from 40 to 50 per cent of alcohol. The wine goes upon the market as a beverage wholly free from tax, while a like quantity of alcohol in whiskies and various compounds and beverages used as stimulants and intoxicants, made from spirits, bears a tax of \$1.10 per proof gallon, with a considerable additional burden by way of expenses imposed in the carrying out of rules and regulations supposed to be necessary for the collection of this tax.

The standard whisky of commerce stands at about 100 proof, or 50 per cent alcohol and 50 per cent distilled water—much of it when sold for immediate use being 15 to 20 points below proof. Beer contains 2½ per cent to 6 per cent of alcohol produced wholly by fermentation—that in common use having about 3 per cent of alcohol; so that for the purposes for which these articles are used, 1 quart of the best whisky is equal to about 3 to 4 quarts of wine and 15 to 16 quarts of ordinary beer. Beer is taxed, regardless of its alcoholic strength, \$1, less 7½ per cent, per barrel of 31 gallons. A barrel of ordinary beer contains over 2 proof gallons of alcohol.

The practical difference in whisky, wine, and beer is the same that exists between "whisky straight" and "mixed drinks." The effect of the law is to tax "straight drinks" and let "mixed drinks" go free. I am assured, by those who know, that there are a few who swallow "whisky straight" containing 40 to 50 per cent of alcohol, but most men find it necessary to dilute it with water until it is brought down to about or below the standard of 15 per cent wine.

The difference between whisky, wine, and beer is wholly in the per cent of alcohol contained in each and in the character of the dilutant or watery substance mixed with the spirit. The alcohol in each is chemically the same. A given amount of alcohol will produce substantially the same result in whichever form it may be taken. The dilutant or watery substance in the best beer, however, furnishes a nutriment or food in addition to the stimulant and intoxicant contained in the alcoholic portion of it, and that in wine and whisky simply reduces the alcoholic strength to a point where it is made palatable.

The argument that, because native wine is produced from the native grape, it should be relieved from its just proportion of the public burden is wholly untenable. Native corn, rye, and barley are entitled to the same patriotic consideration and generous treatment accorded to any other product of our soil. If any preference is given, it should be to those cereals which are the mainstay and principal source of the wealth of our nation, and to the men engaged in producing them, who are the main reliance of our nation for its strength and greatness.

Then, too, equality of taxation on these articles would not add to the cost to the consumer, but would simply lessen in a small measure the profit of the producers, which by reason of combination and agreements between them is now very large. Indeed, owing to these combinations and agreements, few, if any, investments in this country have yielded larger dividends, and none has drawn a larger amount of foreign capital as a direct investment in the ownership of producing properties than have the breweries of this country.

The great brewers, by improved methods, cooperation, and association for some time past have been prosperous and have become and are able to stand upon an equality with the corn, rye, and barley growers, and to bear an equal share of the public burdens with them. The importation of cheap foreign wines is practically prohibited by a tariff of 50 cents per gallon. This tariff gives our wine producers ample protection, and it should be no hardship for them to pay a tax on all alcohol produced by them for use as a beverage. New native wines in large quantities at the points of production are now sold from 10 to 15 cents per gallon, indicating a margin of profit sufficient to bear a just proportion of tax to put them on an equality without any increase of cost to the consumer.

With an equal tax on wines carrying 10 per cent of alcohol, ordinary native claret and white wines would pay 22 cents per proof gallon, or 4 to 5 cents per so-called quart bottle; and beer, if not over 3 per cent alcohol, would pay \$3 to \$2.10, instead of \$1 less 7½ per cent per barrel of 31 gallons, and proof, or the best whisky, as now—\$48.40 per barrel of 44 gallons.

I have not had time or opportunity to make a careful estimate as to what would be the financial effect of this equality of taxation upon the revenues of the Government, but in a rough, offhand way, I conclude it would increase the revenues between \$40,000,000 and \$50,000,000 yearly. In other words, I estimate that the unjust discrimination made by the Government in favor of the wine and beer producers is equivalent to a loss of revenue to the Government of from \$40,000,000 to \$50,000,000 yearly.

After securing equality of taxation on all alcohol in whatever form produced for or used in beverages, next (if not first) in importance is to secure practical legislation for free alcohol for use in the arts and sciences and for exportation.

There are, or were, laws upon the statute books, expressly passed by Congress, intended to cover both of these objects. Notwithstanding this, there was not and is now no alcohol free from the tax of \$1.10 per gallon permitted to be furnished for the arts and sciences, and the more than a thousand avenues in which it could be drawn off and consumed for such purposes have been and are substantially closed.

Notwithstanding the provision of the law for free export alcohol, its transoceanic exportation has practically long since ceased, because of the regulations governing its handling, storing, and shipping, and the inability of our people to compete with advanced methods and governmental regulations of competing foreign nations.

That free alcohol should and can be provided for, to be used in the arts and sciences, I think can be clearly demonstrated, and without endangering or decreasing the revenues of the Government, but greatly to their benefit, and to the advantage of the corn and barley producing sections of our country. Such provisions would result in making an immense increase in the demand for grain, doubling the quantity now used for distillation for all purposes, and thereby increasing the market value of our grain crops.

Radical changes should be made in the present internal-revenue laws and regulations to make them conform to present conditions, and to put our people upon an equality in placing their products in the market of the world with other nations.

I do not mean by this that any of the safeguards in use that are necessary for the protection of the revenue should be withdrawn; but experience has demonstrated that many things are required to be done by the law which insure no additional safeguards, but cause great embarrassment and place heavy burdens upon the product, obstruct, and often—as in the matter of exporting—result in the prohibition of trade.

As the receiver of the United States circuit court, operating a number of the distilleries of the Distilling and Cattle Feeding Company, and the representative of a coordinate branch of the Government, I received all the courtesy from the internal-revenue officers that could be extended by them within the limits of the statutes. I found, however, much difficulty and many embarrassments by the limitations of their provisions, which in my opinion are not only wholly useless, but impose burdens upon the traffic. These provisions ought to be removed, as they can safely be eliminated.

Free alcohol, to be used in the production of a large number and variety of articles where its use is indispensable, would put our people on an even footing with other nations in our market and in the markets of the world for such products. By reason of the heavy tax we are now prevented from using alcohol for manufacturing purposes. In other words, the provisions of the law imposing this tax of \$1.10 upon an article that costs to produce but from 7 to 15 cents, varying with the price of grain, acts as a prohibition of the use of it in many branches of industry. The removal of this tax, and allowing alcohol free to the arts and sciences, would result in its production for these purposes where it is not now used at all, and with free alcohol the production of a great variety of articles that can not now be produced in this country would be rendered possible and their importation from countries where free alcohol for their manufacture is allowed would cease. There are more, I dare say, than a thousand important uses requiring large consumption to which alcohol could and would be put, if free, where it is now prohibited by the tax.

Corn is admittedly one of the best, if not the best, of alcohol-producing grains, and corn can certainly be produced as cheaply or cheaper here than in any other part of the world; and with the enormous and improved machinery and appli-

ances now in use for its distillation our alcohol ought to compete successfully in all of the markets of the world where it is not excluded by a prohibitive tariff. In nations where it is so excluded by a prohibitive tariff, or one that imposes a burden that can not be borne, the alcohol produced by those nations and coming into our country should have a burden placed upon it equal to the burden placed upon our alcohol when going into their country. To be more specific, our alcohol was largely used in Europe for fortifying wines and for making different compounds and beverages; the wine so fortified with American alcohol, or large portions of it, was imported into our country for use by our people. These foreign wines are now being fortified by alcohol produced elsewhere, and as I understand it, no change has been made in the tariff upon them because of this change of condition.

The manner of keeping, holding, and transporting alcohol required by the law is obsolete; is a heavy burden upon the producer, putting him at a great disadvantage; is practically prohibitive of exportation; is no benefit whatever to the Government, and gives no additional safeguard in protection of the revenue. On the contrary, in my opinion, it does not give as good a safeguard as could be obtained by the use of tanks and tank cars and the like.

A simple change in the existing regulations is all that is necessary to permit this to be done. The present cumbersome and expensive method of the Government, which requires spirits to be put into barrels of small capacity, should be done away with.

While United States storekeepers are now obliged to watch, say, 20,000 packages, they would only have to watch 3 or 4. It would, in effect, simply change the existing old-fashioned primitive warehouse into a modern one. The present warehouse capacity of 20,000 barrels, requiring stamps for each package and the watchful care of each barrel, could be all concentrated into 3 or 4 packages, which in effect these tanks would be.

The ability of distillers to make and store great quantities of alcohol in tanks would enable them to manufacture very largely when corn is plentiful, and the operations of distilleries could be of such magnitude as to have an appreciable effect on the price of corn when the farmers most require it; that is to say, when corn is abnormally low. The increased use of corn, used in this shape for export—where we have no export business now and no other way of utilizing the corn—would in a great measure tend to consume the surplus of a large crop and in this way increase the price of the entire crop. It needs no argument to prove that the surplus of a product makes the price of the product.

When corn is high the distiller need not distill, nor does the farmer then require the aid of the distiller to get him a good price for his crop.

I have no hesitation in saying that the rebate of the tax on alcohol, for the purpose of the arts and manufactures, together with the tank privilege and the right to ship in tank cars, would create entirely new industries in this country, all of which are impossible under existing laws and regulations.

The enormous benefit to the agricultural interest to be derived from these changes in our laws can scarcely be estimated.

Another important factor is, that fresh alcohol and high-proof spirits, which is a refined alcohol, unlike whiskies and brandies, deteriorate and depreciate in value by age when in contact with wooden casks. The market requires new, clear, unstained alcohol and high-proof spirits. The holding and shipping of alcohol and high-proof spirits in wooden packages, notwithstanding all that can be done by gluing on the inside to prevent contact with the wood, causes a very considerable loss in the market value of the product, often running from 5 to 20 per cent in the course of a few months, and in addition thereto a heavy loss on the package.

Much of this loss by deterioration could be saved by different methods of handling, in the storing in distilleries, and in transportation, and I can see no reasons, and, indeed, I am confident there are none, why a change should not be made.

There are many other reasons that occur to me too numerous to be recited within the scope of an ordinary letter why modifications in the internal-revenue laws should be made, but I think that those that I have given sufficiently illustrate the leading and important points to be covered.

You are at liberty to use this letter in any way you may see fit. Lest, however, the question might arise as to whether my interest might in any way influence my judgment, I think it well to state the fact that I have no interest whatever as stockholder, attorney, or representative of any distillery, brewery, vineyard, or other establishment producing, selling, or handling alcohol, in any form whatever, except as receiver of the United States circuit court in the different circuits where the case is now pending in the settlement of the affairs of the now defunct Distilling and Cattle Feeding Company, or so-called "Whisky Trust," and some

of its property, but with no distillery in operation or intended to be hereafter operated under my charge, and that what I have written is of my own suggestion and not upon the request of anyone for my opinion on the subject.

It is but fair for me to state, however, that I am very much interested in the production of grain, substantially all of my accumulations from a busy life being invested in farm lands. Probably, for that reason, I in a great measure view the subject from the standpoint of a farmer while analyzing it as a lawyer. I have utilized the knowledge gained by practical experience as an officer of the court directing the operation of distilleries and disposing of their products, the latter amounting to a large proportion of the entire alcohol and high-proof spirit output in the United States.

Let me summarize my views and recommendations:

First. An internal-revenue tax to the highest revenue-producing point on all alcohol used as a beverage in whatever form produced, whether it be whisky, wine, or beer. The tax on each should be so much per proof gallon.

Second. The privilege to store spirits in tanks and to ship spirits for export in tank cars.

Third. The rebate of the tax on alcohol used for all purposes except for use as a beverage (the Government providing such regulations as will safeguard and insure the collection of the tax on all alcohol used as a beverage as efficiently as it is now done).

Fourth. A discrimination against the products of every Government that discriminates against our products, whether by bounty, tax, or other burden.

Very truly, yours,

JOHN McNULTA.

SUGGESTIONS FOR CHANGES IN LAWS AFFECTING THE DISTILLING BUSINESS.

Q. (By Mr. JENKS.) Can you sum up briefly your objections to the laws which concern the distilling business and your suggestions for changes?—A. In the first place, the restrictions upon the distilling business come down from times when there was trouble and complications that no longer exist. Great loss, or great expense, is incurred on account of the manner of handling the spirits that is required by the rules of the Department, i. e., barreling instead of shipping in metal tanks. Handling in metal tanks in the warehouses would save a great deal of waste. As regards the tax, I should say that the method of the Government in collecting it is radically wrong and that the amount of the tax is too great.

Q. (By Representative LIVINGSTON.) Is it above a revenue producer?—A. It is above a revenue-producing point and manifestly unjust upon the face of it. Spirit product that costs from 8 to 15 cents, according to the price of corn in the market, bears a tax of \$1.10, which is manifestly too great. From a revenue-producing point of view it fails to accomplish what is sought to be accomplished by it. A parallel case would be for the railroad companies to charge 10, 15, or 20 cents a mile for a passenger. They would get some passengers, but there would be very few. The statistics of the Department show that 70 cents a proof gallon produced the largest amount of revenue. I am satisfied that a tax of 50 cents per gallon would produce more revenue to the Government than \$1.10 does, just as I believe that 2 to 2½ cents per mile would produce more revenue to the railroads than 10 cents, and for like reasons.

THE RESULTS THAT WOULD FOLLOW.

Q. (By Mr. JENKS.) Do you think the consumption would be largely increased?—A. It would be largely increased, not in the use of the spirits as a beverage, but in the use of the product in manufactures. The exports of the country, on account of the methods adopted by the Government, are practically cut off. This country ought to furnish the world with spirits. There ought to be easy and cheap facilities afforded to the producer to export his goods in whatever form they can best be disposed of in the markets of the world, whether in bottles, barrels, tanks, or cases of any kind. There has been an act passed by Congress permitting exportation in tin cans for Asiatic countries, so that they can be taken on the backs of men or horses over the mountains. The transportation ought to be permitted in tanks like oil tanks, and not in barrels. It ought to be permitted to be kept in the warehouses in tanks and not in barrels. It ought to be permitted to be sent on shipboard in tanks. Germany, I understand, ships a large portion of her product of alcohol in that manner. There is a loss in soakage in the barrel and a heavy loss by evaporation. The case of the experiment of the chemist that I spoke to you about this morning illustrates that. Spirits is a very volatile product, and

the higher the proof the more volatile and the greater the loss. Triple distilled, or, as some call it, extra fine spirits, is so volatile, as I described to you, that a little piece of lime will evaporate a whole tumbler of it. There is a loss in wood that is porous beyond the soakage that is allowed for in barrels. By carrying the product in air-tight metallic tanks, the loss from soakage in the barrel would be saved. The barrel in most places after it is used is also of very little value. There is a loss on account of the discoloration of the finer product, such as is required for making the Shufeldt gin. Put it into a plain wooden barrel that is not incased—paraffined is another name for it—and in forty-eight hours its commercial value is impaired, absolutely destroyed for that purpose. Put it in a copper tank, and it can be kept for an unlimited period of time, just as in a glass bottle. By the easy method of getting it out, by the reduction of the amount of tax, a great many avenues for the use of these spirits would be opened that are now closed. Manufacturers who would use large quantities of it are now absolutely prohibited. In countries where manufacturers are allowed free alcohol their goods are given an advantage when competing with like manufacturers in our country. I once had a list worked up, and it seems to me there were something over 2,000 things that alcohol could be used in, and would be used in, at a reasonable cost, but in which its use is now prohibited because of the high price. A tax on the product of corn is equivalent to a tax on the corn itself. One bushel of corn produces 4.85, practically 5, gallons of spirits. The tax of the Government on that is \$5.50. That is equivalent to a tax of \$5.50 per bushel on corn, dropping the fractions. That prevents corn from getting to points of consumption that it otherwise would go to. It is prohibitive. The same is true of barley malt and the small grains they use. The difference between a tax of \$1.10 and one of 50 cents a gallon touches almost entirely the manufacturing interests and does not affect its use for beverages, where it is converted into beverages.

CHANGE IN TAX WOULD NOT AFFECT THE USE OF SPIRITS IN BEVERAGES.

Q. (By Representative LIVINGSTON.) Do you mean to tell me that people will drink whisky taxed at \$1.10 about as liberally as they would if it were taxed at 50 cents?—A. Yes; its use as a beverage will be just about the same. The difference between \$1.10 and 50 cents is 60 cents, which is 15 cents a quart or 7½ cents a pint. Now, that is nothing on a drink. A man pays so much for a drink of whisky, irrespective of whether the tax is 50 cents or \$1.10. But to the manufacturer who uses it in large quantities it is prohibitive. Now, I would not advocate an immediate drop from \$1.10 to 50 cents. I do not think that we could convince anybody that such would be the result, but I do say that Congress ought to drop the tax from \$1.10 to 70 cents and try it. Seventy cents was the revenue-producing point many years ago. Since then there has been an extensive growth of manufactures in this country which can use spirits, and I believe the increase of manufactures would so increase the demand that 50 cents would yield the largest amount of revenue.

NO SUCH THING AS ADULTERATION OF WHISKIES.

Q. Is there a stronger tendency to adulterate when the tax is high than when it is low?—A. Sir?

Q. Are there not more whiskies and liquors adulterated with a high tax than with a low one?—A. No; I think not; I think not. I do not think the loss of revenue comes in that way. I think it is in the failure to pay the tax.

Q. Would not more adulterated whisky be drunk at \$1.10 than at 50 cents?—A. No; I think not; I think not. I think the minds of the people are filled with false notions about the adulteration of whisky. I had my head chock full of that idea when I started in on my investigations, but I soon got it all out. I think a man who can drink whisky at all—I am unfortunately one of those who can not—need have no apprehension about getting impure whisky. The Distilling and Cattle Feeding Company had a compounding house in New York, and the Shufeldt house in Chicago was a compounding house. I went through both of them, studied their methods, examined their compounding processes, and reached the conclusion that there is no such thing as an adulteration of whisky. It is a myth; it is purely imaginary. There is nothing to adulterate with except brown sugar and distilled water, and if you add glycerine and prune juice you have covered the whole field. It is pure spirits. The distillers recognize a difference between commercial alcohol and spirits. High-proof spirits is simply refined alcohol. There might be an adulteration by putting in common alcohol and making whisky of that. There are some impurities in that; but there is only half a cent a gal-

lon difference in the cost of the production, which is not enough to warrant the operation. There is absolutely nothing than can be used as a substitute for alcohol in compounding beverages. In the large distilleries I saw nothing to lead me to a suspicion that the Government ever lost a fraction of a dollar in its revenue. My relation with the Department—the Internal-Revenue Bureau—was very cordial. They extended every courtesy, and where it was a matter of mere rule of the Department and not a provision of law that interfered with me and was a restraint upon me in doing my work the rule was always suspended; and in turn, of course, I did all that it was possible for me to do in seeing that the interests of the Government were subserved.

Q. The number of gallons obtained from a bushel of corn being always the same, the revenue produced is essentially the same, is it not?—A. Yes; but I do not think the amount of production from a bushel has anything to do with it. The amount produced is always above the amount required by the Government.

Q. Do I understand you to suggest prominently two amendments to the present law, one relating to the protection of the business abroad, and the other to the high tax which prohibits manufacturers from using alcohol who would otherwise do so?

ILLICIT MANUFACTURE OF WHISKY.

A. There is no cheating of the Government in the big distilleries. I am satisfied that there is not the loss of a dollar of revenue in any of the large distilleries. In the multiplicity of little distilleries, as shown by the effect of the product in the country, there is but a very small per cent of the tax paid. A \$1.10 tax makes moonshine distilleries; it makes little distilleries with capacity so small that they can not have guardians and watchmen put over them. These small distilleries use from 5 to 20 bushels a day, and produce from 3½ to 4 gallons. Their yield is less than in the large distilleries. It is physically impossible, from a financial standpoint, for these distilleries to compete with the Great Western at Peoria. If they pay their tax to the Government they will never sell 1 gallon of whisky in competition with a 12,000 bushel house.

Q. (By Mr. KENNEDY.) Would not they lose the other way around if the tax was 50 cents instead of \$1.10?—A. These small distilleries could not afford to manufacture it at 50 cents; the risk and expense would be too great. As it is now, if they are reporting to the Government, they report, say, 2 gallons out of every 10, or 1 gallon out of 5, and they then have a \$1.10 margin to make on every gallon they fail to pay on. They get their goods out in jugs and cans, and spread it in small quantities. I went over this matter with the officers of the revenue, and there is a loss, I think, admitted by the revenue department, and shown by statistics, of not less than \$10,000,000 a year, and which others claim to be over twenty. I am satisfied that fifteen millions would be a moderate estimate of the loss. On a 50-cent tax or a 70-cent tax—I do not think you can come to a 50-cent tax now—you will get revenue from all that spirits. It will interest you to compare the tax paid by one of the large Peoria distilleries with that paid by several hundred distilleries in some of the States to the south of us, say Virginia and North Carolina. I figured it out once, and I think I found that one distillery in Peoria paid, or would pay on full capacity, about three times as much tax to the Government as 2,700 distilleries here to the south of us pay.

Q. (By Mr. PHILLIPS.) What is their capacity compared with the large one?—A. Their capacity was greater, of course; the capacity shown was greater. In the districts where these small distilleries operate the products of the other distilleries have no market.

Q. (By Mr. KENNEDY.) Can you say whether better whisky is made at the distilleries in Peoria than at these 2,700 in the South?—A. It depends a good deal on where the man comes from who drinks the whisky. A man down there would say that whisky was the best; and, of course, there are some of those distilleries that do make fine whisky. But, gentlemen, I am not myself a judge of whisky. I say to you that I do not think I have drunk a pint of whisky in all my life.

COMMON OPINION OF THE BUSINESS.

There is another point that ought to be inquired into. This whole business is regarded by a very large percentage of the people as being disreputable, if not quasi criminal, and there is a tendency to treat the men who are engaged in it as a class of people not worthy of much consideration. Now, I think it ought to be decided whether it is legitimate or not legitimate. If illegitimate or improper, it ought to be prohibited, and every man that engages in it should be prosecuted as a criminal. If legitimate, it should be encouraged and protected and be given the

same rights and the same treatment that other lines of business are given. It ought to be fostered; it ought to be given the same treatment under the law. It has become disreputable because of its antecedents.

OUR LAWS OUT OF DATE.

At the time of the whisky troubles and frauds during the war laws were enacted that are still on the statute books. Rules have come down from the time when to be a distiller was almost conclusive evidence of the fact that a man was living upon frauds committed upon the Government by cheating the revenue; that he was a smuggler, a briber, and a perjurer. That is no longer the case, and I say those laws do not fit. There probably was corruption in the old time. The men who were committing those frauds lived by perjury, by bribery of Government officers, by crime. Men no longer do it. Nevertheless, you go to the Department and you find those same rules there.

CHARACTER OF THE REVENUE OFFICERS—THEIR RESPONSIBILITY.

I do not think there is a more honest set of men serving the Government than the revenue officers, but they are mindful of the old trouble, and it is almost a sacrifice of reputation for a Government officer to decide, in close or doubtful cases, on the side of the distiller. I have had 2 or 3 cases of that kind where large sums were involved, a distiller being short, and it being plain why he was short. Dealing with an officer of the court the revenue officer has not, of course, the same apprehension; but suppose that he wipes off a tax of \$50,000 or \$100,000 from a distiller improperly taxed, the inference in the minds of a great many people is that he has received a fee, that he is bribed, no matter how honest he may be. These questions involving property rights ought not, gentlemen, to be left to the final adjudication of the officers of the Department; but a man in the business ought to have a right to settle them in the courts, and let an independent judge say what the rights of property are, and construe the law. Let the Department in the construction of the law follow the judiciary of the country; let it be subordinate, not superior to the judiciary. You have got to change it, got to revolutionize the whole methods in order to do simple, straight justice, and let this business run as the banking business or the grocery business does. In my various callings and work I have come in contact with strong men, men who have handled large business interests in this country, but I never came in contact with a brainier set of men than those in the distilling business, nor, on the whole, with a more honest set of men, absolutely desiring to do right. Now and then there is a tricky one, and when you do find such a one he is one of the slipperiest eels that can be found anywhere, and is well known.

JUDICIAL FUNCTIONS SHOULD BE TAKEN FROM REVENUE OFFICERS.

I would place the power to decide on the rights of these people in the hands of the courts. Give these men straight, fair, simple justice and do not leave them dependent upon the decisions of an administrative officer, where, if the justice of the case demands a decision in their favor, he will hazard his reputation and prospects in life by rendering it.

Q. (By Representative LIVINGSTON.) That can be done in the district court where the property is located, can it not?—A. It can be determined in the district or circuit court just like any other right. Let a controversy between a Government officer and an individual be settled by the same courts that would settle the rights between us. But a man is at the mercy of the officer, and the officer is at the mercy of the clamor of the crowd, of public opinion. He does not have the moral courage to go out and lose his reputation in order to do justice, and it should not be required of him. He would lose it sure; he could not decide a question involving as much as some of these do, fifty, a hundred, two hundred thousand dollars. At times the taxes paid by the Distilling and Cattle Feeding Company ran over \$100,000 per day. If any Government officer decided favorably to the distiller a case involving such an amount, rumor would say that he was getting a share of the rake-off.

Q. (By Mr. PHILLIPS.) How often do questions arise involving such large sums of money? How do they arise between an officer of the Government and a distiller?—A. Well, one that occurs to me concerns the capacity tax, which requires that the capacity of the distillery shall be estimated and the tax paid on the capacity, whether the amount actually produced is equal to the capacity or not.

NATURE OF THE CAPACITY TAX.

Q. (By Representative LIVINGSTON.) Whether it makes it or not?—A. Yes, whether it makes it or not. It is just as we used to hear it talked of when we were boys. It is one of those games they call, "Heads I win; tails you lose." They measure the capacity of a distillery, and the distiller is bound to pay on the estimated product of spirits. The company made an experiment along a new line with molasses or some other ingredients in one of their plants. They had produced by the ordinary grain process a given capacity and paid on it to the Government. They made this experiment by leave of the officer of the Government under the supervision of the revenue officers; and when they ended the experiment they did not get much spirits; the experiment proved a failure, but the capacity tax went up. They had two cases like this—I do not remember what the deficiency was, but I think about \$30,000 in either case—left for me to pay. I said, "Here we did not get any of these spirits; they were not produced; there is nothing to pay on. Capacity is nothing; the capacity is all left. There is just as much capacity there as there was before they ran the distillery, and you can have it." This capacity business is like a barrel that is all bunghole. After delaying along, I suggested that the right way to settle the thing was to put it in the hands of the court and let the court decide whether we had a capacity, and what the intent of the law was. There were two of the cases. One of them was submitted to the United States circuit court, and on the hearing the court promptly decided that it was not the intent of the Government, notwithstanding the language of the act, where no fraud was committed, and where everything was open and honest and aboveboard, to collect that tax, and no tax was due. The other case did not get to the court for reasons I need not explain to you, notwithstanding the good will of the officers of the Government. A special act of Congress is required to give the needed relief. It is all wrong, gentlemen, and it is an oppression upon this industry.

Q. (By Representative LIVINGSTON.) Was that decision the reason why the other case did not get to the court?—A. Yes; they would certainly have got a like decision in the other case, as it ran on all fours with the first one, and the officer submitting it would have been severely criticised for establishing a bad precedent.

Q. (By Mr. KENNEDY.) I would like to ask you if the internal-revenue figures in regard to the production of whisky are based only on the whisky that pays the tax. Is the moonshine whisky brought into the computation?—A. No; the moonshine whisky does not appear in the list of the Government. They do not get hold of that, but still the experts in that line can tell pretty near how much moonshine whisky is run.

INCREASE IN THE PRODUCTION OF SPIRITS.

Q. Do not those statistics show a steady increase in the production of whisky from year to year? I mean the whisky upon which the tax is paid.—A. Yes; but, as I remember it, not in the ratio of the increase in population.

Q. It increases, then, notwithstanding this excessive tax you speak of?—A. Yes; but the people who consume it increase more rapidly in proportion.

Q. If the tax were put down to 70 cents, do you say there would be a large increase in the production of whisky?—A. Yes; there would be a very large increase in the production of spirits. I do not think there would be any increase in the consumption of whisky proper; i. e., drinkable whisky.

Q. Would it be in excess of the amount that is illicitly distilled now?—A. Oh, yes, in excess of everything now. In the first place, they would collect the revenue upon a large part that does not now pay. Then there would be an increase in the output. I do not think they would stop all the moonshine whisky business on 70 cents, but I do think they would stop it all on 50.

Q. Do you say that this excessive tax does not interfere with the quantity of whisky consumed by drinkers, but that it has interfered with the amount of whisky that goes into the arts and manufactures?—A. Yes.

Q. Therefore, what you have said is not a temperance argument after all?—A. I do not think it affects the drinker, at least materially; it may to some extent, but for the ordinary drinker at the bar not at all. It might affect the man who buys his whisky by the jug or by the bottle. You can very readily calculate the effect. The present tax is \$1.10 a gallon. If you put the tax down to 70 cents there is a difference of 40 cents, which is 10 cents a quart and 5 cents a pint; but when a man wants to get a pint bottle of whisky he is not going to stop on 5 cents, if he can get the 5 cents.

Q. (By Mr. FARQUHAR.) Can you give the commission any idea what you think the increase in production would be provided the tax was so low that the product could enter into manufacturing?—A. There is nothing to base a calculation upon, i. e., there are no definite figures. I attempted that and I did make a rough calculation, but I forget what it was. It was at the time that I prepared this argument on the price of corn. It was very large. There are more than a thousand things that are manufactured, as I calculated then, into the making of which alcohol goes, that are now not made, or if made at all, to a very limited extent in this country, but that are made in other countries where they have free alcohol and the free use of it. It would be so large, I think, that at 50 cents there would be a large increase in the revenue over what we get at the rate of \$1.10. In other words, the amount of production would be over two and a half or three times what it is now, and the most of that increase would go into the manufactures and benefit the establishments concerned.

COST OF COLLECTING THE TAX.

Q. (By Representative LIVINGSTON.) What does it cost the Government of the United States to collect the whisky tax?—A. I do not remember; that is a matter of figures, which can be obtained from the reports of the Commissioner.

Q. I asked the question because I thought it might suggest an amendment to the law concerning the collection of the tax. Suppose the tax should be levied on the sellers, the wholesalers and retailers, would not that reach all the whisky to be taxed, including the moonshine stuff, and reduce the cost of collection 50 or 75 per cent?—A. My investigations and experience would not warrant me in passing on that question; it is one I have never considered. It seems to me it would be a very complicated and very intricate matter to determine how to collect the tax without having an evasion of it and allowing goods to get on the market unpaid; and you could not at all times and in all places discover, by inspection, what goods had and what had not paid the tax. There are experts in the revenue who have followed that subject.

Q. You understand that no package would pay a tax or be branded, and no stamps would be bought; but whenever a drink of whisky was offered for sale it would pay a tax. My question is this: Could not the Government collect the same amount of revenue that it collects under the present system with 75 per cent less cost?—A. The theory now is, and I am disposed to concur in it, that the product should not get out of the hands of the Government officer until the tax is paid.

Q. That is the theory.—A. And in the large manufacturing concerns I do not think it does. The Government has got its hands on it and has absolute, physical possession of the entire product until the tax is paid. Then it goes out in such form that the party gets the stamp of the Government, so that there can be no cheating, and the officer who sends it out must account for those stamps. It is checking one by the other, and I should want to investigate pretty closely before I would recommend to let up on that line. You would have to chalk every glass. When it is not very dangerous, the inclination of man—the ordinary man—is to cheat the Government if he can. In the case of these large distillers the penalty is very heavy. If one of them is found cheating the Government, he forfeits his distillery and loses an immense fortune. But if a man with a little distillery, which he can take around on a mule, is caught and his distillery forfeited, there is a stoppage of revenue for a week or two, and then he will get another one. So that, in one man's hand, both being of the same temperament, it is tolerably safe because of the consequences that will follow, where it is not in the hands of the other man. I wish I could answer your question more satisfactorily, but it is a subject that I have not studied.

Q. When you come to consider the cost of collection under the present system, do you not have to consider the expenses of the district courts, the United States marshals, and the commissioners who have been trying these moonshiners and illicit distillers from Virginia to Texas?—A. I would reduce that cost by taking away the inducement of the moonshiner to carry on his trade. I would make the whisky so cheap on the market that he could not afford to do the work. He might better chop wood; he could make more money.

Q. (By Mr. PHILLIPS.) Before proceeding further with this discussion, it might be well to finish the general questions regarding the Distilling and Cattle Feeding Company.

PROPERTY OF THE DISTILLING AND CATTLE FEEDING COMPANY SOLD.

A. August 14, 1895, the receiver of the Distilling and Cattle Feeding Company sold at public auction certain properties of the said company for \$9,800,000. These properties were purchased by the American Spirits Manufacturing Com-

pany, and consisted of: Shufeldt Distillery, Chicago; Central distilleries, St. Louis; Star and Crescent distilleries, Pekin, Ill.; St. Paul Distillery, South St. Paul, Minn.; Riverdale Distillery, Riverdale, Cook County, Ill.; Hamburg Distillery, Pekin; Northern Distillery, Peoria; Manhattan Distillery, Peoria; Monarch Distillery, Peoria; Great Western Distillery, Peoria; Woolner Distillery, Peoria; Peoria Distillery, Peoria; Willow Springs Distillery, Omaha; Consolidated Distillery, Cincinnati; Maddux-Hobart Distillery, Cincinnati; The Wabash Distillery, Terre Haute; The Latonia Distillery, Milldale, Ky.; and the office building of the Distilling and Cattle Feeding Company at Peoria. The price paid was a lump sum; there was no particular price for any distillery. The American Spirits Manufacturing Company was organized by a committee of the stockholders. The amount realized on sale of these properties, it is estimated, will exceed all liabilities and be about \$10,500,000. There are some claims still in litigation and until they are finally disposed of the receivership can not be closed up. I am continuing to act as receiver merely pending the settlement of these claims.

Q. (By Mr. JENKS.) You say that the amount of property turned over to this new company, the American Spirits Manufacturing Company, is, in your judgment, about ten millions and a half?—A. Yes; about ten millions and a half.

Q. Would that amount be realized if these properties were sold in open market separately to different individuals?—A. I think it would; I think that would be a fair valuation for distilling purposes.

Q. What is the capitalization of the American Spirits Manufacturing Company?—A. It is thirty-five millions, the same as the old Distilling and Cattle Feeding Company.

Q. Is part of it in preferred stock and part of it in common stock?—A. Yes; \$28,000,000 common and \$7,000,000 preferred.

Q. So that here, again, we should be substantially right in saying that perhaps a third of the stock would represent a fair cash selling value?—A. The American Spirits Manufacturing Company made an assessment upon the stockholders of \$4 a share, and that assessment added to the amount turned over to them by me as receiver of the Distilling and Cattle Feeding Company, to that ten million and a half, and the value of the remaining distilleries not sold to the reorganization committee, would be a fair cash value of their assets at the time.

NO EXPORTATION OF SPIRITS.

Q. There are one or two questions further that have been suggested along this line. Has there been much exportation of spirits of late years?—A. Very little; practically none. Exportation has been stopped by the friction created by the Government.

EFFECT OF HOSTILE LEGISLATION.

Q. It has often been suggested in connection with these larger combinations in trade that it has been necessary for them to protect themselves against hostile attacks in our legislatures, that considerable expenditure has been made for that purpose, and that they have also made quite large expenditures for instigating and securing legislation favorable to them. Did you find any evidence along either of these lines in taking up the work of this trust?—A. I found no evidence of anything of that kind, except in common report.

Q. You found nothing in that regard at all?—A. Nothing that showed. There were some cases that looked as though there might have been expenditures of money for the prevention of sandbagging legislation, but nothing definite. There is a general belief, however, among the men operating that it is necessary to make up a fund of that kind. A large portion of this, however, I am satisfied is fraudulent. While sums are doubtless collected for the prevention of the destruction of the business by hostile legislation, I am satisfied that the collectors of it are the main beneficiaries. It is very rare that the distilling interests have to fight an act of the legislature in our State and I have not in the other States that I have gone through seen anything of it, notwithstanding the fact that sandbagging bills are introduced at nearly every session.

Q. You spoke this morning with reference to the increase in price that followed the organization of the Distillers and Cattle Feeders' Trust, and said that you thought the price was put so high that it ultimately resulted in the destruction of the trust itself?—A. Yes; the price of its product.

WHO BEARS THE BURDEN OF AN INCREASE IN THE PRICE OF SPIRITS.

Q. Now, when the price of the product is put up in this way, considerably above the ordinary competitive price, who bears the burden, in your judgment?—A. The consumer, in manufacturing; the retailers, when sold by the glass; the consumer, when sold by the bottle or jug.

Q. That is, the man who drinks the whisky?—A. No; the man who uses the spirit; it is not a beverage, you know. Only a very small percentage of all this product is converted into a beverage. That is, of this high proof spirits, a very small proportion is converted into whisky. The larger proportion of it is used in manufacturing, and is the alcohol of commerce.

Q. Supposing, let us say, a third goes for consumption—that is, for making the beverages that are used in ordinary consumption—would you think that it was the consumer of that who bears the burden, or would it be the retail dealer?—A. The man who drinks the whisky, when sold by the bottle; the retail dealer when sold by the glass.

Q. Yes?—A. To the man who is drinking it by the glass it does not make a particle of difference—the price is the same to him.

Q. Would it be the retail dealer or the wholesale dealer? Where does this tax fall?—A. It would be divided along the line, of course lessening the profits of the retailer and the wholesaler. The man who drinks by the glass at the bar would not be affected; and a matter of 3 or 4 cents a gallon would not greatly affect the man who buys by the small bottle. He would pay some of it, but the man who buys a larger quantity, i. e., by the gallon, or by the barrel, would pay it.

Q. Part of it would stop with the retailer?—A. Yes; the retailer would bear the greater portion of it on an average, and would receive the greatest benefit of a reduction in the taxes on alcohol and spirits for manufacturing purposes, and for the export trade, which is an important factor.

Q. The question is suggested as to whether the price of whisky, even for the consumer by the glass, was not cheaper under the old revenue tax of 50 cents long before this revenue tax of \$1 was levied?—A. No, I think not; my experience does not go back to anything anterior to the tax, save by way of the general statement that everything produced from grain was cheaper then. Before the war, in 1860 and 1861, corn was 7, 8, 9, and 10 cents a bushel; we used it in lieu of coal, because it was cheaper; and whisky was very cheap, but the yield of spirit per bushel was, however, much less. I estimate that it cost then only from 7 to 12 cents a gallon to the retailer, but he sold it under conditions different from what they do now. The tax is only a part of the burden laid on by the Government; the compliance with the rules and requirements which are necessary entails a large expense to the distiller. The country is different now; then, out West, it was miles between houses; now there are houses and farms everywhere, and we are getting toned up higher and we are selling things for 2 or 3 cents; they would not stop to take 2 cents then. It would be 5, 10, 15, or 20 cents a drink for whisky, regardless of the revenue tax on it.

EFFECT OF THE COMBINATION ON ITS MEMBERS.

Q. Judging from your observation, since you have been acting as receiver for this company, what do you think has been the effect on the individual distillers of going into this great combination? Have they, on the whole, been benefited or injured?—A. I think they have lost money in it.

Q. You think they have lost?—A. I think it has been a detriment to every man that touched it, except probably a few individuals.

Q. Can you explain more fully just where they lost? Did they lose during the first two or three years, or was it when the combination broke up?—A. No, I think they thought they were ahead for a while. In the first place, they thought no distillery could compete for the trade, big or little; it was theirs; they owned it; and in the next place, they got a lot of certificates, the value of which was probably two or three times the value of the distilleries which they represented, but it said dollars on them and they felt rich and carried them along. At first the certificates went up and up, and by and by down and down until they got to be worth almost nothing, so that they went from the poor little distilleries that they actually owned, but which produced some income for them, to a lot of paper trash that depreciated to a few cents on the dollar and finally left them out of business.

Q. (By Mr. KENNEDY.) Was not Mr. Clarke's testimony to the effect that they gave the value of the distillery in cash and the value again in preferred stock and the value and a half in common stock?—A. When he made that statement he was doubtless referring to the later organization.

Q. (By Mr. JENKS.) There went into this combination, of course, a good many distillers who were favorably situated with good plants, and who had been making money; but there were a good many more who were not well equipped and who were not making much money. What was the effect on owners of the better distilleries?—A. Of the better distilleries?

Q. Yes; what was the effect as regards their profits and the advantages which they could get from such a combination?—A. There were a few of the leading men who went into this combination who made profits and accumulated large fortunes; they had large fortunes before the break. Some of them lost very heavily, principally in stock speculations; but I should say that, of the small concerns that went in, the rule was loss. Some who went in got certificates and immediately converted them into cash before the market fell and invested the proceeds in other classes of property. They did well, but those who held on to their certificates lost.

Q. They lost rather than the large ones?—A. Yes; I think from the start; most of them started in with something and got out with nothing.

Q. (By Representative OTJEN.) Did they receive dividends on their stock?—A. Yes, they received dividends.

COMBINATIONS FOR CERTAIN PURPOSES VERY DANGEROUS.

Q. (By Mr. FARQUHAR.) You have already touched upon some phases of industrial combinations in a part of your testimony. What is your general view of the present forms of combinations that are being chartered in New Jersey and elsewhere?—A. I am not familiar with the facts of their organization, but I regard any organization or combination to control or corner the markets of the country for the purpose of raising prices as very dangerous, no matter what line it is in. They are undertaking to combine in some lines in which I think it is impossible of accomplishment. In those cases the real sufferers will be the men who buy the stock, i. e., those who invest in most of the industrials. But where large capital is required, as in iron and steel, and where competition can not be easily brought about, combinations will be very dangerous and be very injurious to the country. The safety of the Government requires that they be suppressed. The one will be a temporary the other a permanent injury. But those enterprises that cheapen the cost of production and reduce the price to the consumer will be beneficial. To prohibit them, if it could be done, would be to give their trade to others at a greater cost to the public.

Q. Do you suppose that most of the injury will come from the fact that they will issue stock and then catch the willing public, what they call the "gudgeon," on Wall Street, and that those will be the ones who will suffer?—A. Those will be the ones. They will form a combination and issue new stock for two or three times the amount of the old, and in a little while the combination will all go to pieces, just as the whisky trust did, and the men who have got the stock will lose the money. The men who effected the organization will have their profits. The motive in most of these industrial combinations is to "fleece the lambs."

Q. Is it not possible in some of the great capitalistic combinations in this country, for instance the Carnegie Steel Company and the Standard Oil Company, for the owners of plants to keep on a business basis, maintain a large capitalization, and do a fair business? In other words, does the matter of overcapitalization affect the product at all, provided the business is done legitimately and through the ordinary market?—A. The overcapitalization only means a smaller income from the capital or a larger demand from the consumer. The kind of organizations that you speak of, in my opinion, if permitted to go on, will absolutely control the markets of the country and get whatever they please to demand for their product. They can control the output. We have got to keep our people working; we have got to do something to dispose of the product of their labor. I think the remedy for that is more markets; we must go into the markets of the world in the line that I have suggested in the spirits manufacture. I think that Illinois alone, or Illinois and Iowa, at least the corn belt, will furnish the whole world with spirits, if somebody will take hold of it and break the line and let them out. The remedy is to make a market for the product of our workshops. A combination of immense interests, like those of iron and steel, can not be met by home competition. It is not in the nature of man to keep down the price of his property when he can hold it up so long as there is a market. The only way it can be met is to invite foreign competition, but that is quite as harmful as it would be to leave our workmen unemployed and produce financial distress. The right way is literally to crush such combinations by the authority of the Government. They are inimical to public safety.

Q. You stated in your testimony that the cause that led to the end of the whisky trust was the fact that they had got control of the market by buying up competitive plants and then raised their product to a price that invited competition by the erection of new plants, causing overproduction, and therefore they went to pieces. Is that so?—A. Yes.

Q. Does that hold good in any industrial pursuit in this country where they have a large capitalization?—A. It does not hold good where the capitalization is very large, as in the iron business. We can raise \$5,000 or \$20,000 to build a distillery where we can not raise fifty millions to start an iron mill. You can find thousands of men in Iowa and Missouri that will start distilleries where there is a profit of 40, 50, or 100 per cent; but you can not get the men anywhere to start iron and steel mills that cost forty or fifty millions.

WHAT THE PROFIT IN SPIRITS SHOULD BE.

What would you call a safety per cent of dividend in the spirits trade?—A. In the spirit trade?

Q. Yes.—A. They ought to have from a cent to a cent and a half a gallon; in some cases possibly 2 cents per gallon. The commercial arrangement that I told you I went into I think was fair; it was within these limits. They should make a fair profit. Every man should have the right to a fair profit for his labor and his capital, and a cent or a cent and a half a gallon would be a fair profit, irrespective of the amount of capital he had in it.

LITTLE ADVANTAGE IN EXTENDED COMBINATION.

Q. How often does the spirit trade turn over its capital in a year?—A. I did not go into that. This report of dividends will indicate to you the profits on the stock. There is a report of those dividends and then other funds—earnings that were used for purposes of increasing their plants, and that was on a capitalization of about thirty-five millions. The cash value of the properties in actual use would have cost much under that, say half of it, so that you would double the per cent of dividends upon an actual cash basis.

Q. (By Mr. A. L. HARRIS.) It is chiefly an economic question. If you have 5 distilleries with an output of 5,000,000 gallons a year each, would they produce the 25,000,000 gallons more economically than one distillery equally well located could produce the same amount?—A. They can not do it under like conditions. The concentration of the plants to a practical limit cheapens the cost of production.

Q. Would the five have no advantage in buying raw material over the one in the open market?—A. No; not that I see.

Q. If they were distributed over the entire country, and the number increased from 5 to 25, say, and produced a hundred million gallons a year, would they not have any advantage over the one equally well located?—A. Not on the cost of production.

Q. Would there not be an economic advantage in the cost of production?—A. Up to a certain point the more you concentrate the more you reduce the cost of management. You get to a point where, of course, you can not go any further. What that point is, I have not had experience to determine; but you could determine it. As a rule, the point of most efficient operation would be reached when they absorb the product of the country all around them; when expense is increased by bringing in the material from other districts. I do not think, unless there were exceptional conditions, that any manufacturing business would be well located if located all in one spot. Of course, the matter of transportation is an important one.

Q. In asking the question, I had in mind the combination of plants that are scattered all over the United States.—A. There is absolutely no use of combining where they are scattered all over the country. If combinations are formed it is to get a corner on the market and better somebody's fortune. There is no practical advantage in it; not a bit. For instance, the distilling people had distilleries in Peoria, Nebraska City, Pekin, St. Louis, Cincinnati, over across the river in Kentucky, and in a dozen different places. There was absolutely no necessity for combining. It was only to control the market, limit the output, and commit extortion. They attempted to do it and failed, simply because, as I have explained to you, it did not require a large capital to get up competition—to build new distilleries. Why, they threw away property that cost them hundreds of thousands of dollars merely to eliminate it; they paid men for staying out of the trade; they paid rent on this abandoned land right along from year to year, nearly

\$100,000 a year. I have got on the roll here, I think, \$100,000 approximately, if I remember it, a year for rent for nothing. They rented the places where the distilleries were in order to put them out of the way.

PRICE OF SPIRITS BASED UPON THE PRICE OF CORN.

Q. If they had reached the point where they could make it more profitable for the capital invested, would they not have to control the output as well as the price of the raw material on the market?—A. Yes. They did not seek to control the price of the raw material; corn is really their guide. The corn market is the indicator for the spirit market, and as corn goes up the cost of production goes up. They did seek to control the output and succeeded for a time, while fair prices were maintained, but when extortion was attempted they failed.

Q. That is owing to the fact of the immense amount of corn, and the various uses to which it is put. Is that true in any other industry?—A. No, because they have to pay for the corn. They get the corn in a solid form and after they run it through the mash and the still it comes out in liquid form. Every bushel of corn produces from 4 to 4.85 gallons of spirits. The cost of the spirits is based upon the cost of the corn; it is corn in liquid form; and the price of the corn is, of course, controlled by the amount of it consumed. If you will open the markets of the world to these people and let them run the corn through their mills and ship the liquid spirit, the price of corn will go up because there will be more demand for it, the consumption being greater. With proper encouragement by our Government, i. e., the necessary facilities in handling for export, I am confident that the grain used to make spirits for export would be greater than the whole amount now used for all distilling purposes, and that a 50-cent tax would require double the present amount to meet the demand on an easy export. And a low tax that would permit the use of spirits and alcohol in manufactures would require at least four times the present amount of grain to meet the demand of our distilleries, and would necessarily raise the price of grain. If you reduce the tax on the liquid corn there will be more of it used in the arts and sciences and manufactures; and if you will provide rules under which it can be exported—merely prevent friction—more will be exported. The law as it now stands and the rules for its enforcement are practically a prohibition on the exportation of spirits and alcohol.

EFFECT OF COMBINATIONS ON THE PRICE OF RAW MATERIAL.

Q. Suppose that corn was used only for the manufacture of spirits, what would be the effect of combinations upon the price of raw material?—A. If the corn had no other use?

Q. If the corn had no other use, as raw sugar is used chiefly for making refined sugar, what would be the effect upon the raw material?—A. On the corn?

Q. On the corn.—A. Why, it would not have any price; they would have to stop raising corn. It would not bring enough to pay the cost of production, until the supply was correspondingly diminished.

Q. Supposing there was only an amount of corn raised sufficient to supply the demand for spirits, and that competition was destroyed so far as the producer of corn was concerned?—A. I think the natural law is that, if you limit the output, you increase the price, because there is an increased demand. If the amount produced is not equal to the amount consumed, the price necessarily goes up. The whole thing depends on regulating the output, or getting a market for the output. I do not however conceive, and never have, that you could limit the production of corn to the amount required for spirits. Increase the export of spirits and its use in manufactures and you increase the demand for, and necessarily, the price of corn.

Q. All of the raw sugar at the present time is, of course, not converted into refined sugar, but what I was trying to get at is the effect of the large combination that substantially controls the refined sugar. What effect does it have on the raw sugar? It was the general economic proposition that I had in mind, rather than the special circumstances of the distilling business.—A. I can not conceive of such a condition; I might construct a theory about it, but I do not think it would be worth a button after I had; it would be mere guessing. I do not see how a condition of that kind could be permitted to exist. If there was no use for corn except to make spirits of it, and one set of men had control of all the spirits, they would have control of all the corn; but that would not be tolerated; that is all. In these industries where a small amount of capital is required I do not think it would be possible for them to do it. They may do it

for a while, but in the end they will get downed; they will be troublesome while they are in the ascendancy. The only way they can control the spirit output is to cheapen the production, as can perhaps be done in Peoria, and sell at from one-half to two and one-half cents a gallon cheaper than anyone else who has not the same conditions. Of course, with the same conditions elsewhere their prices could be met.

Q. (By Representative OTJEN.) I understand that you regard these large combinations, such as the iron combination, as injurious?—A. Very; they are a menace to our form of government. They are a permanent evil, while other trusts are but a temporary one. In the end some of them may reduce the cost of production and result in some good after doing much harm.

Q. Have you any suggestion how that can be prevented, or how a remedy could be applied?—A. I have not been a student of that question, and my opinion would not be of any value. I really have not come to a conclusion with which I am myself satisfied, but I would stop the formation of trusts. Just how I do not know, but I would stop them some way. I would hold them up somewhere on their mad career and give them a shock. There is sufficient power under our State and Federal constitutions. It is an inherent power of the Government to protect the people from oppression of this character.

Q. (By Mr. JENKS.) Have you any definite information with reference to the profits of the new companies, the American Spirits Manufacturing Company, the Standard Distilling and Distributing Company, and some of these later organizations?—A. No; not much. My mind has been kept on other work and I have not paid much attention to those matters. The knowledge I have would not be of any value, except what I have already given you. It is my belief that these men are working on the line of reducing the cost of production. I know for a certainty that the American Spirits Manufacturing Company is, because I have worked with those gentlemen in getting the business straightened out and starting them on from the point where I dropped it.

AFFIDAVIT.

STATE OF ILLINOIS, *County of Cook* :

I swear that the statements made by me of my own knowledge in the foregoing report of my testimony before the Industrial Commission are true, and that all other statements I believe to be true.

JOHN MCNULTA.

Sworn and subscribed before me this 5th day of July, 1899.

[SEAL.]

E. M. COLTON,
Notary Public.

WASHINGTON, D. C., May 19, 1899.

TESTIMONY OF MARTIN R. COOK,

Wholesale liquor dealer.

The Commission met at 10.45 a. m., Vice-Chairman Phillips presiding. Mr. Martin R. Cook, of 146 Franklin street, New York, N. Y., appeared as a witness on the subject of the whisky combinations.

Q. (By Mr. JENKS.) What is your business?—A. Wholesale liquor dealer.

Q. How long have you been engaged in the business?—A. About 36 years.

Q. So you have been in business during the whole period of these different combinations among the distillers?—A. Yes.

Q. Have you, during all this period, had dealings with all of these different combinations, from the old pools through?—A. Yes.

EFFECT OF THE FIRST COMBINATIONS ON PRICES.

Q. Would you be kind enough to give us your opinion as to the effect upon prices that the old pools among the distillers had, before the formation of the so-called whisky trust?—A. We had several pools for the regulation of prices, which practically resulted in the formation of trusts. As I recollect it, the first attempt at a combination was conducted by a man named Miller—Buffalo Miller.

I do not know that they called it a trust at that time. The trust, organized by Mr. Greenhut, was at a later period.

Q. Do you remember anything as to the effect on prices of this earlier pool organized by Mr. Miller, before the organization of the trust?—A. Its effect was to advance the price of the raw product, spirits and alcohol.

Q. About how long did the pool organized by Mr. Miller last?—A. I do not remember.

PRICES FIXED BY THE TRUST.

Q. What was the effect of the whisky trust, which was organized with Mr. Greenhut as president, upon prices?—A. Before this trust was formed there was great competition and general demoralization in the business. After the formation of the trust prices became more regular to the jobber, and the trust required the jobber to sell at certain fixed prices to the small dealer. The arrangement was very similar to the one followed at the present time by the sugar trust.

Q. That is to say, the trust itself fixed the price at which the jobbers should sell to the dealers?—A. Yes; and the arrangement was a very satisfactory one while the trust adhered to it; it maintained a fair price and was willing to accept a fair profit.

SYSTEM OF REBATES.

Q. In case the wholesale dealer did not observe the price fixed for him by the trust, was there any penalty attached?—A. Yes.

Q. Will you explain that to us?—A. The buyer had a rebate; if he violated the price agreement, or bought from any other parties, he lost his rebate; or, in other words, the voucher which was given for rebates was conditioned upon his loyalty to the trust to the extent of making all of his purchases from it.

Q. Was this system of paying rebates and fixing prices made by the old Distillers and Cattle Feeders' Trust, or by the Distilling and Cattle Feeding Company after the first association had reorganized?—A. It was by the first trust—that organized by Mr. Greenhut. After the organization was formed they advanced prices and demoralized the whole business.

EFFECT OF THE INCREASED PRICE ON THE MARKET.

Q. Do you recall for about how long a time the trust kept prices at what you considered fair rates, so they could hold the market steady?—A. I do not; I can not tell you without referring to our books.

Q. But you state that afterwards they succeeded in demoralizing the market?—A. Yes.

Q. How?—A. By advancing the price when there was no corresponding advance in grain. Just prior to their breaking up they made several advances, that were entirely uncalled for, of about 5 cents at a time, which, as I recollect, amounted in the course of 30 days to 30 cents a gallon. There was no reason for this that they could give, except that it might affect the stock market.

Q. Why should they desire to influence the stock market?—A. I do not know, but surmise that if they were stockholders they might want to enhance the value of their stock.

EFFECT ON CONSUMPTION.

Q. What was the effect upon the consumer of the product, or the effect on the consumption of alcohol, of pushing the price up so suddenly 30 cents a gallon?—A. All advances of that kind have a tendency, I think, to lessen the consumption.

Q. In this special case, do you think that orders for the goods on the part of the wholesalers were decidedly and immediately checked?—A. I have no doubt that people who understood the situation and were unable to see any adequate reason for the advance held off in making purchases.

Q. For how long a time did this very high price last?—A. I do not recollect; not very long.

Q. Any longer than a month or 2—3 or 3 months?—A. Not more than 2 or 3 months; I do not think as long as that; I can not tell you now.

SYSTEM OF REBATES EXPLAINED.

Q. Will you explain to us a little more in detail just what this system of rebates was?—A. It was something like this: If the market price, as it is to-day, were \$1.20, we will say, they added on 7 cents a gallon, and we all paid \$1.27. For that 7 cents they gave us a rebate voucher, payable 6 months after date, provided we

had made all of our purchases of them and complied with their regulations, as stated in the voucher.

Q. Were you compelled to make oath to the effect that you had bought only from them and sold at the price they had fixed?—A. Yes; when we sent our vouchers for collection we had to make that oath.

Q. Are you speaking now of the rebates of 7 cents a gallon given to the wholesalers?—A. Yes; those are the rebates; but sometimes, I think, where we ourselves sold to wholesalers we were allowed to give vouchers on behalf of the trust. For instance, if we sold to a jobber in Philadelphia or Baltimore, or to a large retailer, he would receive a voucher and pay the 7 cents advance, the same as we had. Instead of our paying it all, we were allowed by agreement to make vouchers; so that the trust, instead of our company, paid the Philadelphia or Baltimore buyer the rebate on his purchase from us.

Q. That is, you would take a rebate of 2 cents a gallon and he would have a rebate of 5 cents a gallon, or how was it distributed?—A. I do not recollect how it was now, but in substance it was 7 cents.

Q. Was it 7 cents for the wholesaler, or wholesaler and retailer together?—A. I think it was the same all the way through. I think it was. I would not be sure, but my recollection is that it was.

Q. Your recollection, then, is substantially this: That if a person wished to get at the real price of the product from the market price, as quoted, he should deduct 7 cents a gallon?—A. If he wanted to know the net cost to him ultimately, provided he lived up to his agreement with the trust, then he would be entitled, at the end of the 6 months, to 7 cents less than first cost.

Q. What was the effect of this rebate system upon the trade?—A. In what way?

Q. After the rebate system had been in vogue for some years, I have understood that the combination itself had trouble in paying these rebates to the wholesalers. Is that true?—A. When the dealers found they were unable to collect their rebates, there was a feeling of great dissatisfaction.

Q. What action was taken by the trade in order to secure their payment?—A. I think many of them commenced suits to collect.

Q. Was there any general, organized movement on the part of the dealers to whom rebates were owing?—A. I think there was one or two things of that kind started, but they were never pushed very far; I do not think they amounted to much.

Q. Did you yourself have any connection with such a movement as that—one that was more or less uniform among several dealers?—A. Yes; I think I had, but the distinct details of it I can not recall just now.

INCREASE IN PRICE ULTIMATELY PAID BY THE CONSUMER.

Q. You have spoken of the very decided increase in price, unreasonable increase, as you thought, on the part of the Distilling and Cattle Feeding Company. Upon whom do you think the burden of the increase ultimately rested? Who, in the main, bore the burden?—A. I think that it was ultimately paid by the consumer. So far as the retail liquor dealer was concerned, prices remained the same. It is difficult to change retail prices in this business; in fact, it is not attempted. If the retailer maintained and sold the same quality of goods, then he was the sufferer; as a rule, however, on account of accumulating licenses and taxes and increased cost of doing business, the retail dealer has been compelled to sell a class of goods which has continually grown poorer and cost less money.

Q. You yourself are a rectifier, are you not?—A. We are rectifying as known under the law. We do not do any real rectifying. All we do is to buy the high spirits and reduce them to proof. That is what is called rectifying now. In that sense we are rectifiers.

Q. Can you tell us something from your own experience concerning the changes in the demand of the retail dealers for different grades of goods, so as to make plain what you have said about retailers buying cheaper grades of goods when taxes or prices are high?—A. There is no doubt about that. It is known by every wholesale dealer who has experience. Look at the condition, for instance, in Pennsylvania, where they have a very high license. They were large consumers of fine goods, and we perhaps handled as many of those goods as anyone. Fifteen years ago it was not an unusual thing for us to get from \$4 to \$6 a gallon for strictly fine goods; but now, for goods of equal nominal quality, it would be very difficult to get more than half that price. In fact, it is an infrequent occurrence for us to sell them the best goods they use for as much as \$3.

Q. Did you notice the same effect when the prices were put up by the whiskey combinations, by the Distillers and Cattle Feeders' Trust, and later by the Distilling and Cattle Feeding Company? For example, very soon after the trust

was organized, in 1888, they put the price very high; did you notice in your business during that year that the nature of the retailers' demand changed in the way you suggested? Did they ask for cheaper goods?—A. Is that the time of that 20-cent advance?

Q. No; that was two or three years before. The 20-cent advance was in the latter part of 1892 and the beginning of 1893. At that time did you notice the change?—A. I do not recollect about it, but I should say, from general experience, that such a short-lived affair would have had but little influence, because people will withhold from making purchases as a rule if they have stock enough on hand to carry them along for a while.

Q. This first increase that I have spoken of, under the old trust, was an increase in price that lasted just about a year. Do you think that in a period of time of that length you would notice the change?—A. How much was the increase?

IN SOME CASES THE CONSUMER IS NOT AFFECTED.

Q. There was an increase, in the first place, of about 4 cents a gallon, then after 3 months an increase of 5 cents a gallon more in round numbers.—A. I do not think that of itself would have made much if any difference.

Q. Somewhere from 9 to 10 cents a gallon?—A. I do not think even that would be enough to induce dealers to purchase a lower grade of goods.

Q. The increase of 9 or 10 cents a gallon, then, would not be enough to affect the retailers' price to any great extent?—A. I do not think it would, because they would have to calculate, you know, on 50 or 60 drinks to a gallon, and such an increase would be but a small fraction of the price of a drink.

Q. Under these circumstances you would say that the burden of an increase in price that was not over 10 to 25 cents a gallon would really rest on the retailer?—A. Taking all other expenses into consideration I think it would; but that of itself would not affect him much.

Q. In that case, then, the retailer is the man who pays most of the increase?—A. I think that is correct.

Q. Would the effect be the same, do you think, in the case of bottled goods as in the case of goods sold over the counter?—A. I do not think that goods with an established price in the market would be subject to change, unless they were low-priced goods. In that case, if it would make a difference of 25 to 30 cents, I think they might charge the difference; but where there was a profit of \$3 or \$4 a case I do not believe they would make a change.

THE EFFECT OF THE FEDERAL TAX ON SPIRITS.

Q. Will you give us your opinion with reference to the effect of the present high tax of \$1.10 per gallon of proof alcohol on the revenue? Do you think the Government would secure more or less revenue if the tax were reduced, let us say, to 75 cents a gallon?—A. I think the Government would get more revenue at \$1.10; there is no doubt about it in my mind.

Q. Do you think that the tax is, on the whole, pretty efficiently collected at present; not very much liquor gets on the market without paying a tax?—A. I have no doubt about the tax being efficiently collected. We do not hear of much illicit production. Occasionally, in New York, some East Side Russian Jew, who understands distilling on a small scale, is brought up; but, aside from that and what is produced in the mountain districts of North Carolina, Tennessee, and Kentucky, there is very little illicit whisky made.

Q. Of course you can not give information in detail regarding this illicit distilling in the mountains of North Carolina and Tennessee, etc.—A. I do not know that there is any way of forming an opinion. I do not think the amount of the tax cuts much figure in the matter of illicit production. It would be practically the same if it were 75 cents. There is much talk about the increase of illicit distillation, but I think, when we come down to it, it comes from some man who wants a lower tax because he is loaded up with bonded whisky and wants to get out.

USE OF SPIRITS IN THE ARTS AND SCIENCES.

Q. Do you yourself sell many goods for the arts and sciences?—A. Only in the way of alcohol.

Q. Do you suppose that, if the tax were lowered or entirely removed, there would be a large increase in consumption of alcohol in the arts and sciences?—A. There would be very much more consumed. It is a great mistake that it is not regulated in some way.

Q. Do you suppose, if the tax were reduced to 75 cents a gallon, this increase would be very decided?—A. Yes; I think it would. It is, of course, impossible to tell how much, but I should say it would be 25 per cent.

Q. Not enough, you think, to make up the difference in the revenue?—A. Oh, no; it would not be sufficient for that.

EFFECT OF THE LATER COMBINATIONS ON PRICES.

Q. Have you yourself had any dealings with this later combination among the distillers, the American Spirits Manufacturing Company, or the Standard Distilling and Distributing Company?—A. We have had with the Standard.

Q. What has been the course pursued by the Standard as regards prices?—A. Well, as I remember it, their organization was practically completed about a year ago. At that time we were requested to take the position of a distributor. We asked for the terms which they would give us, or special concessions that would enable us to do the business with a profit, and the best terms we were able to get from them were what is known as the price to the smaller jobbing trade, i. e., 1 cent per gallon, payable, provided we were loyal to them, 6 months after the purchase, and a half a cent more, payable in sixty days, but from that half cent was to be deducted what they called the expenses of the organization and management of the distributing company, so that, according to their estimate, the net amount from these two sources would be a cent and a quarter a gallon.

Q. Was that to come in the form of rebate?—A. Yes; but there would be no voucher about it. It was simply an understanding—an agreement.

Q. To be credited to you on the books?—A. Yes.

Q. After how long a time was this to be paid?—A. The cent a gallon was to be paid six months after date, provided we were loyal to them, and the half cent in 60 days, with the same provision; but the half cent a gallon was reduced by expenses, as I stated, to about a quarter of a cent, making the total rebate a cent and a quarter. We thought we saw in that scheme an attempt to get control of the large jobbing or distributing trade of the country, inasmuch as they had in almost every large place—for instance, Cincinnati, Boston, New York, Philadelphia, and Baltimore—distributing houses of their own, which, having been absorbed into the standard company, or part of it, were not affected by the cent and a quarter rebate, their principal profit coming from the distillery branch, or the stock they owned. Their earnings were in spirits. For instance, I recollect that we looked into the subject pretty carefully at the time, and found that the cost of making spirits, provided it was through an operation of building a distillery without being loaded with these fixed charges, as they were, would be about 10 cents a gallon. At that time they were getting a profit of from 40 to 50 per cent on spirits.

Q. That is, they are selling at something like 15 cents?—A. Yes; 14 to 15 cents. Of course it did not matter to them as distributors what it was. The cent and a quarter per gallon which they chose to offer us was not equal to a guaranty for loss by bad debts. We sell those goods tax-paid, and that means about \$1.28 and \$1.30 a gallon, or a little over \$60 a barrel. They offered us a cent and a quarter a gallon, which was about 75 cents, for doing a business and having the risk of credit and leakage and all other expenses on a barrel of goods worth about \$65. We declined to accept the proposition. We declined to act as distributors.

COMPARISON OF THE EARLIER AND LATER COMBINATIONS.

Q. Let us compare this offer that was made you by the Standard Distilling and Distributing Company with the terms you had from the former whisky trust. How much did you get out of them?—A. My memory is not so good as it was some time ago, and I do not recollect. But the other arrangement was broad and satisfactory in comparison with this. It was very good, so far as the trust was concerned, and so long as they conducted it properly it was satisfactory to the trade.

Q. Their unsatisfactory management consisted in putting up the price unreasonably high, as you thought, for speculative purposes?—A. It was partly in the too high price and partly in the small profit they offered us as distributors. The result was that we immediately looked about with a view of helping to build a plant in order to secure our supply at the lowest possible cost.

Q. So you have built a plant of your own?—A. Yes; in connection with several large houses we have.

Q. Do you know whether the trade generally, if the dealers do not have their own distillery, prefer at present to buy of independent distillers or of the combination? Is there any preference?—A. Yes; people who have been in trade and

have had much experience with the old trusts are not in favor of the present one. We have had cases recently where large houses paid us a half cent more because they felt their position as large houses was insecure, much the same as we felt when we decided to go out of our regular business and into the manufacture of spirits.

Q. This last offer you said came to you from the Standard Distilling and Distributing Company. The American Spirits Manufacturing Company was, I believe, the organization that took over the most valuable plants of the old whisky trusts, along in 1895?—A. We understand so.

Q. Have you any knowledge with reference to the terms they make to the trade?—A. No.

Q. It has been reported of late in the papers that the American Spirits Manufacturing Company, the Standard Distilling and Distributing Company, the distillers in Kentucky, manufacturers of rye whisky in the East, etc., are uniting to make one great organization to control practically all the manufacture of spirits in the country. Have you any knowledge with reference to this?—A. Nothing more than what I see in the papers. We would naturally not know much of anything about it.

EFFECT OF INCREASED PRICE ON CONSUMER (RESUMED).

Q. (By Mr. KENNEDY.) To return to the question of who bears the burden of the increase in the price of spirits, you said, I believe, that ultimately the consumer pays it. Now, we have had considerable testimony to the contrary, and I would like to ask you what the effect is with the retail dealer who carries special popular brands of whisky. If he continues to sell these special brands when the price is increased, how does the consumer bear the burden?—A. Of course there are exceptions to all rules. I was only speaking of that in a general way. The retail price of the leading case goods on the market would not be changed unless the advance in the wholesale price was large, because competition would prevent it. What I referred to was consumption in general. To illustrate, let us say that a large jobbing drug house in New York pays an advance of 10 cents. They sell to their retail customer, charging the 10 cents advance and probably the profit on it, which they should do as a correct business principle, and the retailer who uses those goods, either selling them as they are or manufacturing them, would, I think, always charge the full advance which he had paid. There might be some little circumstances concerning the fixed prices upon known, reputable brands, so that they could not be very well changed; and in that case it might be that the dealer would bear the burden of the larger portion of the increase. In our own case (we put up some case goods) we find that they are now costing us a little more than they did 6 months ago, on account of the very large advance in rye whisky. Here we are the sufferers because we do not think it good policy to change our prices; but so far as the general trade, the great volume of consumption, is concerned, I think the other rule will hold good.

CONDITION OF THE DISTILLING INDUSTRY.

Q. (By Mr. C. J. HARRIS.) What is the capacity of the distilleries of the country? Are they able to produce largely in excess of what is consumed?—A. Yes; I think they are.

Q. Has there been a great deal of dismantling of distilleries by the trust?—A. Yes; I understand there has.

Q. What would you say is the capacity of the distilleries at present? Could they produce double the amount that is consumed?—A. I should think so. The fact is that the Standard Trust and the old trust confined their manufacturing operations to the plants which they found most economical to run. They do so to-day.

EXPORTATION OF SPIRITS AND OVERPRODUCTION.

Q. Is there much of an export business in spirits?—A. No.

Q. Does the Government tax prevent it?—A. No.

Q. What, to your mind, is the reason?—A. Well, the action of the German Government in paying a bounty on alcohol made from beets is an important factor, and has been a controlling one when corn was high. But we are now very near the point, I think, when spirits can be exported.

Q. Are not the conditions in this country more favorable than in any other for the production? Is not this the greatest corn-producing country in the world?—A. For grain, yes.

Q. (By Mr. PHILLIPS.) You say we are pretty nearly at the point now where we can export spirits, but would we not be still nearer that point if there were no tax?—A. The tax really has no effect, because all exports are in bond without the payment of tax.

Q. (By Mr. A. L. HARRIS.) What is the cause of the overproduction of distilleries? I mean the number of distilleries.—A. The manufacture of spirits is a profitable business. When fair prices can be obtained the distiller can make money very fast. For instance, in the distillery we have, running about 4,000 bushels of grain, if we can get 1 cent a gallon net profit we make \$50,000 or \$60,000 a year. Such a possibility is a temptation to some people, and through that the building of distilleries has been overdone. Overproduction has followed, just as in many other lines of manufacture, and the result has been a great desire to combine in the form of trusts. The tendency is not confined to the whisky business.

Q. Is the foreign demand for whisky at the time when prices are good?—A. The foreign demand is not for whisky, but for spirits and alcohol. We used to export a great deal of spirits to the Mediterranean, where it was used largely in fortifying wines, but that supply now comes from Germany, mainly because the German Government pays a bounty upon the manufacture of sugar and spirits.

Q. (By Representative OTJEN.) Is there no tax upon spirits and alcohol exported?—A. No.

Q. Then, so far as the foreign trade is concerned, the tax of \$1.10 a gallon cuts no figure?—A. None at all.

REASONS FOR THE EXISTENCE OF THE TRUST.

Q. (By Mr. A. L. HARRIS.) What was the object in forming the trust originally?—A. To prevent competition in the business, precisely as it was a year ago.

Q. With the view of controlling the output?—A. With the view, yes, of controlling the output and combining all the interests so as to prevent large competition.

Q. Regulating the price to make a profit?—A. Yes. For two years before the last trust, which we call the Standard, was formed, there had been no money made in the business; on the contrary, there had been some loss on account of competition.

Q. What was the result of the operation of the trust upon the output?—A. They reduced the output to correspond with the demand, and fixed and made an advance in the price.

Q. Do you know whether or not the trust at any time fixed the price that the distributor should sell for?—A. No.

Q. Was it not done at all?—A. Yes; in a certain way. The distributor's own interest would prevent him from changing the price; but I do not think they had any agreement about it. The trust made the price at which it would sell to the jobbing trade, which was 1½ cents less than they gave to the small distributors—those who occasionally buy a carload.

Q. Do you know whether there was any arrangement among the distributors to prevent their customers from selling for less than the prices received from the distributors?—A. No; I do not think there was any.

Q. (By Mr. RATCHFORD.) Was the only cause for the existence of the trust, that which you have stated?—A. To fix the price systematically?

Q. To regulate the production and raise the price; was that the only cause?—A. I think that was primarily the moving cause.

Q. What, in your opinion, would have been the result if this trust had not been organized?—A. There would have been a cutting of prices.

Q. Do you not believe that production and prices would regulate themselves under the operation of supply and demand, if the trust had not been organized?—A. I can only say that such was not the case before. Some distilleries can make spirits much cheaper than others, and sometimes the needs of a distiller for money makes a difference in price.

Q. If the whisky business became unprofitable, is it not a fact that men would refuse to put their money into it and in that way prevent this enormous production which tends to reduce prices?—A. When a business is at a low ebb, and money is being lost, people do not often invest in it.

Q. That is true of all branches of business, as well as the whisky business, is it not?—A. Certainly.

Q. Then if a trust is advantageous to the whisky men, would it not also be equally advantageous to men in all other branches of business?—A. If properly conducted, I am in favor of it.

THE AMOUNT OF SPIRITS PRODUCED.

Q. (By Mr. KENNEDY.) Do you think the supply of spirits on hand is largely in excess of the demand for it?—A. You are speaking of spirits now?

Q. Yes; the products of these trusts.—A. Stocks of spirits are not ordinarily carried for any length of time; they are manufactured to-day and sold to-morrow. But whiskies, both bourbon and rye, are contracted for and held in bond for years. In this respect the two kinds of business are quite different, as well as in the methods of handling the goods.

Q. What was it you said about there being a surplus on hand beyond the demand of consumers?—A. I do not remember in what connection that was, but it probably had reference to the overstock in whiskies, such as Kentucky bourbon whiskies, which are carried for years in bond, and also to rye whiskies, which are made in the East.

Q. Do you believe, then, that the amount manufactured is equal to the demand right along?—A. Oh, yes.

Q. And that there would not be anything gained in the production by decreasing the Government tax?—A. The Government would receive less money.

Q. Do not these combinations aim to manufacture all that is necessary, and they all pay the tax on it?—A. I do not see what that has to do with the amount of revenue received by the Government.

QUESTION OF THE FEDERAL TAX RESUMED.

Q. We had the other day a very high authority to the effect that the production would be largely increased if the tax were lowered, and I want to be sure about that. Is it your opinion, then, that the production would not be increased by reducing the tax?—A. By reducing it from \$1.10 to what figure?

Q. Well, say to 75 cents.—A. Compared with other liquors and wines, spirits would, to that extent, seem cheaper to the consumer; but if the revenue was not diminished there would have to be an increased quantity consumed, and I do not think you will find statistics to show that the consumption has been materially less at \$1.10 than it would have been at 75 cents. There has been a great deal of talk about the last advance from 70 cents, or whatever the tax was, to \$1.10, that it paid the Government a great deal more; but the fact is, that before the new law went into effect, in order to avoid the increase, the former tax had been paid on an amount equal to nearly three years' consumption. Of course that affected the revenue collected at the new rate for two years certainly, and perhaps three. We now have goods on hand that we thought it wise to pay taxes upon a year ago. In the same way, many in the trade thought there would be a profit in borrowing money beyond what was usual in order to pay the tax and accumulate a stock. The depressed condition of trade also had a great deal to do with the payment of the tax. All these things should be considered in making any calculation concerning the two rates of tax.

EXPORTATION OF SPIRITS RESUMED.

If it is within your province to bring up the question of exports of alcohol or whisky, I should like to say something on that question. Some of you gentlemen have said that we are in position to make whisky or spirits as cheap as any country in the world, and that is undoubtedly the case. It is also true that there is no country that makes as good a quality of goods as we do, though each country has its peculiar flavors or brands. We ought to be the largest exporter, whereas we are substantially the smallest. Great Britain has the most liberal laws concerning exportation of any country of which we know. The result is that London has become the great warehouse for the world. If we want Jamaica rum, we do not go to the island for it, but to London. It is all shipped there for storage or distribution. They have no such thing as a bonded period. The goods are deposited there, and the duty is paid on what goes out. It does not affect the consumption at all, and would not with us if our laws were the same. The main difficulty with us is that when we undertake to export goods the Government throws as many obstacles as possible in the way.

We have attempted three times to open an export trade through what is known as class 6, bonded warehouses—that is, manufacturing warehouses—and twice we have been compelled to close up because the expenses were so great. In the first place, there must be a beginning, and it takes time to build up a trade. The expenses should therefore be adapted to the situation; but the Government requires us to have a warehouse, an entire building, first class in every way, with

iron shutters, etc., which in New York costs something, besides a Government officer at \$1,800 a year in addition to the expense of our own force of employees. On the whole, we found it did not pay us. We opened again when the recent war commenced, and have made very fair progress. The conditions here should be the same as in London, where there are very large warehouses operated by merchants who put their goods in and export them. Better facilities, in other words, should be given to the export trade.

Q. (By Mr. JENKS.) Can you tell in just what way our laws should be modified so as to encourage the export trade?—A. I think that a system of drawbacks might be devised so that goods which have paid the tax could be put into the present bonded warehouses, in order to prevent any fraud, and allowed to go through these warehouses, the same as French brandies do now.

THE CORRECT METHODS OF MANAGING A TRUST.

Q. (By Mr. KENNEDY.) You have stated that you believe trusts would be a very good thing if properly conducted. Will you mention the particular ways in which you think they should be differently managed?—A. In a word, they should adopt the same principles as the Standard Oil Company follows, which account for the success of that organization—simply attempt to secure a fair and reasonable profit. I think that is all that would be necessary.

Q. (By Mr. A. L. HARRIS.) What can refined oil be sold for at a profit?—A. I do not know. I am not familiar with it. My information concerning the Standard Oil Company is derived from the vice-president of their largest plant, who is a bank director in the place where I live. In the course of many years' association with him I have learned something of their business methods. There is a rivalry among the different plants to see which can produce the best results—i. e., produce oil of equal quality at the lowest cost. If any of them, he has said, succeed in making an improvement, or in reducing the cost, even slightly, and it is reported to Mr. Rockefeller, the extra profit does not go to the stockholders, but the price of oil is reduced. The company's gains are in a small profit on all the oil produced in the country and in their methods of handling it. Small economies, of which smaller producers can not avail themselves, aggregate, in a vast business, a large amount. What has been accomplished in the oil business might also be accomplished in the distillery business. As I have said, the product of our own plant is practically 10 per cent of the total consumption of spirits and alcohol in the country. Ten such plants could supply the whole demand—about 60,000,000 gallons. Two cents a gallon on that product, with the present capitalization, would pay very well; and yet there is no part of the established trade but what would be willing to pay that price. A year ago we made an offer to the Standard Distilling and Distributing Company not to undertake any competition, if they would give us a fixed price, based upon the price of corn and not upon inflated charges, but yielding them a profit of 2 cents a gallon.

Q. (By Mr. PHILLIPS.) Would you consider it unreasonable if your profit on each bushel of corn bought was more than the amount paid for it?—A. I should consider it unusual.

Q. Do you believe the Standard Oil Company, for instance, makes more on each barrel of oil than they pay the producer for that oil?—A. No.

Q. Do you not think their profits show that for the last ten or fifteen years?—A. I do not know anything about that.

Q. (By Representative OTJEN.) Do you think the profit of \$50,000,000 made by the Standard Oil Company from the oil industry of Ohio is a moderate profit?—A. I do not know anything about it.

Q. (By Mr. A. L. HARRIS.) What per cent of the total supply of spirits in the country must be controlled in order to regulate the price?—A. I do not know that there is any fixed percentage, but in order to regulate it closely it is necessary to control the whole supply.

Q. Control all of it?—A. Yes; every distiller, if it is proposed to regulate it closely. Of course that would probably not be possible. The competition to the Standard Distilling Company to-day is limited to one or two very small concerns outside of our own company, which I have named.

Q. (By Mr. JENKS.) Then you think that they control about 85 per cent of the output?—A. I should say so.

OVERCAPITALIZATION OF TRUSTS.

Q. (By Mr. KENNEDY.) I think the witness may be able to give more reasons why he is in favor of trusts "if they are properly conducted." I should like to have him say something about overcapitalization—whether he does not believe

that it means the "working" of the public by the trusts in order to pay dividends?—A. Overcapitalization, of course, is a bad feature. Still I do not know how you are going to have trusts control and regulate prices in any special industry unless plants are taken in at more than they are worth. For instance, consider our company: Our plant cost us \$150,000, and we have a first-class plant in every way, with a capacity, as I say, of 10 per cent of the consumption of the country. Ten such plants would be all that is required. That would be \$1,500,000. Then you might want two or three hundred thousand dollars more perhaps for a working capital, although it is a strictly cash business. There is no bank, where the plant is out of debt, but what would be willing to advance all the capital necessary. The corn is bought one day and turned into spirits in the next two or three, and on shipment is paid for by sight drafts. It is a three or four day business.

Q. (By Mr. JENKS.) You think, then, that \$2,000,000 would be really a sufficient amount of capital to produce all of the spirits that the regular market of the country demands?—A. Yes, it can be done now.

Q. The old Whisky Trust and the Distilling and Cattle Feeding Company were capitalized, the first I believe at \$80,000,000 and the second at \$35,000,000?—A. Yes, and the present one at \$24,000,000.

Q. So you would be inclined to think that, so far as this capitalization is concerned, part of the capital is perhaps used in carrying dead plants which they can not make any use of, and the rest is water?—A. They have, I understand, some very valuable real estate as a portion of their assets in Chicago. They have one plant there that is worth a million or two. That is real estate.

Q. Were not the distilleries taken up by the old organization, and represented by such a large capitalization, mostly on leased ground?—A. Yes.

Q. The point you have just made concerning the necessary capitalization brings up another question with reference to the management of these organizations. Can they be managed and the output and prices regulated so that dangerous speculation will be largely taken out of the business?—A. These trusts could be made successful on a basis of fair profits, based upon the price of grain, and would be acceptable to the trade and deter anyone in it from building distilleries when there were already more than there should be. When, however, the trust undertook to force us out of business, we were compelled to adopt the course we did. Two cents a gallon on 60,000,000 gallons is \$1,200,000. If they had said to the wholesale trade, We will sell you goods at all times at a profit of 2 cents above the cost of manufacture and a reasonable cost of administration, based upon what is known as "the grain clause," they would have had no difficulty with competition, and would have been able to pay a reasonable dividend on the stock.

Q. On the present capitalization?—A. Yes; and it would have been a growing organization.

Q. That is to say, such a price would really be high enough so that it would pay dividends on four times the building value of the plants, to speak moderately, and at the same time be low enough so that competitors would not be tempted to come into the field?—A. Yes.

Q. Considering the nature of this business, do you think it at all likely that a combination can be formed that will live up to the modest conditions you have imposed?—A. That I do not know.

ADVANTAGES OF THE TRUST TO CONSUMERS AND LABORERS.

Q. What you have said thus far of the advantages of these combinations has been mainly from the standpoint of the distiller and the large wholesale dealer or distributor. What do you think is the effect of these combinations upon the consumer? As compared with the competitive system, are there any advantages to him?—A. Well, as I said before, if the profit is made reasonable so as to yield dividends sufficient to make the business a satisfactory investment, I believe it would be better all round. It would be better for the dealer because prices would be regular. A year or more ago we could buy \$20,000 or \$50,000 worth of goods one day with no certainty that they might not be lower the next. What we want in business is certainty in prices; that is one of the things that a trust, properly conducted, gives.

Q. As regards the effect upon labor, do you think there are likely to be as many men employed when we have great combinations controlling the output absolutely as when there are a large number of concerns competing with one another?—A. Of course if the production of spirits were confined to 8 or 10 houses, while formerly there were twice that number, there might be a slight difference in the amount of labor employed; but I do not think it would be appreciable, because there is not much labor employed anyway.

Q. You think perhaps that the conditions of employment would be more certain also?—A. Yes.

Q. There was a question asked by Commissioner A. L. Harris, regarding which there seems to have been a contradiction, with reference to fixing prices by the old combination. I understood you to say that the Distilling and Cattle Feeding Company furnished you goods, and that you received rebate certificates payable on condition that you dealt only with them; and I understood also that these certificates were payable on condition that you would maintain the price fixed by them. Is that right or not?—A. Well, now, I do not recollect, but the test of loyalty was the essential feature in the arrangement.

Q. You are not quite clear as to the question of fixing prices?—A. My impression is that there was some regulation as to the prices.

AFFIDAVIT.

STATE OF NEW YORK, *County of New York*, ss.:

I swear that the statements made by me of my own knowledge in the foregoing report of my testimony before the Industrial Commission are true, and that all other statements I believe to be true.

M. A. COOK.

Sworn and subscribed to before me this 8th day of August, 1899.

[SEAL.]

LOUIS J. KAUFMAN, Jr.,
Notary Public, *Kings County, N. Y.*

Certificate filed in New York County, N. Y.

WASHINGTON, D. C., *May 19, 1899.*

TESTIMONY OF MR. HENRY E. G. LUYTIES,

Wholesale liquor dealer.

The commission met at 10.45 a. m., Vice-Chairman Phillips presiding. Mr. Henry E. G. Luyties, wholesale liquor dealer, New York City, N. Y., appeared as a witness on the subject of the whisky trust, at 12.05 p. m.

Q. (By Mr. JENKS.) What is your business?—A. Wines and liquors; I have been in this business since 1866.

Q. You have had experience, then, with all these different organizations?—A. Yes.

THE PAYMENT OF REBATES BY THE TRUST.

Q. Can you supplement, with one or two particulars, the testimony of the previous witness, with reference to the rebates received by wholesalers from these combinations? Did you receive rebates from both organizations; from the trust before it went into the company?—A. No; only from the company.

Q. From the Distilling and Cattle Feeding Company?—A. Yes.

Q. Do you recall how much these rebates were?—A. They were first 5 cents a gallon, afterwards 7 cents, with the condition that they would be paid, when they became due six months later, only if we had bought all our supply from the company. There was one feature which perhaps was not mentioned. We did not buy our goods from the trust, but from their distributors, and the rebates were furnished by the trust, so that if they did not wish to pay them they could more easily get out of it.

Q. Explain that a little more fully. You say you bought from the distributors; for example, what distributors?—A. Curtis & Co. was one of them. When we bought a carload of spirits they would charge \$1.30 or \$1.35, whichever it was, and, together with the bill, would send us a rebate from the Distilling and Cattle Feeding Company, so that they had nothing to do with it directly. I remember it very well, because when we wanted to deduct our rebates from their bills they would not allow it. We did not wish to get into a lawsuit with them, and so paid their bills and collected our rebates in some other way later on.

Q. Did you receive any other rates of rebate besides the 5-cent and 7-cent ones you just mentioned?—A. I think not; it was quite a while ago, but I think that was all.

Q. Would you be able, from your books, to give us exactly the rebates received at the different dates?—A. Yes; but we would have to look up the books.

Q. Will you look up the books and report to the commission concerning the rebates you received, and the dates you received them?—Yes, with pleasure.

[From letter of June 5, 1898.]

The last rebate vouchers paid \$0.07 per proof gallon. Before that time it was \$0.05 a gallon. The spirits were sold by the distributors, but the vouchers were delivered direct by the Distillers and Cattle Feeders' Trust to the customers of the distributors. The rebate vouchers were stopped in the summer of 1894, but the contract as issued was held to be valid by the court in 1896. So far as I know, \$800 to \$400 remained unpaid at that date. The highest amount of vouchers issued at one time was about \$2,000,000. Finally the trade became restless and other distilleries were built, as is always the case, I believe, when any trust charges an exorbitant price. The temptations to get into the distilling business are so great, because of the enormous profits when spirits bring a high price, but these profits are often realized on paper only. Other concerns started up which were not saddled with \$4,000, or \$5,000, or \$10,000 in rebates; they came into the market and purchased spirits without a rebate, and even cheaper than we could buy from the trust, considering the rebates.

Q. You mean from the independent distilleries?—A. Thus the trade gradually worked away from the trust, except that of those companies on whom they had a particular hold by owing them a large amount of rebates. In order to work our own way out of it we started another company, got it to buy the goods, kept our business up as well as possible, and in that way collected most of our rebates. Is that clear to you?

Q. Not quite.—A. Well, for instance, if I sell you a lot of spirits with rebates, I bind you for 6 months not to buy spirits from anybody else. If I then transfer my business to another gentleman, take out a new license, let him deliver my goods for 6 months, I am out after 6 months, all the vouchers being paid. The trust eventually paid the balance of our vouchers, in order to have our good will, although we commenced to buy from other sources before our vouchers were all paid by the trust. The trust, if I remember right, did not pay many of these rebates when they became due. They did not, at least, until they had evidence that the agreement was kept, and I think the law upheld them. The receiver, General McNulta, took the same position, and most of the people who violated the agreement were never paid. We got our money because they thought it was better to pay us the balance of our rebates than to let our trade go altogether.

Q. What did the committee which was appointed by the dealers who had received these rebate certificates in order to protect themselves, and of which, I believe, yourself, Mr. Cook, Mr. Rice, and possibly others were members, do in the way of securing their payment—simply threaten the combination that you would do what you have done?—A. When we came to consider the legal points, it was a very ticklish question. Our trade influence was more protection to us than that offered by the law. It was an expensive lawsuit, and I do not know what its effect really was. I think we sent most of the rebates back to the owners, and settled with the trust directly, in one way or another. The rebate business was simply a contract that we would buy all our spirits from them, and we only made such a contract because we could not get our spirits anywhere else. After the independent distilleries started a new man with no contract could go into the business without any effort. He could buy spirits and sell them with a profit where we could not, and we were continually fearing, "Can these people pay the rebates, or will they pay them when they come due?"

Q. As Mr. Cook was not quite certain with regard to these vouchers, can you recall whether the selling price was fixed or not?—A. The idea was—I do not exactly remember—but the idea was that we could sell at the full price and keep the 7 cents anyhow. Of course we were empowered to sell higher if we could, but we could not.

Q. Were you empowered to sell lower?—A. I really do not remember, but I think I can find some of those rebate vouchers which must still be in existence, and you can have them.

THE EFFECT OF THE FEDERAL TAX ON SPIRITS.

Q. What is your opinion in reference to the United States tax, and what would be the effect if it were lowered to 75 cents?—A. In that regard I do not quite agree with Mr. Cook. A tax of \$1.10 is a very high one, and many people advocate a lower tax. At one time about a year ago, when corn was very low, spirits

netted the distiller only 5 cents a gallon. I remember we bought a thousand barrels for export a year ago which we shipped to Hamburg, Germany.

Q. What kind?—A. We did not buy it from the distillery, but from the American Distilling Company, who sold it simply to relieve themselves of their surplus stock. They could not make money at the price obtained. It was the lowest price that was ever charged for spirits. Goods were not then sold with a profit, but with a little loss to the distiller. I believe the very lowest price was 7 cents and a fraction. We shipped spirits to the other side at 8 cents. Now, if you calculate that, you will find the tax amounts to about 2,200 per cent of the raw product. There is no doubt in my mind that if a law could be devised for the United States something like England has, and if the alcohol or spirit could be methyized, made entirely unfit for consumption—

Q. You mean unfit for drinking?—A. Unfit for drinking purposes entirely, as they have it in England; that would help the consumption of spirits a great deal. It would be so cheap that it could then be used for many purposes for which it is not used now. But the difficulty is, as it has been very well expressed by some dealers, and also by some very efficient revenue officers who have had the matter in charge, that there is great temptation here for people to mix up one with the other, tax-paid and methyized, and in that case we would not know whether we were getting tax-paid spirits or spirits without tax. Therefore, it is a great deal better as it is. The Government passed laws giving the Commissioner or the Secretary authority to establish some such regulations, but it was found an enormous task and was dropped. There were some lawsuits pending, but they were dropped. Some druggists had sued the Government for the tax which they had paid on certain goods supplied to the arts, but they could not get any rebate out of the Government. This, however, is a very delicate question, and before anything of the kind is attempted there must be some certainty of its working satisfactorily; otherwise it would be much better to collect the tax from every gallon used for any purpose.

Q. Are you inclined to think the amount of revenue would be lessened if we were to retain the present law in regard to method, and reduce the rate from \$1.10 to 75 cents?—A. I actually believe the consumption would be much higher. I do not quite agree with Mr. Cook. It is difficult to answer the question, for it is merely a matter of theory as to what rate of tax will produce the greatest amount of revenue. I think there is another view in this country on that question. Many people want to suppress the consumption. If you want to make the consumption of alcohol less, and favor the consumption of lighter drinks, then, of course, the higher the tax the less will be consumed, but the revenue will consequently suffer. I think the revenue suffers now at the rate of \$1.10. I have here the total amount upon which taxes have been collected in 20 years, which is about 1,866,000,000 gallons. The average annual consumption for 20 years is then about 93,000,000 gallons, but I believe that the consumption of spirits per capita has already decreased considerably. Perhaps it ought to, but the revenue must show a corresponding decrease.

Q. Suppose there had been a decrease in the consumption on account of this higher tax, do you think that that means a decrease in the consumption for use in the arts, or a decrease for drinking purposes, or both?—A. It certainly means a decrease in both. It can not be estimated what use would be made of spirits if a liberal law were passed, and if the danger to the revenue could be overcome. The Secretary of the Treasury has been struggling in vain with this project, but I am sure he has not given it up without an energetic effort to carry out his instructions and make the law effective. He has abandoned it simply because the difficulties in his way were so great, and because he feared the revenue from spirits would suffer a diminution.

Q. Do you think the increase in the tax has decreased the consumption for drinking purposes very materially?—A. Yes, very materially.

Q. We have had some different opinions expressed here.—A. No doubt you have, but just where the largest revenue-producing point is, whether 90 cents or 75 cents, can only be determined by trial. Mr. Cook spoke quite correctly in that. Only recently more liberal laws were enacted in regard to leakage. I think that was very wise, because formerly we were taxed on a large number of gallons which evaporated from the barrels.

Q. Evaporation?—A. Yes; evaporated. It was unjust for a dealer to pay tax on goods which had evaporated, and were not contained in the barrels.

DISCRIMINATIONS BY THE TRUST.

Q. I wish to ask another question or two with reference to the methods of the earlier combination. Do you know whether special prices were quoted by the combination in some particular localities in order to drive out certain opponents,

or whether or not they cut prices to special customers?—A. Yes; they did that then and they do it now.

Q. Can you give any specific instances?—A. No; that would be rather difficult. I can only speak in a general way. We must consider the question from two sides. They bought the spirit business at an enormous cost. They went to a great deal of trouble and expense, but they are not the only organization. There are the Standard, with \$8,000,000 preferred capital and \$12,000,000 common stock, and the American Distributing Company which, I think, has \$24,000,000 stock. Of course, all these stocks are quoted very low, and if their actual value alone is considered the amount will be very much reduced. They have \$3,000,000 of bonds besides, so that the total capitalization is enormous. Now, after purchasing, with a great deal of trouble and at an enormous expense, such a business they consider, and perhaps with some justice, that they have an exclusive or prior right to it, and naturally resent and fight competition more than an ordinary company would. But the individual who has a large business is at a disadvantage as compared with the trust. If the individual, who has invested his own money, commences to fight, he fights with his own; and if he loses, he loses his own; but trusts are generally managed by people whose financial interests are comparatively small, and, as some newspapers have correctly expressed it, the hardest thing in the world to fight or the most difficult competition to overcome is that of the decaying trust. It need not pay any dividends, but it is there just the same, and can take the profit and life out of the business of competitors.

Q. Then you do not think they made special discriminations in price in order to destroy competition?—A. I can not say; I can only speak from our own experience in the distilling business. You know we are interested in this business with Mr. Cook.

Q. Yes; I understand.—A. We went into it simply because we thought we were safer, a conclusion naturally reached from our former treatment. Of course, the new trust is not the same as the old one. The old Whisky Trust is now a matter of history, but with a wise policy it might still have been in existence.

Q. That is, you think the policy ought to be —?—A. The policy ought to be, to cheapen the production and improve the product, to make a moderate profit and unite the business. So long as this is the result of its operations the trust has a right to exist, and its existence is not a danger but a real benefit to trade.

THE ADVANTAGES POSSESSED BY GREAT COMBINATIONS.

Q. You have raised a point which I should like to have you develop a little further. What special advantage does a great organization of that kind have over you, for example, as the owner or part owner of a single distillery?—A. Mr. Cook has expressed that quite correctly. We had no desire to go into the distilling business in competition with the trust, but were induced to do so because of our unfortunate experience and fear of the future. We do not like it at all, for a man can only do one business well, or attend to one branch properly, and he ought to be at the place where his business is. I believe trusts or combinations in this business are more necessary than in any other.

Q. Why?—A. Because the cost of the article is so very small; but of course the Federal tax of \$1.10 must always be considered. Calculated on the short price the profit of 1 or 2 cents seems enormous, but if the tax is taken into account, it is very small. At present the price of spirits in New York is very low on account of the moderate competition which our small distillery causes the trust. Consequently, their hold on the trade can not be very great, or they would not put down their price.

Q. That is, the price has fallen since you have started your distillery?—A. Yes; lately. Mr. Clark, who was here, explained that.

Q. How long is it since you started your distillery?—A. It is only since February, 1899.

Q. Who began this cutting in prices, you or the other company?—A. They, of course.

Q. They began?—A. Yes; they began to sell lower. They found, as Mr. Cook has said, that outsiders always enjoy a little favor or preference, especially in this line. I think that if the trust is not enjoying favor it is more on account of the Cattle-Feeding Trust than its own sins.

Q. People are afraid?—A. Of course if people have had transactions with the vouchers and a new company goes to them and says, "Gentlemen, we want to supply you; we are independent of all trusts," they will naturally make some friends and get trade in competition with the others.

Q. When you put your product upon the market did the Standard Distilling and Distribution Company commence cutting prices?—A. Yes; we went into their line and into their field.

Q. Somewhat?—A. Yes; somewhat. Every large dealer uses a considerable quantity of spirits, and the consumption is very important and very great just now. It is the most important article in the trade, being really the corner stone of the whole business. Of course I am not speaking of spirits in the English sense of the word, meaning every form of liquor spirits.

Q. Then your distillery, which produces 10 per cent of the output of the country, has of itself been able to bring down the prices quite decidedly?—A. Yes. They have a temporary advantage in being able to make a special price to a few customers in New York and thus indemnify their distributors. If they were selling to any of the trade and lost it on our account, they would attempt to recover it by making some allowance. In this they have an advantage. They can make special allowance to some people whose trade they wish to retain.

Q. But people who are your customers?—A. Yes; the same ones to whom we go.

Q. Now, in your judgment, is there advantage enough in this so that they are likely to drive you out of the business?—A. I am sure they think so, but I do not believe it, because the price of spirits travels and becomes known rapidly. One quotation follows another, and the price in New York is lower than anywhere else, because there are three distributors from our distillery alone. There is another gentleman besides Mr. Cook and myself who is distributing there. New York is a place where a quantity can be disposed of. The trust makes a special effort to retain the trade or else drive us out of the business. I do not know that it has any other object.

THE ADVANTAGE OF DEALING IN LARGE QUANTITIES.

Q. What advantages have you which make you think you can stay in the business in spite of the trust?—A. The advantage which they have consists in shipping an enormous quantity at a time and disposing of it rapidly. If you consider that a single carload of spirits of 75 barrels costs about \$8,000 or \$9,000, and that with from 2 to 10 carloads on the way, it takes a large amount of capital, you will see that large shippers can secure all possible advantages of saving in the way of leakage. Just think, if only 1 per cent is lost in leakage, we can not compete. The goods must be emptied and distributed quickly. Another danger in the spirit business—I do not know that you are aware of it—lies in the fact that a large part of the business is always done in high-proof goods. If a carload of such goods lies a day or two longer at the depot and is not emptied immediately, the profit is lost. Of course a large organization can regulate this much better than a small one, and in that way the trust has a certain advantage.

Q. You mean to say that they have an advantage in being able save a part of the leakage which you must lose?—A. They ought to, if they manage wisely.

OTHER ADVANTAGES.

Q. Do you think of any other advantage which they have over you?—A. They have an advantage in being able to run their distillery more regularly after once starting. A distillery can not lie idle with a contract to feed cattle.

Q. Do you feed cattle in connection with your establishment?—A. We have a drying plant. But this is only a recent invention, and a good deal of the slops runs away which might be used to feed cattle. If all plants were united it would benefit the whole trade, which could then be regulated perfectly. An uncontrolled supply is just like turning on a faucet until the tub overflows, the goods go to waste. The allowance by the Government on goods kept in bond is hardly large enough, and the tax on leakage is exacted when goods are kept in bond. The article of spirits is therefore entirely different from anything else. If you have oil or other articles you have no tax to pay, but only the article itself to deal with, while in spirits you often have to pay taxes on something which you do not get.

Q. There seem, then, to be four advantages they have over you. Are there any others?—A. These appear to me to be the main points. The important fact is that they are larger, and can make larger quantities. I do not think they can make it very much cheaper. A 10,000-bushel distillery might reduce the cost a little—that is, produce goods cheaper than a 4,000-bushel house.

Q. Do you think a 10,000-bushel distillery would be able to make a larger amount out of a given quantity of grain than a 4,000-bushel one?—A. No; I think we have an excellent distiller who gets as high a yield as anybody, but a plant using 10,000 bushels may be operated a little cheaper.

Q. Would there be a little saving on labor?—A. Yes; such a plant may be operated on the whole a little cheaper than a smaller one.

ADVANTAGES POSSESSED BY COMPETITORS OF THE TRUST.

Q. What advantages have you over the trust and how do you expect to stay in the business?—A. In the first place, they have this enormous amount of capital.

Q. That is, the capital upon which they are trying to pay dividends?—A. As Mr. Cook explained to you, a million and a half or two millions could make all the spirits wanted in the United States and just as good in quality or even better. We have an advantage in our distillery being entirely new. Great progress has lately been made in distilling in the United States, and the newer the distillery the better the product. Since the old trust ceased to exist very much better spirits have been made; and, as we have an entirely new plant, we can easily compete in quality.

Q. Then I understand you to say that you have an advantage in a brand-new plant, while they have some old plants?—A. Yes; and another advantage is that spirits are only a part of our business. We have no particular expense in selling, for we use part of the goods in our own blending business, and distribute the remainder to the trade without much extra charge, while their business is spirits pure and simple, and all the expense of selling falls on that one branch of the business.

Q. You are so situated, then, that you make your distillery a feeder to your other business?—A. Something like that. One who is a distiller only and who should try to sell in competition with the trust would be a much less formidable competitor than we are, because our distiller is sure that he can always get rid of a certain amount to us as distributors who use a large amount in our business, and who will pay him the price which others get; so, too, we get it with much less expense, not considering the capital or the high salaries which the trust has to pay.

THE QUESTION OF SALARIES.

Q. That is another question. You have stated several times that they have to pay dividends, or at least propose to pay the dividends on a highly inflated capital. Now, do you have an advantage in being willing to take dividends only on the capital put in?—A. Certainly.

Q. And, as regards salaries, do you think they pay higher salaries for their management than you do?—A. I do not know. One can not tell exactly. Such a large organization is usually more expensive to run than a smaller one, unless the business gets too small, when comparatively the expense is again high.

Q. Is it not implied in what you have said that this great combination pays its officers, who are perhaps not all practical distillers, very high salaries?—A. There are two sides to that question. I do not believe, for instance, that an efficient manager of a life insurance company, who handles so many hundred millions, is highly paid when he receives \$100,000 salary. I am sure he is cheaper than a poor manager at a small salary.

Q. The question is, how is your business going to live? Is it partly from the fact that you are getting more efficient service in proportion to the money you put into salaries than the trust does in proportion to what it so expends?

Q. (By Representative ORJEN.) That is, how are you going to compete?—A. The hardest kind of competition is that with a trust, because they have officers with little responsibility.

Q. But you spoke a little while ago of the efficiency of the trust's management. Now, do you think that in a great organization which controls a large number of plants it is possible to get as definite and efficient management as in a single distillery?—A. Oh, I really believe that there is no business in which there is so great a necessity for combination. When all distilleries were independent, it was impossible for them to make money. They did not act together until necessity compelled them to do so.

Q. (By Mr. JENKS.) As regards the way in which you are going to compete with this organization, do you think that, on account of the more efficient management which you have because you are yourselves particularly interested, you will be able to produce more?—A. That ought, perhaps, to be one way. Another advantage consists in the fact that we have only about seven or eight houses which have to invest but a small amount each, and in consequence the business is done without much cost to the different firms. Such a combination as we have formed is a strong one. If the trust fights, it does so at its own expense. However, it does so now in New York; and if we can not live, it can not live or make money either. That is my idea, in which, of course, I may be mistaken.

THE OBJECT OF THE BLENDING PROCESS.

Q. You spoke a little while ago concerning your blending business. Can you tell a little more about the way in which distillers use proof spirits in blending and improving liquors, and how they manage to make part of their profits thereby?—A. The general idea about the use and the healthfulness of whiskies is entirely wrong. Kentucky whisky does not cost very much more than spirits, but unless it is aged for a considerable time, or distilled with great care, it is certainly very much less healthful than carefully made spirits such as we make now, blended or flavored with the finest whiskies made in the East, and which, on account of the small quantity used, can be ripened in the bonded warehouses. The prevailing ideas on this subject are much confused, and most people do not know anything about it.

WHO BEARS THE BURDEN OF A RISE IN THE PRICE OF SPIRITS.

Q. We have had similar testimony before, but I asked the question in order to find out your opinion as to who it is that bears the burden when the price of spirits rises. Will the burden be on the consumer, and will the distiller make no profit out of it?—A. I do not quite agree with Mr. Cook in respect to that.

Q. Did the profit not increase with a 15-cent rise?—A. When we had a 20-cent rise we had the newspapers full of it. The price was increased 5 cents at a time, and many of our customers came to us and wished to buy at the old price. We tried to obtain the full increase in price, but could not, and so took whatever part of the increase we could get. Mr. Cook had the same experience. Everybody wanted us to hold a certain quantity for them and deliver it as they needed it. We did so in order to keep the trade, but after the price dropped 18 cents the stock was left on our hands and we had to bear the loss.

Q. In this case, then, the wholesaler lost?—A. Yes; the wholesaler lost.

Q. If the price had gone up equally high, what would have been the effect on the consumer?—A. Do you call the consumer the man who buys by the barrel?

Q. No; the man who drinks it.—A. It makes no difference to him. The consumer always pays the same price, but the dealer is induced to buy an inferior quality for him.

Q. What induces the retailer to buy a cheaper article?—A. Judging from my own experience, not only here, but also in Europe, there is no country in which the business of liquor dealers, generally speaking, is as bad as it is in the United States. They are so overburdened with taxes. On the other side the wine merchants' trade is generally considered the "first." If you go to Bordeaux, London, Bremen, Hamburg, or Stockholm, you will find them to be the principal and most prominent men in town; but here dealers in wines, etc., are poor, comparatively speaking. There are some men who have made money out of it, but usually they have made less out of the business than out of certain speculations. Their position can not be compared with that abroad. Their taxes are too high.

Q. (By Representative OTJEN.) Do you refer to the \$1.10 tax?—A. To both local and national taxes. When they put this new law in force, or when they increased the beer tax, the wholesalers were in a position where many people owed them money, while the retailers had to pay a tax of \$800, and they were so situated that they could not pay any more. When they could not pay, the wholesaler lost money.

Q. If retail dealers, generally speaking, sell a poorer quality of goods, when the price of spirits rises, does not the burden, as a matter of fact, ultimately rest upon the man who drinks the whisky? Does he not get poorer whisky at no lower price?—A. The retailer is forced to sell a poorer article to make a living. If you put a man in a position where he can not live, he naturally looks for some way in which to better himself, or indemnify himself.

Q. (By Mr. JENKS.) That is all, Mr. Chairman, I care to ask now.

Q. (By Representative OTJEN.) Does any commissioner care to ask a question of the witness?

THE SPIRITS BUSINESS IN GERMANY.

Q. (By Mr. PHILLIPS.) Perhaps he might have some statement of his own.—A. I find that the business of spirits has been troublesome all the world over. For instance, in Germany they have regulated it, though not quite as Mr. Cook explained here. They found many distilleries in existence with competition great, but as the Government there takes a little different view of the matter—the whole Government is a little more paternal than ours—they said: You have got a distillery, and you must run it or you will be bankrupt. The country consumes just so much spirits, and your proportion of it is just so much. We will

require you to pay 50 marks per hundred hectoliters on your proportion, which we shall fix, and if you make any more you must pay 70 marks.

Q. Does the Government fix the output?—A. Yes; it does. Those people are put on a living basis, and if they can export any of the surplus above their fixed proportion the tax is refunded.

Q. Is that a rebate?—A. Yes; you see that makes the duty low. Spirits is cheap all over the world. We can make it very cheap from corn, but Hamburg spirits is made from potatoes, and is still cheaper.

Q. (By Representative OTJEN.) Do you mean that Germany does not pay a bounty, but simply grants a reduction of the taxes?—A. It is simply a reduction; and many people are anxious to get rid of their surplus product by export under the rebate law, as they can not afford to pay the high duty of 70 marks and a dividend to the stockholders.

The German method of regulating the spirit trade is as follows: The Government considers it a necessity to facilitate making spirits all over the country on account of the by-products, the feed, etc., which are often more important than the spirits. Each of the distillers is allowed to make a certain quantity and pay a tax of 50 marks per 100 liters of 100 per cent. This means 200 liters of 50 per cent alcoholic strength or proof, as we call it in the United States. If they make any more than their allotted quantity, they must pay 70 marks per 100 liters of 100 per cent. This difference keeps the small distillers going, and allows them to compete with the larger distillers, who have to pay the higher rate of tax on any surplus.

Q. (By Mr. KENNEDY.) Is it true that the German Government will not permit anybody to conduct business at a loss for the purpose of driving out competitors? Are you familiar with that?—A. No, they do not do that; but they look into the matter with a great deal more care than we do here. They are always ready to hear people the same as you do here, in order to see whether trade conditions can be improved; and there is one thing I know the German Government would not do.

REGULATION OF CORPORATIONS.

They would not allow new corporations to start up and hold out glowing promises to stockholders, sell their stock, and when an actual report comes to be made present an entirely different condition of affairs from what had been represented. They hold the people who manage corporations to stricter account than is customary here.

Q. (By Mr. JENKS.) Do you mean that the Government holds every promoter responsible for the truth of what he puts out?—A. Yes; more so than they do here.

Q. Can you tell us something with reference to the reports which the German Government requires every corporation to make?—A. I could give you that very easily, for I have an intimate friend who is a large woolen manufacturer. I know, for example, that the minority of a corporation has much greater power there, and that if anything wrong is going on a single stockholder can make trouble. He has more to say than the people have here in that respect.

Q. It has been mentioned many times, and you and Mr. Cook have intimated also, that in case of the whisky combination the directors of the company have speculated in their own stocks. Do you know whether anything of that kind would be permitted under the German laws?—A. No, it would not; they would get after them with a sharp stick; they would not allow that. In general I agree with Mr. Cook perfectly. There is no business in which the existence of a combination, or trust as you call it, is more beneficial and has become more a matter of necessity than in this line, on account of the enormous tax and on account of all the difficulties connected with it; and there is no business in which a better and more careful or conservative management is required, looking to the commercial interests of the business and keeping away from speculation, and if this business, or the combinations in it, have not been a success, it is on that account. I think the spirits combinations were about the first ones to start, because they became necessary before combinations in other lines of business. If it has not been a success, there is no doubt in my mind that the people managing it, or some of them, looked more for profit in other directions than in legitimate business, and were not satisfied with the moderate profits which could have been made.

SUGGESTED LEGISLATION.

Q. Can you suggest any legislation that you think would tend to improve the management of this business and help people wishing to enter into it to carry out their purpose?—A. I happen to be a director of a bank in New York, and I

know that a banker or bank has some advantages over an individual, because everybody can not start a bank. Running a bank is a privilege; and since people who start corporations sell their stock in Wall street and have it officially quoted there also have an advantage over individuals, I believe the Government ought to make some provision requiring them to assume more responsibility. For instance, under the banking laws none of the directors can borrow money unless a majority of them approve.

Q. That is, none of the directors can borrow money from the bank?—A. Yes; and another thing, the director must hold the stock in his own right; he can not borrow money on it when votes are taken. He must swear that he possesses it in his own right. Another arrangement which, though it does not keep all mismanagement out of the business, prevents a great deal, is a careful and efficient examiner.

Q. Yes.—A. Now, I heartily believe in this whole business of trusts; but it will become necessary for the Government to provide such legislation as each case requires and to look more carefully into the affairs of trusts, so that their actual condition will be more in keeping with the glowing statements which are sometimes made in print.

Q. Substantially, then, do you not favor putting all these great combinations, according to their situation, under restrictions similar to those under which the banks are placed?—A. I believe they ought to give greater security for the advantages which they possess. For instance, when a man gets tired of business in a combination he can sell out and go to Europe; but when an individual wants to quit he can not do it, for he can not sell. Now, I believe there would be no injustice in requiring large corporations, in return for the advantages which they enjoy, to submit to careful examination and publish clearer statements. A sound corporation should not only be willing to be examined, but should be anxious, and it would save many people from serious loss.

IMPORTANCE OF SPIRITS PRODUCTION AS A SOURCE OF REVENUE.

Q. Have you any further general observations?—A. Nothing just at present.

Q. (By Mr. KENNEDY.) Have you some memoranda?—A. I have one. I have a memorandum here which shows the important part which spirits play in the revenue. It is one taken from the statistics, which you can easily secure, and which shows how the revenue of the United States, as Mr. Cook says, has greatly improved. In the collection of the revenue from spirits enormous progress has been made, but I believe it is very difficult to improve the revenue without hurting the honest man and helping along the rogue. The average annual production of all spirits for twenty years has been about 93,000,000 gallons. The annual production of rye whisky has been 9,000,000, and of bourbon whisky, part of which is not much better or not as good as spirits, 20,000,000. Thus the spirits production is the main and most important part. And then another thing which must be considered in spirits production is that by-products are produced, which are dried or fed to the cattle. The making of this dry food is so very important that in Germany, for instance, and in Holland, the whole spirits production is carried on for the sake of the by-product, because it is required for feeding cattle.

EXPLANATION OF THE DRYING PROCESS.

Q. Will you explain that drying process?—A. The spirits is extracted by fermentation and distillation and a thick refuse is left. That is put in a patent drier and baled and sent to Europe for feed.

Q. (By Mr. JENKS.) What is this dry-process product called in the market?—A. The product made from the refuse of the distillery is sold under the name of dried slop. This slop is allowed to settle in the tubs, and then the thickest part of it is put into a so-called patent drier and afterwards pressed and packed. The value to the distillery is about 5 cents per bushel of grain used, so that it is quite an important item, and it has the advantage that the slops can also be so employed in summer, when the cattle can not be fed on slops. A further advantage is that the distillery need not be run on account of the cattle which it has contracted to feed if the prices should go very low. However, even if the slop is dried, there is always a certain quantity left to be used for feeding.

The great value of the drying process is, as mentioned before, that the distillery does not depend solely on the cattle feeding for the use of the slops, and that it can change the quantity produced, provided the market for the spirits should become unfavorable. As far as we can learn, most of this dried slop is shipped to Germany, where feed is comparatively dear. This is only a recent invention,

and some of the distilleries have not capacity enough to dry all their slops. Driers are pretty expensive arrangements, but where they are in use cattle feeding can also be carried on in a small way. If a distillery is feeding cattle, it is impossible to stop production when the price of spirits is low; but if the slops are dried, the production can be regulated according to the demand for spirits.

Q. (By Mr. KENNEDY.) I should like to ask the witness if he has submitted all the memoranda that he cares to?—A. I do not know that I have anything more to say. I may add one thing, viz, that while I believe in the forming of corporations or combinations, I do not believe that any business has been attended with greater evils than this one, and I also believe they could have been avoided.

THE DISADVANTAGE OF THE BONDS REQUIRED BY THE GOVERNMENT.

Q. (By Mr. JENKS.) The chief evils are the two that you have mentioned, i. e., the pushing of prices too high and the speculation in stocks?—A. The managers seem to think they can make more money in some other way than by attending to business as they ought. To return to the question of export again, Mr. Cook said it was very easy to export; but unfortunately our Government is very severe on the spirit exporters, and they suffer perhaps for the sins of our fathers. Enormous bonds are exacted. For instance, when I exported a thousand barrels of spirits to Hamburg last year, I had to give two bonds of \$100,000 each, and everybody is not ready to sign a bond for \$100,000 to the Government. It is a great drawback to the export business.

Q. (By Representative OTJEN.) How does the amount of the bond compare with the value of the goods?—A. The value of the goods does not play any part. The duty is certainly 1,500 per cent. The tax on a barrel of spirits containing 90 gallons is \$100. The value is \$10; so for a value of \$10 you must give a hundred-dollar bond. A thousand barrels would require two \$100,000 bonds; you must have 2 bondsmen who can each qualify in real estate for \$100,000. This is very troublesome, but necessary under the present law.

AFFIDAVIT.

STATE OF NEW YORK, *County of New York*, ss:

I swear that the statements made by me of my own knowledge in the foregoing report of my testimony before the Industrial Commission are true, and that all other statements I believe to be true.

HENRY E. G. LUYTIES.

Sworn and subscribed to before me this 8th day of August, 1899.

[SEAL.]

H. ADOLPH WINKOPF,
Notary Public.

STANDARD OIL COMBINATIONS.

NOTE.—About the year 1872 leading refiners of oil began to combine for the purpose of making the business more profitable. The combination was by means of purchase of stocks and interests of various companies, and until 1882 the combination was solely by stock ownership in the hands of a limited number of individuals, who controlled the corporations as agencies in a common business. In 1882 these owners entered into the trust agreement. The companies whose stocks they owned in whole or in part were not then competing companies. The individuals named as trustees had controlled them by virtue of absolute ownership of a majority of their stocks. Under the trust the stocks were placed by their owners in the hands of the trustees, who exercised all the powers of the owners. In exchange for the stocks the trust issued trust certificates, and the profits were divided on these. When the trust was dissolved in 1892, the same conditions existed as before the trust was formed. The individuals, then trustees, continued to control the companies by virtue of absolute ownership of a majority of their stocks; consequently the corporations named have been, many of them since 1872, separate agencies carrying on business as a unit for the individuals who are their common stockholders. In June, 1899, a new corporation was organized in New Jersey, with a capital of \$110,000,000, to combine into a single, more compact organization the separate companies which had been of late years controlled through ownership of a majority of their stocks by the few individuals who had formerly been trustees of the Standard Oil Trust. This new company is intended to unite again in compact form all of the separate companies which have been working together ever since the formation of the trust.

WASHINGTON, May 11, 1899.

TESTIMONY OF MR. JAMES W. LEE,

Former State senator of the State of Pennsylvania.

The commission met at 11 a. m., May 11, 1899. Vice-Chairman Phillips presided, and introduced Mr. James W. Lee, who testified in regard to trusts.

PERSONAL HISTORY—THE INDEPENDENT OIL COMPANIES.

Q. (By Mr. PHILLIPS.) Will you give your name, place of residence, and business?—**A.** James W. Lee. I reside at Pittsburg, Pa. I am at present engaged in practicing law. I am also connected with the independent pipe lines and independent oil companies. There are four companies. I am president of three of them and attorney for the fourth.

Q. Will you please name these companies?—**A.** The first company to be organized was the Producers' Oil Company, Limited, with its general office at Warren, Pa. The second to be organized was the Producers and Refiners' Oil Company, Limited, with its general office at Titusville, Pa. The third was the United States Pipe Line Company, which is organized exclusively for the transportation of oil, both refined and crude, by means of pipe lines. One terminus of its pipe line is at Oil City; the other is intended to be finally at New York. The fourth company is the Pure Oil Company, which has the right to engage in the production, transportation, manufacture, and marketing of oil and its products. That company was organized 3 years ago last November, and was the last to be organized. All four are owned by substantially the same persons, and operated together.

Q. Where were you admitted to the bar?—**A.** I was admitted to the bar in 1869, at Franklin, Venango County, Pa., which is one of the original oil counties.

Q. Did you practice law in Franklin after being admitted there?—**A.** I practiced law in Franklin until 5 years ago, when I removed to Pittsburg.

Q. Who was your partner in the law business there?—**A.** My first partner was Mr. S. C. T. Dodd, now of the Standard Oil Company of New York. I was afterwards in partnership with Mr. George S. Chriswell, now judge of the county, and Mr. Hastings.

Q. Have you ever held any public office?—**A.** Only two. I was mayor of the city in 1875, and served two terms, of 4 years each, in the State senate of Pennsylvania, beginning in 1879.

EARLY HISTORY OF THE OIL BUSINESS.¹

Q. Had there been any attempts at legislation in regard to free pipe lines, or unjust discrimination, before you were elected, and had you any part in such legislation while in the senate?—A. If you will permit me, probably it would be interesting to the commission to have a very brief statement as to the beginning and growth of the oil business, especially that branch of it that relates to transportation.

Q. We should be pleased to hear you.—A. The first oil was discovered, as is generally known, by Col. S. L. Drake, who drilled directly for it in 1859, and ever since—

Q. (Interrupting.) On Oil Creek?—A. On Oil Creek, which is a tributary of the Allegheny River. The first well was probably about 18 miles distant from the river. Then oil was developed along Oil Creek to the south. A production of 200,000 barrels was reached in 1861 and 1862. The means of getting it to market at that period was by loading it into bulk boats on Oil Creek, building temporary dams and cutting them, thus producing an artificial flood, and running the boats out on the flood into the river, and then by the river to Pittsburg, where the refineries were.

THE FIRST PIPE LINES.²

The first pipe line, I think, was constructed in 1865 or 1866. It ran from Pit-hole, on the left of Oil Creek, down Oil Creek about 5 miles to the Allegheny River. It was built to carry the oil to the river; there it was loaded into boats and so conveyed to market. From that time the business of transporting oil by means of pipe lines increased. The oil wells spread first north to Tidioute, in Warren County, then south into Clarion County, then into Armstrong and Butler, and finally into Allegheny and Washington. In 1875 and 1876 they extended north to McKean County, where the largest development of oil took place, and farther north to Allegany County, N. Y. By about 1880 they spread over a region some 300 miles long and 40 miles wide. As the field extended it became necessary to employ pipe lines. They were first built extensively in 1871 and 1872. The capital was very small at first. The company which is now the National Transit was started under another name, with a capital of about \$4,000; and it grew very rapidly until the capital reached millions. By 1877 the number of barrels that it transported reached about 15,000,000 a year, I think. I may not be entirely accurate in these figures, but it was a very large amount. Other pipe lines were started, but the united pipe lines soon came into control of the people who are now known as the Standard Oil Company—the Standard Oil trust. Small lines were built in various parts of the oil field, to convey the oil to the railroads. There were no lines leading to the seaboard till 1883.

THE RAILROADS AND THE STANDARD OPPOSE THROUGH PIPE LINES—LEGAL OBSTACLES.

A pipe-line law had been passed, which limited the laying of pipe lines to certain counties. Efforts were made, from 1870 on, to obtain a general State law, which should allow the laying of pipe lines and give the right of eminent domain to companies organized for that purpose. That was opposed by the railroads, and also by the Standard Oil Company when it came into existence. That bill was introduced in successive legislatures, beginning with 1870. It failed each year until 1883, when it was finally passed. I was present in the legislature in 1879 when the bill failed, and again in 1881 when it failed. In 1883 it was passed only by agitation. The people who were interested in having it passed—the oil people—held mass meetings throughout the agricultural counties of eastern Pennsylvania, and got the farmers to send petitions to their own representatives to vote for the bill. Then it passed in the House by a meager majority.

Q. Were you present in that legislature?—A. I was present in that legislature and attended a number of mass meetings that were held. I remember at one mass meeting small handbills were circulated through the audience, saying that if this bill became a law their orchards would be destroyed, their springs would be polluted, and death would lurk under their doorsills.³ Of course that was a very effective way of frightening people who were not at all acquainted with that means of transportation. But it is a good deal safer and a great deal more economical than any other method of transportation. I do not think that there has been a single life lost in transporting oil by means of pipe lines in twenty years; and there were a great many lives lost in transporting it by railroad prior to that time.

¹ See Mr. Boyle, p. 405.

² See Mr. Boyle, pp. 409, 413.

³ Compare Mr. Archbold, p. 513; Mr. Emery, pp. 605, 660, 660.

RELATIONS OF THE STANDARD OIL TRUST TO THE RAILROADS.

Q. (By Mr. NORTH.) Were those the real objections to the passage of the bill?—A. No; the real objections were that it would give to people who desired to enter the business the opportunity of doing so. The real objection was that it would interfere with the Standard Oil Company's exclusive right to operate these lines, and their power to secure unfair advantages over all competitors by combinations with the railroads. If any proof on that subject is desired, I would like to submit it right now. I have heard the statement under oath. Mr. A. J. Cassatt, who was the vice-president of the Pennsylvania Railroad, in his testimony given before the master in a case that was instituted in Pittsburg in the supreme court of Pennsylvania, gave his testimony in regard to that subject. (Reading.) "Q. Did you understand at that time that these railroad companies and the United Pipe Lines had united with the Standard Oil Company in order to force the transportation company out of the refining business?" The Empire Transportation Company was a company which owned a large number of tank cars. The president of it was Joseph D. Potts. Mr. Potts was probably as fully acquainted with the subject of transportation as any man who ever lived in the United States; a man of very great ability and with very wide knowledge of that subject. (Reading.) "A. I believe they did; I believe that was the object of their onslaught upon us." That is the testimony of Mr. Cassatt.

GETTING RID OF THE EMPIRE TRANSPORTATION COMPANY.

Q. (By Senator DANIEL.) Who was prosecuting?—A. The Commonwealth of Pennsylvania, against the Pennsylvania Railroad. The Standard had a combination with three trunk lines to force the Pennsylvania Railroad to exercise its option to buy the cars of the Empire Transportation Company and to stop the refining of oil, so as to give the Standard Oil trust a monopoly of the business. That is on page 177 of a book that was published by the Government.¹ It was an investigation before the Committee on Manufactures in 1888.

Q. (By Mr. NORTH.) Of the Pennsylvania legislature?—A. No; of Congress. (Reading.) "Q. Was it after the Standard had threatened to withdraw its patronage from your road?—A. Well, they had not threatened to withdraw their patronage from our road at the time, but they had protested very strongly against the Empire Line being interested in that New York refinery I spoke of before, and had complained that the Empire Line was giving facilities to that refinery, on account of their interest in it, they did not give to them, and had been endeavoring for several months to get us to insist upon the Empire Line going out of that refining business." That is the testimony of Mr. Cassatt on page 178. Joseph D. Potts testified before the same committee of Congress, on page 261. He was the president of the Empire Transportation Company. (Reading.) "Q. I will call your attention to this subject. Do you not know, and did you not also at that time, through railroad officials or other sources, that the Standard Oil Company complained of the impropriety of a transporting line, upon which they were dependent for their supply of oil, being also engaged at the same time in competition with them in refining?—A. Yes, sir; that was the point that was made." And at that time the transportation company's cars were purchased by the Pennsylvania Railroad, and their refining plant by the Standard Oil Company, and they went out of business.²

METHODS USED TO PREVENT THE PASSAGE OF THE PIPE-LINE BILL.

Q. (By Mr. PHILLIPS.) What methods, if any, were used by the Pennsylvania Railroad and the Standard Oil Company, or either of them, to prevent the passage of the pipe-line bill in 1883?—A. All methods that are usually known, I think, in legislatures.

PRODUCTION OF CRUDE OIL BY THE STANDARD IN 1883.

Q. (By Mr. FARQUHAR.) How much control of oil production did the Standard Oil Company have in 1883, compared with all others?—A. Of oil production?

Q. Yes.—A. I think about 5 per cent.³

Q. Five per cent of all?—A. Yes; you are speaking of production now. They had none directly. I think; it was through companies that were supposed to be, as they term it, affiliated with them, such as the Forrest Oil Company, and probably the Anchor Oil Company, and one or two others.

¹ House Reports, Fiftieth Congress, First Session, Vol. 9.

² Compare Mr. Archbold, p. 513.

³ For recent years, see p. 561.

THE STANDARD'S POWER BASED ON RAILROAD DISCRIMINATIONS.

Q. Then what you say is that the foundation of the strength of the Standard Oil Company, after the passage of the act in 1883, lay in their means of making combinations, particularly of pipe lines, and securing the whole control?—A. Their great power lay in the discriminations which they obtained from the railroads over all other persons. That is found in the testimony before the same committee, on page 191.¹

THE STANDARD'S METHODS OF PREVENTING THE LAYING OF PIPE LINES.

Q. (By Mr. PHILLIPS.) What methods did they take, if any, before the passage of this through pipe-line law, to prevent others from getting through to the seaboard?—A. It was impossible to get the line to the seaboard without having the right of eminent domain. It would be useless to attempt it; because any one owning a little piece of land could absolutely prohibit the pipe line's passing over it. The original pipe-line law only extended to certain counties, and as the oil business grew it went beyond the counties to which the law applied. It was difficult to lay lines even within the oil-producing counties.

Q. (By Mr. PHILLIPS.) Were there other attempts to lay lines to the seaboard; and how did they undertake to circumvent them?—A. I understand that when attempts were made to lay lines to the seaboard tracts of land were purchased—strips in front of the pipe-line stations—so that the line could not be built without crossing them.² By this means the Standard could prevent the laying of any pipe line, and I think did prevent it; so that it became absolutely necessary, in order to lay a line to the seaboard, that a corporation organized for that purpose should have the right of eminent domain.

THE STANDARD'S CONTROL OF TRANSPORTATION.

Q. (By Representative OTJEN.) You said that in 1883 they controlled 5 per cent of the production. What per cent of the transportation did they control at that time?—A. I think they controlled 30 per cent of it.

Q. Even at that time?—A. Yes. A number of smaller pipe lines were laid through the oil country, and these were rapidly absorbed by the National Transit or the United Pipe Lines, which was a Standard organization. So that in 1883 they practically had command of all the transportation of crude oil.

Q. (By Mr. C. J. HARRIS.) Has it been their policy to control all new lines that have been laid since then?—A. Yes.

Q. No matter what the cost?—A. No matter what the cost.

AMOUNT OF THE STANDARD'S REBATES FROM THE RAILROADS.

Q. (By Mr. PHILLIPS.) Did they obtain rebates from the railroads?—A. They obtained rebates from railroads. That is probably quite an old subject, and it is fully gone into here in the testimony of Mr. Cassatt. That is easily accessible to the commission. They got their power by means of rebates. They got a rebate not only on the oil they shipped themselves, but on the oil everybody else shipped; a very excessive rebate. The rebate was so much that nobody could stay in the business.

Q. How much did that rebate amount to in any given period of time?—On page 191 of the report of the Committee on Manufactures Mr. Cassatt said that at that time it was 80 cents a barrel.

Q. In round sums, do you know how much they obtained, in the course of a year or such a length of time, from all the railroads?—A. I should say it would run into the millions; probably as high as eight to ten millions a year.³

Q. In rebates?—A. I think so.

Q. Has there been any testimony taken heretofore on that subject to your knowledge?—A. It is very fully given in this testimony that was taken before the Committee on Manufactures in 1888.¹

Q. Is the precise sum stated in that testimony?—A. The precise sum is stated on page 191 (reading): "Q. I mean the tariff rate?—A. One dollar and ninety cents. Q. What was the actual rate?—A. If shipped to the Standard Oil Company at that time it would be 80 cents a barrel." It was just one-half, and it was even higher than that. I think it was higher than \$1.16 a barrel.

¹ House Reports, Fiftieth Congress, first session, vol. 9.

² See Mr. Emery, p. 651; also Mr. Boyle, p. 486.

³ See p. 287; Mr. Archbold, pp. 514-516; Mr. Emery, pp. 600, 601.

THE STANDARD'S CONTROL OF TRANSPORTATION.

Q. (By Representative OTJEN.) What percentage of transportation do they control now?—A. They control probably about 88 to 90 per cent of it.

Q. About the same as in 1883?—A. Yes. There have been times when they controlled practically all of it.

THROUGH PIPE LINES A BENEFIT TO THE OIL INDUSTRY.

Q. (By Mr. FARQUHAR.) Was the establishment of these pipe lines to the seaboard a positive advantage to the oil industry of Pennsylvania as a whole?—A. I think so.

EFFECT OF TRUSTS UPON THE CONSUMER.

Q. (By Mr. PHILLIPS.) How, in your opinion, do trusts affect the consumer?—A. I think the trusts themselves seek to create the impression that the organization of trusts and the introduction of what they call "the economies of manufacture" reduce the price of the manufactured article to the consumer. I think that is, in fact, wholly erroneous—that instead of decreasing the price to the consumer they increase the price to the consumer until it becomes absolutely extortionate. One would suppose that that would be the case from the mere fact that these trusts are organized for the purpose of securing a complete monopoly of the business in which they are engaged. They permit no one else to engage in the same business if they can prevent it. They pay enormous prices for other establishments in the same line, for the purpose of closing them up and thus obtaining a complete monopoly of the business. When they have accomplished that, or approximately accomplished it, they have absolute control of the prices to the consumer; and I do not believe that any body of men anywhere, and especially when organized for the purpose of profit, can be trusted with the inordinate power of absolutely fixing prices to the consumer. One would expect that they would fix extortionate prices in order that their profits might be high.

PRICES AT COMPETITIVE AND NONCOMPETITIVE POINTS.¹

I believe that it can be shown, in fact, that this has been the effect of the creation of trusts; and especially of the trust which was the first, and to this day is the greatest, the Standard Oil Trust. Now, that they do charge extortionate prices, it will be a very easy matter for this commission to prove, by simply getting the prices at which they sell refined oil at all points where they are without competition, and comparing them with the prices they obtain where there is a competitive market. I think it is always well to deal in the concrete rather than the abstract, and I will give an example which the commission can readily verify. In New York and Brooklyn and Jersey City, in 1895 and 1896—in March, 1896—they were selling oil to the local merchants, and to what are known as the wagon trade as well as retailers, at 9 and 9½ cents a gallon. The Pure Oil Company, having been organized on the 9th day of March, put a wagon on the streets in New York, and sold 10 gallons of oil the first day at 9 cents a gallon. As soon as the Standard Oil Company knew that the Pure Oil Company was doing business in the city of New York and vicinity, they commenced a rapid reduction of their prices, until in July, 1896, they had reduced the price to 5½ cents a gallon for the best quality of water-white oil, in small quantities, at retail, out of their wagons in the city of New York. On March 9, when the price was 9½ cents a gallon, the price of crude petroleum was \$1.30 a barrel. That is a trifle over 3 cents a gallon. Crude oil is always measured by barrels of 42 gallons each. Three cents a gallon would be \$1.26. When they put the price at 5½ cents a gallon, crude oil was \$1.15 a barrel. In other words, they reduced the price of refined oil by \$1.68 a barrel, while crude declined only 15 cents.² Now, 9½ cents a gallon was an inordinate price for refined oil in New York, and 5½ cents was below cost; they could not make the oil, transport it to New York, and sell it for that price and get cost for it. The condition is the same in Philadelphia, where there has been competition for 2 years.

Q. (By Mr. NORTH.) How long did that continue?—A. We put additional wagons on in a small way, and I do not hesitate to say we have lost money in New York every month since we started three years ago last March.

Q. Prices remain the same as they fixed?—A. Practically the same; they are a little better now, although crude oil is no higher. Crude oil was \$1.15 in 1896; it is now \$1.13; yet the prices of refined are a little higher now than then. But I do

¹ See also Mr. Mounett, p. 317; Mr. Westgate, p. 307; Mr. Clark, pp. 331, 337, 350; Mr. Emery, pp. 629, 631, 632.

² Compare Mr. Westgate, p. 305; also Mr. Archbold, p. 528.

not hesitate to say that by the competition which we introduced at least \$3,000,000 has been saved to the people of Greater New York during the last three years.

Q. (By Mr. PHILLIPS.) How about Philadelphia?—A. The situation is the same in Philadelphia. The Pure Oil Company has been doing business in Philadelphia since the 19th day of June, 1896. And prior to that time another company, which our company succeeded, had been doing business there for years. The price of oil in Philadelphia is even lower than it is in New York.¹

Q. (By Mr. C. J. HARRIS.) This saving to consumers would not probably have been made without the competition?—A. Oh, no; I think the price would have been maintained throughout this entire period at 9½ cents.

Q. (By Mr. FARQUHAR.) This commission understands that these prices are carried by both competing companies in New York at a loss?—A. Certainly at a loss. Their purpose is to drive competition out; and unless the company has a considerable capital it will be driven out. No individual can compete with them. They have absolutely destroyed all individual enterprise in the oil business.

Q. Would it not have been a better business method to adopt the price of the opposition company? That would have involved no loss to the company, but simply standing in as a competitor at the real cost price without a profit.—A. If you sold oil at all you had to sell at their price. We did not care to do business at a loss. We should have liked to avoid it if possible.

Q. (By Mr. C. J. HARRIS.) They made the reduction?—A. They made the reduction and they made the cuts, and they did it to make it destructive.

Q. (By Mr. FARQUHAR.) The cut, you said, was made from nine and a half to five and a half?—A. Yes; from March to July.

Q. Were you in competition at the time of the nine-and-a-half rate?—A. Yes; we commenced in March, 1896.

Q. At the nine-and-a-half rate?—A. Yes.

Q. The other company, then, made the first reduction?—A. Yes.

Q. Was the price put down to five and a half at once, or was the first reduction to a middle figure?—A. The first reduction, I think, was to eight, and then to seven and a half, then to seven, and quickly down to five and a half.

Q. (By Mr. NORTH.) Could you state the figure at which the oil could have been sold at that time with a reasonable profit?—A. Seven cents would have given a very handsome profit both to them and to us.

Q. (By Mr. KENNEDY.) I would like to ask the Senator to say something about the price of the same quality of oil in the States where the Standard has not this competition.—A. The prices are very high. When you get entirely away from competition they get what prices they please.

Q. Can you name a case in any city?—A. No; I can not give you the figures in other cities from memory; I know the figures here because it was my business to know them.

Q. (By Mr. PHILLIPS.) These figures will be obtained and presented to the commission, no doubt, in satisfactory shape?—A. And it is true that wherever there is no competition their prices are high.

Q. We are still on the question how, in your opinion, do trusts affect the consumer?—A. Give the trust the absolute power to fix prices, and they always fix them high. That is the only way they can get their inordinate profits on their watered stock, and the consumer, of course, must suffer. There is no question about it. No government should allow the power of absolutely fixing prices for the consumer on a given product to be lodged anywhere if it can be prevented.

THE NUMBER OF COMPETITIVE POINTS.

Q. (By Mr. NORTH.) Are there many competitive points in the United States?—A. Yes; there are a number of competitive points in the United States where the independent people have stations for distributing points for oil, but usually, I think, at a very great disadvantage in their rates.

Q. Is the number of these competitive points increasing or decreasing?—A. I think they are increasing as the independent interest is increasing. If that should diminish, they would correspondingly diminish.

THE INDEPENDENT COMPANIES MAKING LESS MONEY THAN THE STANDARD.

Q. (By Mr. FARQUHAR.) In proportion to their capital, are the independent companies making as much money as the Standard?—A. I think not, if we are to judge by their declared dividends. I see that the Standard recently declared, for the last 8 months, a dividend of 3 per cent and a special dividend of 9. That would make 12 per cent in 8 months on a capital of \$100,000,000, if the statement can be relied upon.

¹ See Mr. Emery, pp. 629, 631.

REFINED OIL FIRST TRANSPORTED IN PIPE LINES BY THE INDEPENDENTS.

Q. Through how many States did this pipe line need to go before it reached the seaboard?—A. Pennsylvania and New Jersey. Probably it would be interesting for the commission to know that the independent interest first undertook the transportation of refined oil by means of pipe lines. The Standard people said that it was impossible to transport refined oil long distances by means of pipe lines. The independents laid a pipe line to transport refined oil from Oil City through Titusville and Warren, Bradford, and Wilkesbarre, Pa., to Hampton Junction, N. J., for the purpose of reaching New York Harbor. That line has been in operation 4 years, and has transported millions of barrels of refined oil, without the condemnation of a single barrel; and it was the only means that enabled the independent refiners to live. Without that they would have been driven out of business by the railroads.¹

OBSTACLES PUT IN THE WAY OF THE INDEPENDENTS' PIPE LINE.

Q. (By Mr. FARQUHAR.) Did these pipe lines find any trouble at all in getting their right of way?—A. Oh, yes; certainly. Even in Pennsylvania they were hindered and delayed and stopped in a great many ways in reaching Wilkesbarre. Men went in advance of them and took options on the right to lay a line at very high rates, for the purpose of establishing rates for this line that was coming. They would offer to take an option for the right of way over a farm at very much more than the value of the entire farm.

Q. Is not that the usual way with a railroad or with a pipe line, that the second customer is the one that is very apt to pay an enormous rate?—A. The first person that went through was not intending to lay a line, but simply to fix the price for the one that did lay the line.

Q. (By Mr. PHILLIPS.) Will you give an account of the start made with the United States Pipe Line, the double line, to ship both refined and crude? Will you state to the commission what adverse circumstances you met in the State of New Jersey in trying to get to New York?—A. The line was projected by way of Hancock, on the Delaware River, and through New York to the Hudson River. When we reached a place near Hancock, on the Delaware River above New York, we found the Erie Railroad there with cannon and every appliance necessary to prevent the laying of the line. We also found that it would probably take us some years to get the land for that line through to New York, because the pipeline law of New York had been so amended as to make it very difficult to lay another pipe line. The law was not arranged to develop that plan of transportation, but to prevent the laying of additional lines. So we gave up the project of going to New York by way of Hancock, and started from Athens south to Wilkesbarre.

Q. That is Athens, Pa.?—A. Athens is in Pennsylvania, about 4 miles from the New York line. We intended to lay the line directly across through New Jersey to the bay at New York, where a company with which we are associated, the Columbia Oil Company, has loading facilities. We reached the Delaware River and crossed it. Then we met the first objection, from the Belvidere Railroad, owned by the Pennsylvania. Although we owned an acre of land at the crossing, they enjoined us from crossing that by means of a bill in equity filed before the vice-chancellor. His decree was reversed by the Court of Errors and Appeals, the highest court in New Jersey, and we crossed the road; but they kept us back a year. Our line was complete to that point, but we were delayed a year in getting that link. Then we met our next difficulty in crossing the Delaware, Lackawanna and Western Railroad. We owned a line there. They undertook to take that line out. We maintained our position by force, but we had a delay there, and some of our men were hurt. We retained the line, and it is still there; it is still in litigation. We crossed under the Essex Canal at a culvert, owning that crossing, and reached Hampton Junction, which is 12 miles from the Delaware River, in the State of New Jersey, and 51 miles from the harbor of New York. There are two lines from Bradford, Pa., to Hampton Junction, one for crude oil and the other for refined.²

THREE GRADES OF OIL IN ONE PIPE LINE.

Three different grades of oil are transported through the same line. They push out a poorer grade with a better, and it is turned into its own tank by means of a valve. They run that second grade until they have transported the amount desired; then put in a third grade until they have transported the amount that is desired of that, and then repeat the process.

¹ See Mr. Emery, p. 651; Mr. Lockwood, p. 298; Mr. Boyle, pp. 413, 445.

² Compare Mr. Archbold, p. 523; Mr. Emery, pp. 650-655; Mr. Boyle, p. 486.

Q. (By Mr. PHILLIPS.) Explain how you have been transporting these mixed grades to your markets.—A. In pumping the oil along the line it does not mix for a distance of 50 feet; though of course that poorer grade mixes with the better for a short distance in the line.

Q. (By Mr. FARQUHAR.) Does the Standard use that same system?—A. No, I think not.

Q. (By Mr. PHILLIPS.) Are you the first to pump refined oil to New York?—A. The first company that ever pumped refined oil any distance by means of the pipe line. I think the Standard is pumping distillate from the fields in Ohio for treatment.

NO FEELING AGAINST SENDING OIL AWAY TO BE REFINED.

Q. (By Mr. FARQUHAR.) Was there not a feeling in Pennsylvania, and the oil district, against the transportation of crude oil, as withdrawing the benefits of refining from the localities?—A. No, I think not; there is a pretty liberal spirit on that subject; they are selling oil to be refined wherever it can be refined cheapest.¹

REFINING DONE CHEAPEST IN THE INTERIOR.

Q. (By Mr. FARQUHAR.) Then you state that there is advantage in getting to the seaboard for your refining?—A. No; I think the oil can be refined cheaper in the interior, and transported as refined by means of pipe lines.¹

Q. Giving employment to the locality where the oil is produced?—A. Yes. I think so. I think so for several reasons: Land is cheaper, labor is cheaper, and fuel is cheaper, and water is abundant and of a good quality.

Q. And living is cheaper?—A. Living is cheaper.

Q. And it tends to diversify labor?—A. Yes.

Q. Is there a better market at the seaboard for what you call the by-products or residuum than there is at your local refineries in Pennsylvania?—A. I am not competent to answer fully. I think that the market for the by-products is all over the country, and probably one part of the country is as valuable a market as another.

THE STANDARD BELIEVED TO GET RAILROAD FAVORS IN PRICES FOR LUBRICATING OILS.

Q. (By Mr. PHILLIPS.) Does the Standard have the monopoly of lubricating oil, especially as to the railroads of the United States?—A. I want to mention something that I do not positively assert to be true. I do not know it to be true, but it is a matter of belief with me. I believe the Standard is getting as great advantages and discriminations from railroads as ever; but I think they get them in an entirely different way, and in such a way that I do not see how the matter can be reached. The purchasing of oil for a great many of the railroads has been largely taken out of the hands of the purchasing agents and put into the hands of the president or some managing director. I think that the Standard get their rebates from the railroads by means of the prices at which they oil those roads.²

Q. By lubricating oil?—A. Yes.

Q. Does that require a large amount? Is it a very large item of expenses?—A. I think the railroads of this country can be lubricated for one-half the amount which they pay to-day, and a large profit made out of it; but the railroads are simply giving rebates in that way.

Q. (By Mr. FARQUHAR.) As a business proposition, does it make any difference to a man selling oil to a railroad whether he goes to the president of the railroad or to a purchasing agent?—A. Yes, I think it makes a difference: because the purchasing agent is supposed to buy his oil at the very lowest prices. It is different in the case of the president.

Q. (By Mr. FARQUHAR.) Is there any proof by which you know that the purchasing agent gets competitive prices on oil?—A. No.

A REFINERY WITH \$500,000 CAPITAL CAN GET ALL THE BY-PRODUCTS.

Q. (By Mr. JENKS.) The statement has been frequently made that, owing to the very large capital of the Standard, they get the refined very much cheaper than the independents do, because they are able to get more by-products. Can you tell us whether you, for example, have as good facilities for refining as the Standard?—A. I presume that in refining a large quantity of oil there would be

¹ See Mr. Emery, p. 649.

² Compare Mr. Archbold, p. 516; Mr. Davis, p. 359; Mr. Rice, pp. 9, 700; Mr. Page.

a slight difference in favor of the large refinery ; but I think it would be so slight as to make no real difference. I think the independent people make just as good oil as the Standard Oil Company, and better.

Q. Do they get also substantially the same by-products?—A. They can get also the same by-products if they have the facilities to make them.

Q. Does it require anything like the capital the Standard has to get an establishment big enough to make use of these by-products?—A. Oh, no.

Q. How large?—A. I suppose a capital of \$500,000 would make a complete refinery, with a perfect division of labor, so as to get out every by-product at the very lowest possible cost.¹

THE STANDARD HAS NO ADVANTAGE IN COST OF PACKAGES.

Q. Would the same thing hold with reference to the materials they use in shipping? With reference to the cost of tin cans and barrels?—A. The making of tin cans is a very simple process; it is all done by machinery, and they are made very rapidly. I think others can manufacture them just as cheaply as they do. Barrels can be manufactured just as cheaply as the Standard Oil Company can make them. I judge they can not manufacture these things any cheaper than other people, because they do not do the other parts of the business any cheaper than the other people. They are not any better producers than the independent producers, nor as good; and they do not transport the oil any cheaper through a given size of pipe line than we do.

THE STANDARD'S ADVANTAGE IS NOT IN PRODUCTION BUT IN DISCRIMINATIONS.

Q. When you say that they are not as good producers as other people, do you mean that they do not take as good care in their refining as the others do?—A. I think very possibly they do not. If an oil company is in the business of producing oil individually, they are giving their own personal attention to that specific thing. In the case of the Standard Oil Company, all their production must be under the supervision of paid agents, who are not as skillful in the business as the men that have been in it for thirty years themselves.

Q. In your judgment, then, any advantage they have comes from some special discriminations or through monopoly, and not from any legitimate advantage they have through large capital?—A. I think you are entirely correct; they have not much advantage, so far as the actual doing of the business is concerned, except through discriminations.

THE STANDARD MAKES A HUNDRED PER CENT ON ITS REFINED OIL.

Q. (By Mr. C. J. HARRIS.) You said the price of oil was 9½ cents in March, 1896; that would give them at wholesale rates a profit of 50 or 60 per cent, would it not, according to their own figures?—A. It would give them a profit of 100 per cent; the cost of oil would be —

Q. (Interrupting.) I do not mean on the crude but I mean after it was refined?—A. It would give them 100 per cent. They could buy the oil so as to make the profit very close to 100 per cent.²

Q. That is a pretty big profit for a wholesale business, is it not?—A. I think so.

COMPETITIVE POINTS.—THE RAILROADS PREVENT COMPETITION ON THE PACIFIC COAST.

Q. (By Representative OTJEN.) I understood you to say there are about a hundred competing points; where are they? In what part of the country?—A. I can give you a good many of them: New York, Philadelphia, Pittsburg, Chicago, Milwaukee, Rock Island, Evansville, Memphis, St. Louis, Des Moines, Kansas City.

Q. Any on the Pacific coast?—A. They have such a great advantage, by means of rules the railroads have adopted, that it is almost impossible for independent companies to sell large quantities of oil on the Pacific coast. The Interstate Commerce Commission has assessed against a number of railroads, in favor of the independent refineries, the sum of \$86,000, which it has found that the railroads should pay to the independent refineries by reason of discriminations; and suits are pending for that sum in the United States Circuit Court at Pittsburg.³

Q. (By Mr. C. J. HARRIS.) Does not the Standard Oil control the country trade almost exclusively?—A. Very largely they control trade which only railroads reach. The competitive points are where you can get away from railroads and get water transportation.

¹ Compare Mr. Archbold, p. 570.

² See Mr. Phillips, pp. 591, 592.

³ See Mr. Archbold, p. 516.

EFFORTS OF THE STANDARD TO BUY OUT THEIR COMPETITORS.

Q. (By Mr. KENNEDY.) Has the Standard Oil Company been making attempts to secure control of these independent companies?—A. In 1894 and the beginning of 1895, they had conferences with some of the independent refineries. They proposed to buy all the independent lines and all the independent refineries. The independent pipe lines declined to sell. A number of refiners declined to sell; but they did, at that time, purchase oil refineries along our pipe line, which were under contract to take oil from us; and although they were in good condition, and one of them was practically new, they tore those refineries down and destroyed them.

Q. Did they offer much more than the properties were worth?—A. Yes; they offered more than the properties were worth.

Q. (By Mr. PHILLIPS.) What other methods did they take to get control of the independent pipe lines?—A. They reduced the price of oil at the seaboard, so that oil was sold at the seaboard for a long period below the cost of the crude in the oil region, and the refineries had to suffer a large loss.¹

THE STANDARD BUYS STOCK IN INDEPENDENT COMPANIES AND GETS A DIRECTOR IN ONE.

Q. Did they or did they not purchase stock in any of these independent pipe-line companies? If so, how much and in what companies?—A. The first company we organized was the Producers' Oil Company, Limited, with a capital of \$600,000. There were 1,095 subscribers to the stock. They were scattered over about 300 miles, in territory widely separated from each other and from the officers, and the Standard Company started to get control of that company. They had a bank cashier working for them in nearly every town throughout the whole region where the stock was owned, and they had agents in the field. They commenced purchasing that stock at par, and before they got through they paid as high as 220. They secured a majority of the stock—\$1,000 over one-half. Then they brought suit to get into the company. They were beaten. The stock was put in the name of John J. Carter. He claimed to be the owner. It was owned by the National Transit Company, and they transferred it to him on the 16th day of January, 1896. He brought suit to become a member of that company without being elected to membership. It was a limited partnership, and the law provided that no one who purchased stock could become a member without being elected by a majority in number and value of the interests. He alleged that he was one of the original subscribers to the stock, and that by buying additional stock he was entitled to vote such additional stock at the meetings, and he asked for a transfer to him. That was denied by the company. He lost in the court below and in the supreme court. That was one of the means they were taking to get control. He told me he had purchased stock for the purpose of getting control of the company and changing its policy from one opposed to the Standard to one in harmony with it. They bought stock in the United States Pipe Line; and in order to prevent their getting control of that stock the majority was put in the name of three trustees who could vote it at all meetings of the company.

Q. About how much stock did they purchase in the United States Company?—A. Some \$350,000 to \$400,000 out of the \$1,300,000 paid-up capital. We refused to recognize them as stockholders in that company. They brought suit to get in, and they won in the court below. The case was taken to the Supreme Court and, on a technicality, the appeal to the Supreme Court was quashed.

Q. Have they or have they not a director in that company?—A. They have one director in that company now.

Q. How did they obtain that director?—A. They obtained that director by the purchase of stock, and through the decree of the court that they should be entitled to vote it at the election.²

THE INDEPENDENT COMPANIES ARE SEPARATE, BUT OWNED PRACTICALLY BY THE SAME PEOPLE.

Q. (By Mr. KENNEDY.) Have the independent companies found it necessary, in order to protect themselves against the encroachments of the Standard, to enter into a form of combination?—A. Only as to control; combination of interest. They are practically owned by the same people. They would be much stronger, undoubtedly, if they were welded into one organization.

Q. Then, practically, they are not independent, but independent of the Standard Oil Company?—A. They are independent of each other and also independent of the Standard.

¹ See Mr. Archbold, p. 571; Mr. Westgate, p. 365; Mr. Emery, pp. 629, 631.

² See Mr. Westgate, pp. 370, 382; Mr. Boyle, p. 442; Mr. Archbold, pp. 577, 578; Mr. Phillips, pp. 589, 590, 595, 596; Mr. Emery, p. 656.

Q. Did you say whether they were controlled by the same people?—A. By way of illustration, the refineries are all owned by different people, individuals or companies; each man owns his own refinery, and each company owns its own refinery. They take oil from the pipe lines and pay us the 15 cents pipeage, while the Standard pipeage is 20 cents. We have always maintained a uniform price of 15 cents for local pipeage. They sell their oil where they please; bid against each other, and bid against the Standard. They are entirely independent.

INDEPENDENT COMPANIES ABSORBED BY THE STANDARD.

Q. (By Mr. A. L. HARRIS.) How many independent companies have been absorbed by the Standard Oil Company?—A. I should say over a hundred in the last twenty years.

Q. Is there such a thing as a list of those companies and the amount of capital of each?—A. Yes; there is a list of the refineries that were obtained and dismantled in the testimony of Senator Emery before the Committee on Manufactures in 1888.¹

WHY THE REMAINING INDEPENDENTS REFUSE TO SELL.

Q. (By Representative LIVINGSTON.) What stands in the way of absorbing the remaining companies? The fact that they produced enough to meet the demand, or are they trying to work at lower figures because they are not willing to sell?—A. Because they are not willing to sell; that is one reason.

Q. (By Mr. FARQUHAR.) Do you mean by that that there is so much profit in the independent lines that they can ask two prices and will not sell?—A. No; we refused to sell at 112—that is, 12 per cent above cost—when we expected to go into the hands of the sheriff and be sold out. We maintain those companies largely as a matter of sentiment, and as a protection to the independent producing interests.

Q. Do they stay out of sentiment or feeling toward the consumer, or is it because there is a large profit, present and prospective, in keeping them out of the Standard Oil Company?—A. No; men naturally want to remain in the business that they have selected and with which they are acquainted; they are satisfied with moderate profits, and they do not like to be driven out of their business. There is an American pride in being able to maintain a place in a business that a man feels that he is entirely competent to carry on, and has adequate capital to carry on if he has a fair chance.

Q. (By Mr. FARQUHAR.) Is it not a fact that the independent companies of this country are making money, and making a sufficient percentage on their capital, and is not that one of the reasons why they do not sell?—A. That is true just at present; but this proposition to purchase them was made after they had been doing a losing business continuously for twenty months, and in that twenty months had lost \$200,000 among them in actual money. Then they declined to sell.²

PRACTICAL EXPERIENCE OF MEMBERS AND MEN OF THE STANDARD OIL COMPANY.

Q. You mentioned the fact some time ago that you thought those who were interested in the independent companies, and had been brought up in the business, and had long experience in it, are better managers than the agents that the Standard Oil Company employ in refining, or transportation, or selling. Is it or is it not a fact that in their acquirement of these plants, the Standard Oil Company has usually taken the expert mixers and refiners of those concerns into the working force of the Standard Oil Company itself? In other words, under the controlling spirits of the Standard Oil Company to-day, have not the men in the field had as wide experience as any independent company can have?—A. No, I think not. I think, with the exception of one trustee, none of the trustees have had any experience.

Q. What is the experience of Mr. O'Day?—A. He has had experience as a pipeline man. Mr. Archbold, I think, has had quite a large experience as a refiner. I think he is a competent man in that business.

Q. When they absorbed the Galena Company, did they not take the best operatives of that company into the employment of the Standard Oil Company?—A. What Galena do you refer to?

Q. The Ohio.—A. That is located at Franklin. I think the same men are in that company that have always been in it.

¹ Page 226, vol. 9, H. R., first session Fiftieth Congress, 1887-88.

² See pp. 292, 293; Mr. Phillips, p. 563; Mr. Archbold, p. 580.

PRESENT CONDITION OF REFINERIES THAT WERE REPORTED AS INDEPENDENT IN 1888.

Q. (By Mr. A. L. HARRIS.) Please turn to page 488 of that report.¹ How many of those companies in that list are in existence at the present time?—A. I can not speak of Cleveland. Of New York, Borne, Scrymser & Co. have been absorbed by the Standard, and I think Lombard, Ayres & Co. They are marked there, though, as affiliated with the Standard then. Pittsburg: Bear Creek Refining Company is a Standard works now, I understand; Iola Oil Works is a very small works; and the Globe Refining Company, I think, is Standard. Oil City: The Keystone Refining Company was wrecked and torn down; Standard became the purchaser of it at sheriff's sale, I think. The ground is bare now with the exception of a few tanks.

Q. (By Mr. PHILLIPS.) By whom was it torn down?—A. By the Standard.

Q. (By Mr. A. L. HARRIS.) As you go on please state what has become of the different companies that have gone out of existence and how they went out of existence, whether acquired by the Standard Oil Company, etc.—A. Reno: The Mutual Oil Company was purchased by the Standard in May, 1895, wrecked and torn down; nothing left standing but a chimney as a monument of disaster; I am not sure but the chimney is down now. Franklin: Those are small refineries; they are not running, I think; I think the most of them are shut down. I do not know anything about those at Buffalo, Toledo, Findlay, Lima, Bradner, Smith's Ferry, Boston, or Baltimore. Bradford: Those are not in existence now; I do not know what became of them. Parkersburg: One of the refineries that was in existence at that time has been absorbed by the Standard. Marietta: I am not informed as to those refineries. Titusville: Rice, Robinson & Witherop are running now as an independent company. John Schwartz's refinery was practically destroyed by the flood. He then united with the National Refining Company in the Union Refining Company. That was bought by the Standard in 1895 and torn down. The International Works (J. P. Thomas) was absorbed and purchased by the Standard in 1895. It was practically a new works and in fine condition, but it was torn down. The National Oil Company was united with the Union, and the Union was purchased and torn down by the Standard. The same is true of the Western Refining Company; they went into the Union; they united those refineries, leaving but two practically of that number now in existence at Titusville, and one that has been erected since by the Manhattan Oil Company, known as the Oil Creek Oil Works. Clarendon: I am not familiar with those; they are small works; I think one of them is still operated by the independents; I think the other is not in operation now. San Francisco: I am not informed as to that. Philadelphia: Bosshart & Wilson are not in business. As to the others I am not informed. Florence, Colo.: I am not familiar with them. This list was made, I see, in 1888.

BONUSES FOR IDLENESS.

Q. (By Mr. PHILLIPS.) Have you any information in regard to the paying of a large bonus or premium for refining works to remain in idleness, or have you any information in regard to their paying sums of money to persons to stay out of the business?—A. I know that within the last five years, and prior to that, they leased a number of refineries, and simply shut them down and allowed them to remain idle. As to persons receiving money to remain out of business, I have no personal, absolute knowledge of that subject; only common rumor.

Q. Do you know as a fact that they have leased works that have been shut down for a period of years?—A. Yes, I know they have.

Q. And paid large sums of money?—A. Yes, I know that has been done.

CONSUMERS WOULD PAY LESS IF THE STANDARD OIL COMPANY DID NOT EXIST.

Q. (By Representative LIVINGSTON.) What, in your opinion, would be the price of oil to the consumers if the Standard Oil Company should be abandoned?—A. I believe that the average price to the consumer, all over the United States—all over the world—would be very much less than it is to-day, at the same price for crude oil.²

Q. Why?—A. The reasons are that anyone who is permitted to take whatever he chooses is never moderate in his taking. They have the ability and power to take from the consumer just what they please, where there is no competition; and

¹ House Reports, first session Fiftieth Congress, 1887-88, vol. 9.

² See pp. 275-277; Mr. Monnett, p. 317; Mr. Westgate, pp. 371, 372, 366-370; Mr. Archbold, p. 531; Mr. Emery, 629, 631, 632; chart of prices in Introduction.

I do not think that anybody would be moderate under such circumstances. I do not believe that anybody should be trusted with unlimited power to fix prices.

Q. You think, then, that competition would so rule and control the independent companies that they would be forced to sell oil for a lower price than the Standard now charges?—Yes; I have not a bit of doubt about it.

PROFITS OF THE INDEPENDENTS AND OF THE STANDARD.

Q. That being true, what interest has the independent company in forcing the disintegration of this company?—A. Just this interest: they stand always in mortal dread of being entirely wiped out. They do not know whether they can live six months or a year; they always have to fight for their lives, and they do not make fair profits even now; they have not made what would be called fair manufacturing profits at any time in the last five years.

Q. (By Mr. NORTH.) What do you call fair manufacturing profits?—A. They would be entirely satisfied to do this business at 10 cents a barrel on the oil that runs through their refineries. I think the Standard makes \$1.50 to \$2 on every barrel that goes through its refineries.

Q. About what per cent?—A. That would be about 10 cents a barrel on the amount the independents refined.

Q. What per cent of profit on the investment?—A. With oil at \$1 a barrel, that would be about 10 per cent.

Q. Which you call a very good manufacturing profit?—A. Yes, I should say so. I have heard independent refiners say they would be entirely satisfied to enter into a contract for any number of years, to make 10 cents a barrel on every barrel of crude oil they refined; and with oil at \$1 a barrel, that would be about 10 per cent profit.¹

THE FOREIGN MARKET—THE PURE OIL COMPANY.

Q. Have you any knowledge of the price at which the Standard sells its product abroad?—A. The Pure Oil Company was organized in 1895 for the purpose of aiding the independent refiners—organized in an open meeting held at Butler, January 24, 1895. The purpose was stated to be to organize a company that would take the oil from the refineries at cost; they were willing to refine oil at cost if they could live that way. They were willing to say they would continue in the business and give it to the new company at cost, without making a cent. This company was organized for the purpose of taking that oil at cost and marketing it abroad.

Q. (By Mr. PHILLIPS.) Please state what means the Standard had taken to destroy the market abroad that these independents were working on?—A. They had made the market abroad so bad that oil was sold in New York for a number of months below the cost of the crude at the refinery, without anything for refining it and without anything for transporting it from the refineries to New York. The refiners had lost large sums of money. Then they said they could not continue unless they were aided by the producers. We formed the Pure Oil Company for the purpose of taking the oil at cost, in order to enable them to stay in the business and not be driven out by the Standard Oil trust. There was an open meeting, held in the opera house at Butler, and the stock of that company was subscribed there to the amount of \$65,000 in a few minutes. It went on until it now has a capital of \$375,000, with an authorized capital of \$1,000,000, and that company has been buying oil from the independent refiners and marketing it abroad. They have a station erected at Hamburg, Germany; their own tankage, their own tank cars. They have one at Rotterdam, Holland; their own tankage, barrel houses, pumping outfits. They are erecting one at Mannheim, on the Rhine in Germany, and they rent a plant at Amsterdam, Holland. Those plants were established, one of them two years ago last October, the other a year ago the 1st of April, and the third is in process of erection. The oil is transferred to those plants by means of tank steamers, pumped out and distributed just as the Standard distributes it throughout Germany.

DISCRIMINATION PREVENTED IN GERMANY.

I want to say here, and I say it with a blush for this country, that everyone can do business in Germany on an equal footing, and nobody has any advantage over another. It ought to be true in the United States. It is a sad thing.

Q. (By Senator DANIEL.) Please explain that a little.—A. They do not permit any discrimination; they will not allow it.

Q. By whom?—A. The Government will close up an establishment and keep it from doing business if they enter into discrimination.

¹ See Mr. Boyle, p. 441.

Q. (By Representative LIVINGSTON.) You mean to say they prevent trusts and combinations?—A. I think they do: at least they prevent trusts and combinations having any advantage over an individual.

Q. (By Mr. NORTH.) Or fixing of prices?—A. They will not permit that; they will not permit anybody to do business at a loss.

Q. For the sake of destroying a competitor?—A. Yes. They will not allow that.

GERMAN BUSINESS OF THE INDEPENDENT REFINERS—COURSE OF THE STANDARD.

Q. You have not quite answered the question I originally asked you.—A. What was that?

Q. I wanted to know how the foreign prices of the Standard Oil Company compared with the domestic prices. A. Prior to that time the independent refineries sold nearly all the oil they marketed in Germany to a man by the name of Poth. He frequently said he could not do business in Germany at a loss—which we have found to be true—and of course that gave him a right to say what he could pay for oil. He got rich out of the purchase of oil from the refiners in a period of a few years.

Q. (By Mr. PHILLIPS.) Independent refiners?—A. Independent refiners; and finally he sold out to the Standard Oil Company. After he had done it he was overwhelmed with grief when he found the refiners had stood by him. He went home and died within three days. He is dead, and his business is carried on by the Standard Oil Company.¹

Q. Did they take any means to buy tankage?—A. They would often tie up all the tankage at a given point, and they sold oil abroad at low prices for a period.

Q. (By Mr. NORTH.) At lower prices than they were selling for in this country at the same time?—A. Yes.²

QUALITY OF EXPORT OIL.

Q. (By Mr. JENKS.) What is the quality of export oil compared with what is used here?—A. The oil for export, while it is called a second-grade oil, is really about as good a burning oil as the very highest quality. The refiners tell me they would as soon burn what is called export oil as "water-white." It does not burn quite as white, but it is a good quality of oil.³

MARKET CONDITIONS IN GERMANY AND ENGLAND.

Q. (By Mr. NORTH.) Are you able to carry on competition in foreign countries without those disadvantages which you encounter at home?—A. A great deal better in foreign countries than in America. Competition is preserved in Germany to a very much greater extent than in the United States. It is in England, too.

Q. (By Mr. PHILLIPS.) Is the Pure Oil Company making a profit?—A. The Pure Oil Company is making a profit; doing a profitable business.

Q. (By Mr. NORTH.) Selling at market rates abroad?—A. Selling at market rates and doing a good business.

DIFFERENT RESULTS OF PURCHASES OF INDEPENDENT PLANTS BY THE STANDARD AND BY OTHERS.

Q. (By Mr. RATCHFORD.) You stated that 100 or more of these companies were absorbed by the Standard Oil Company. Has there been any such thing as transfer of property or plant from one of these independent concerns to another at any time?—A. Very frequently; that is, interests will be sold.

Q. They have bought and sold to each other?—A. They change ownership to some extent.

Q. The reason that others have not sold to the Standard Oil Company is because they are unwilling to sell?—A. Yes.

Q. If these independent concerns have bought and sold and changed ownership, have they not been absorbed by each other in the same sense in which the Standard Oil Company has absorbed some of them?—A. No. A works is not absorbed in changing ownership. The business is carried on just as it has been carried on before.

Q. When an independent company buys another company or plant or property it continues to operate it?—A. Yes.

¹ Compare Mr. Westgate, p. 381; Mr. Emery, p. 617.

² See Mr. Lockwood, pp. 394, 398; Mr. Westgate, p. 372; Mr. Emery, p. 616; chart of prices in Introduction.

³ See Mr. Emery, pp. 625, 626.

Q. The only difference, then, between them and the Standard is that in the one case the plant is bought for the purpose of operation, and in the other for the purpose of destruction, laying it waste?—A. Very frequently it is bought for the purpose of destruction.

Q. I should think the term "destroyed" or "laid waste" would be a better term than "absorbed."—A. I would say absorbed—dismantled—which means destroyed.

THE STANDARD'S PRODUCT HAS DETERIORATED.

Q. Has the quality of the product of the Standard Oil Company improved during the past twenty years?—A. I think it has deteriorated in quality. I would like to give a reason for that: Prior to twenty years ago they did not use any Lima oil, or oil that has sulphur in it; within the last twenty years they have used a very large proportion of Lima oil. Therefore, I think their manufactured oil generally is not as good as it used to be.

Q. (By Mr. PHILLIPS.) For what reason is the Lima oil mixed?—A. The Lima oil is said to contain arsenic and sulphur; one clouds the chimney and the other makes a bad odor.¹

Q. (By Mr. BATHFORD.) How about the by-products?—A. No doubt they make their by-products very lucrative to themselves.

THE PRICE OF REFINED OIL HAS FALLEN ONLY WITH THE PRICE OF CRUDE.

Q. Have their prices been materially reduced during the past 20 or 25 years?—A. I read a statement made before this commission by a gentleman who, I think, was not at all familiar with the oil business, Mr. Thurber, of New York. The prices have not been correspondingly reduced with the cost of the material employed. In other words, there has not been a relative reduction in the price of refined, as compared with the cost of the crude. I think they had nothing to do with the making of the cost of the production of the crude. All improvements in drilling the oil wells and in producing the crude have been made by the people who were actually engaged in that business; many of them workmen.

Q. Are you prepared to say whether or not the cost of, say, half a dozen other articles of common use has or has not fallen proportionately with that of the products of the Standard Oil Company?—A. Yes; I think nearly all staple articles have been reduced within the last 20 years in larger degree than the price of refined oil.

Q. (By Senator DANIEL.) Has not the price of the crude article fallen much more in proportion than the price of the refined?—A. Undoubtedly. I am going to speak of that hereafter.

THE STANDARD'S PROFIT PER GALLON HAS INCREASED.

Q. (By Mr. JENKS.) You suggested that Mr. Thurber had brought up some figures. I think this chart here² [pointing to chart on the wall] shows the figures that have been quoted so frequently by the Standard Oil Company, and that were quoted by Mr. Thurber. This upper line [indicating] shows the price of refined, the lower, the cost of the crude; the perpendicular distance between them shows the cost of refining plus the profit. These figures are often quoted by the Standard to show that they have very largely reduced the cost; these are the dates here [indicating]—the Standard Oil started about 1872—up to the time of the formation of the trust in 1882. Can you tell us whether or not these average figures show definitely the way in which the Standard fixes its prices?—A. Your dots there between your lines indicate the cost of refining plus the profit.

Q. Plus the profit, because this, the lower line [indicating], is the price of the crude, and this, the upper line [indicating], is the price of the refined. The third line drawn with reference to the base line shows the difference between the two.

Mr. FARQUHAR. Would not that diagram show that since the Standard came into the trust they have run the refined and the crude almost parallel?

Professor JENKS. There has been a slight reduction all the time, and of course the Standard men will say, as anyone would, that when you get the price of crude down to less than a cent a gallon there is not any probability of getting it reduced much below that. I thought Senator Lee would explain that, because those are the figures often quoted.

¹ Compare p. 278; also Mr. Archbold, p. 532; Mr. Emery, pp. 624, 625; Mr. Gall, pp. 673, 681.

² See Introduction.

A. I am told by the refiners that in 20 years the cost of refining has been reduced from 2½ cents a gallon to less than one-half cent.¹ Of course those lines, being parallel, show a very much larger margin of profit.

THE STANDARD'S PRICES FOR REFINED OIL HAVE NO RELATION TO COST.

Q. (By Mr. JENKS.) Also state further, with reference to the way they fix their prices, whether their price for refined oil is based definitely on the cost of refining, or whether it is merely arbitrary?—A. I do not think the Standard Oil Company fixes its prices on the basis of the cost of refining and cost of crude at all. They rather try to avoid doing that. They do not want the public to understand how they fix their prices. They are entirely arbitrary. They have had very low prices for refined oil when crude was very high, and very high prices for refined oil when crude was very low.

Q. (By Mr. PHILLIPS.) Does not that come about through their selling and supplying the market for a number of months ahead?—A. Probably through their selling ahead, and then putting up the price of crude, so that their competitors may have to pay a high price for the crude, while they themselves are manufacturing the crude they have already purchased, to make refined which they have sold at a high price.

THE BETTER CONDITIONS IN GERMANY AND ENGLAND HAVE ENABLED THE INDEPENDENT COMPANIES TO LIVE.

Q. (By Mr. KENNEDY.) You stated that the conditions of competition in Germany and Great Britain have been such that you could make a profit there, and the Standard Oil Company could not drive you out; and in this country their methods have been ruinous to you, so that you could not make a profit. Has the profit you have been able to make in Germany and Great Britain in years past been the means of enabling your companies to live, notwithstanding the methods of the Standard in this country?—A. Yes.

Q. How long have you been operating in these countries?—A. In Germany for three years next October. The price of export oil, which is a second-grade oil, has been almost as high as "water-white" oil. The cost of drilling the oil wells and obtaining oil is very much greater within the last three or four months than it was last year on account of the advance in our materials and the prosperous condition of the country; but they have kept the water-white oil, the oil sold in this country, very low during this last year.²

SELLING BELOW COST TO CRUSH COMPETITORS NOT PERMITTED IN GERMANY OR GREAT BRITAIN.

Q. I understand that the Standard has in some instances almost given away oil to drive out competition. Is it true that they could not give away oil if they wanted to in Germany or Great Britain?—A. No; I do not think they would be allowed to do that there.⁴

Q. The Government would come in and say, "You can not sell this oil a cent a gallon less than the other people?"—A. I do not think they would be permitted to do that.

Q. (By Representative OTJEN.) I presume that would be with the understanding that they were doing it with the object of crushing somebody else out?—A. Yes; that would be the object.

Q. (By Mr. KENNEDY.) The Government would be the judge of their motive?—A. I do not think they would be permitted to do it.

Q. (By Mr. FARQUHAR.) Is there any act of Parliament that would prevent their giving away oil or selling it at half price?—A. The Government is simply mildly despotic.

Q. How do you reconcile that with the fact of American meats coming into competition with the German, and cutting the English price probably 33 per cent?—A. I suppose those are sold at a profit. They do not prevent the selling of the goods, but they will not allow one company to have an advantage over another, and they will not permit business to be done at a loss.

Q. (By Mr. KENNEDY.) I would like an explanation of how they would prevent a company from doing business at a loss?—A. They will close you up.

Q. (By Mr. NORTH.) You mean to say they guarantee that every man who goes into business shall make a profit?—A. No. He can quit when he pleases.

Q. (By Senator DANIEL.) Are you speaking from an examination of the German laws on the subject?—A. Speaking from a knowledge of business done there in the last ten years.

¹ See Mr. Westgate, p. 371.

² See chart of prices in Introduction.

³ Compare Mr. Archbold, p. 532; Mr. Emery, pp. 616-618.

Q. Give us some item of your own knowledge.—A. In regard to business with Mr. Poth, he said to us that he was not permitted to do business at a loss. Their books are open to inspection under some law.

Q. Where was that?—A. In Germany.

Q. What place?—A. He was doing business at Hamburg and Mannheim and a number of other places in Germany. He said he could not do business at a loss; therefore he must do business at a profit. Since we have gone in there, our agents say they are not permitted to do business at a loss. They will not allow us to sell goods at a loss and do a losing business. We can close up and quit.

HOW THE STANDARD MAKES PRICES HIGH TO CONSUMERS AND YET RUINS COMPETITORS.

Q. (By Mr. JENKS.) You said the prices were considerably higher in your judgment than they would be if there had been anything like free competition, and yet that it was very difficult for these independent refiners to get along and make a living. Please tell us a little more accurately what the methods of the Standard are that make those two things consistent.—A. In any market reached by independent oil they will put the price down so low that there is no profit in marketing oil; and at points not reached by the independent refiners they will put the price up so as to recoup their loss at the competitive point. They have accurate information as to every shipment. For instance, a shipment will be made by an independent refiner, and before that oil reaches its destination they will land a cargo of oil in the same place, to be sold at a very much reduced price. They will reduce their prices two or three days before that oil arrives, so as to prevent the man who bought it from selling it again. If he buys it once he is to lose on it, because he has paid a higher price than he is able to sell it for. Then they send some one to him to tell him, "You can not buy independent oil. You must buy from us." That is the method of every trust.

Q. (By Senator DANIEL.) Have they done that in Germany?—A. No; they are not allowed to do that in Germany.

THE STANDARD HAS THE BUSINESS IN FRANCE.

Q. (By Mr. JENKS.) Now, you will perhaps add a word with reference to the way they get along in France.—A. I do not know much about the French, except that the Standard Oil Company does most of the business in France.

EXPORT OIL—TESTS REQUIRED BY STATE LAWS.

Q. (By Representative LIVINGSTON.) Can that oil be sold in the States?—A. In some of the States. It can be sold in Pennsylvania. Generally it is not up to the standard required in the States here, or not considered so. It is probably as good oil in fact as is burned in the United States, but it is excluded by reason of statutes that have been passed.¹

Q. What is the gravity of the oil you send over there?—A. It is called 78 Abel test. I am not familiar practically with the specific gravity.

Q. What does the State law of New York require, or of any other State—110?—A. Yes; 110, or about 120 to 150. One hundred and fifty is the highest grade of water white, and about 48 gravity. I have heard them use that expression in connection with water white. One hundred and fifty, 48 gravity, is considered the best oil.

AMOUNT OF OIL EXPORTED.

Q. (By Mr. JENKS.) What proportion of the refined product is exported and what proportion is consumed here?—A. About 40 per cent of all the crude manufactured is exported in the shape of refined—that is, besides lubricating oils.

LIMITATION OF PRODUCTION IN 1887.

Q. Along a good many lines of industry it has been found necessary, where the competition was sharp, to export large quantities. Has this large export business, perhaps, on the whole, enabled the Standard to keep prices higher than they could otherwise? Has there been any special attempt to limit production here in order to keep prices up?—A. There was at one time a movement to limit the amount of crude produced; that was in 1887. They reduced it about 17,500 barrels a day in that year. That is fully entered into in this book (referring to "The Derricks Handbook of Petroleum").²

¹ See p. 274; Mr. Emery, pp. 825, 826.

² See p. 234; Mr. Archibald, p. 540; Mr. Boyle, pp. 422-423, 430-432, 432-434; for earlier attempts, pp. 420, 427.

AMOUNT OF OIL EXPORTED.

Q. (By Representative LIVINGSTON.) I have been furnished with the statement of the statistics for last year, to the effect that about 52 per cent of all oils were exported.—A. I said 40 per cent of the amount manufactured from the crude is exported in the shape of refined. In addition to that 40 per cent, if whatever lubricating oil was sent abroad were added, it would probably make it about 50.

COMPETITION AND PRICES ABROAD. PENNSYLVANIA OIL, LIMA OIL, RUSSIAN OIL.

Q. Abroad, where the oil of the independent refineries goes, which is not of such a grade as can be consumed in the States here, does it come into competition with oil sent there and sold by the Standard?—A. Yes; the Standard is doing a very large business in Germany. Germany is the largest oil market in the world. Although the population is about the same as France, it uses probably twenty times as much oil as does France. I think I am not far wrong in that.¹

Q. Does the sale of the oils from the independent refineries bear down the prices of the Standard Oil Company's product there?—A. No; they sell at very fair prices. Even for the last two years abroad the prices have not been excessive, and they are reasonable all round.

Q. You mean the Standard Oil Company's?—A. The Standard prices and the independent prices.

Q. What if you should withdraw or be forced out of the market?—A. We think their prices would be very much increased.

Q. (By Mr. FARQUHAR.) Is there any difference between the grade of standard oils sold by the Standard Oil Company generally in Germany and that of the independent companies?—A. We think we sell a very much better oil than they do, for the reason that we do not manufacture any but Pennsylvania oil, while they do manufacture and export some Lima oil that we believe is mixed with the other. I do not speak positively about that, for I do not know.²

Q. (By Mr. KENNEDY.) Do you meet much competition in Germany from the Russian oil fields?—A. The Russian oil has not been largely used in Germany because it does not climb the wick as well as Pennsylvania oil or American oil, and the Germans have their own lamps and they do not change them readily. It has not been largely used, although the Standard has been pushing the introduction of Russian oil. It is said it has bought a large amount of Russian oil, and has been trying to push that in the German markets as against American oil.

THE STANDARD HAS NO APPRECIABLE ADVANTAGES IN PROCESSES.

Q. (By Mr. JENKS.) The Standard Oil Company has often claimed that it has had a decided advantage by virtue of the patents it has succeeded in getting with a large number of establishments that have been purchased. In your judgment does it have much advantage along that line?—A. No; I think their process of manufacture is very similar to that employed by the independent refiners.

Q. (By Mr. FARQUHAR.) Suppose you add "formula" to patent in that question?—A. I do not believe they have much advantage in that regard, if any.

OUT PRICES FOR COAL—EFFECT UPON THE MINERS.

Q. (By Mr. JENKS.) Do they have any advantage in the matter of getting fuel cheaper?—A. Yes; I think that all large consumers have an undue advantage in securing fuel. I think that has served to very much depress labor. In other words, when they want an amount of coal they practically fix their price. They say, "We will take this coal if you will furnish it at a certain price; if you do not furnish it at that price we will not take it." As they use a large amount, the coal companies must furnish it, and in order to get even they cut the men. That is why the miners have been cut down from good prices to poor prices—by the demands of these large companies for coal and other raw material at too low a price. The operators must furnish it, and in order to furnish it they must cut their men.³

The commission took a recess from 1 p. m. to 2 p. m.

EFFECT OF TRUSTS ON PRODUCERS OF RAW MATERIAL.

Q. (By Mr. PHILLIPS.) The question is, How do trusts affect the producer?—A. The reason why I desired to state first why, in my opinion, the effect of trusts upon the consumer is to make him pay a higher price for the manufactured

¹ See Mr. Archbold, p. 532; Mr. Emery, p. 623.

² See p. 275; Mr. Archbold, p. 532; Mr. Emery, pp. 624, 625; Mr. Gall, pp. 672, 681.

³ Compare Mr. Archbold, p. 533.

article is because in doing so it is their aim and object to get a complete monopoly of the business. When they have once gotten a complete monopoly of marketing a certain manufactured article, they have the producer of the raw material as absolutely in their power as they have the consumer. They can fix for him whatever price they please and compel him to take it, and the only thing they do consider is whether he will remain in the business and produce that raw material for them at a given price. They simply allow the producer of the raw material to get about cost out of it, or a very little margin, if any, of profit. Now, speaking of the Standard Oil trust, prior to the time when they virtually obtained a monopoly, the price of crude oil was very much higher than it has been at any time since.

PRICES OF CRUDE OIL, 1869 TO 1897.¹

In 1869 the price was as high as \$7 a barrel: in 1870, \$4.90; in 1871, \$4.75; in 1872, \$4.10—no, higher than that, \$4.55; in 1873—now their power began to be felt, not as the Standard, but as the South Improvement Company²—in 1873 the price declined; the highest price in 1873 was \$2.75 and the lowest was \$1.05. In 1874 the highest price was \$2.07½ and the lowest was \$0.82½. In 1875 the highest price was \$1.82½ and the lowest price was \$0.97½. In 1876 the highest price was \$4.23½ and the lowest was \$1.98½. In 1877 the highest price was \$3.69½ and the lowest \$1.96½. In 1878 the highest price was \$1.63½ and the lowest \$0.95½. In 1879 the highest price was \$1.28½ and the lowest \$0.70½. In 1880 the highest price was \$1.24½ and the lowest \$0.86½. In 1881 the highest price was \$1.01½ and the lowest \$0.80½. In 1883 the highest price was \$1.37 and the lowest \$0.61½. In 1883 the highest price was \$1.24½ and the lowest \$0.97½. In 1884 the highest price was \$1.15½ and the lowest \$0.75. In 1885 the highest price was \$1.12½ and the lowest \$0.75½. In 1886 the highest price was \$0.91½ and the lowest \$0.66. In 1887 the highest price was \$0.90 and the lowest \$0.65½. In 1888 the highest price was \$1 and the lowest \$0.82½. In 1889 the highest price was \$1.12½ and the lowest \$0.86. In 1890 the highest price was \$1.07½ and the lowest \$0.72½. In 1891 the highest price was \$0.81½ and the lowest \$0.61½. In 1892 the highest price was \$0.63½ and the lowest \$0.53. In 1893 the highest price was \$0.80 and the lowest \$0.54½. In 1894 the highest price was \$0.95½ and the lowest \$0.80½. In 1895 the highest price was \$2.60 and the lowest \$1.00½. In 1896 the highest price was \$1.50 and the lowest \$1.05. In 1897 the highest price was \$0.96 and the lowest \$0.65.

RELATIONS OF THE STANDARD TO THE PRODUCERS OF CRUDE OIL.

These are the quotations for the open market. In January, 1895, the Standard Oil Company quit paying the market price for oil, as it was bid upon the oil exchange, and simply hung out the price they would pay for what are known as credit balances, amounts standing to the credit of each individual producer upon their books. They would pay that price and no other.³

Q. (By Mr. NORTH.) What effect did that have on the market?—A. It enabled them to fix absolutely the price of oil. Speculation, the general trade in oil, had no effect upon the prices. They controlled the price absolutely by determining what they would pay.

Q. (By Mr. PHILLIPS.) Did this shut up buyers and the oil exchanges?—A. Well, it almost entirely killed speculation, and drove brokers in oil into doing business in other lines. You will observe, from the figures I quote, that, prior to the time of the Standard Oil Company combination, competition largely controlled the industry. The prices of crude were very much higher than they have been since. Beginning with 1895, they averaged about \$1.05 a barrel. During the ten years prior to that the average of crude oil was below 80 cents. That was generally an unprofitable price. Men could not produce oil and get cost for it, and maintain the production.

Q. (By Representative OTJEN.) Still some men could?—A. Yet the general industry could not do it at the price that prevailed for ten years prior to 1895. So I say the effect of the trust upon the producer of the raw material has been to compel him to take an unremunerative price for the oil product. You might ask why he did not sell his product elsewhere. The pipe line runs to the well, the oil is taken into the pipe line, and as they had absolute control in the refining business, or almost so, they were able to fix the price at which they would take that oil. There were no outside purchasers of that oil; if they produced it there was no other place to put it.⁴

Q. The pipe led to the lines connected with the refineries of the Standard Oil Company?—A. Yes.

¹ See p. 547, and Introduction.

² Compare Mr. Archbold, p. 533.

³ See p. 436.

⁴ Compare Mr. Lockwood, p. 408; Mr. Archbold, pp. 533, 538-540, 553.

Q. (By Representative LIVINGSTON.) You had no other connections?—A. There were no other connections. There were some few independent refineries; but they bought all their crude from the Standard Oil Company and paid them 20 cents, local pipeage rate.

OVERPRODUCTION DID NOT DEPRESS THE PRICE OF CRUDE OIL.

Q. Prior to 1895, for 10 years, you say the oil averaged about 80 cents.—A. Less than 80 cents.

Q. Since that about \$1.05.—A. Yes.

Q. What had overproduction and underconsumption to do with those prices during that period?—A. I think, nothing. There was a time when there was an overproduction. In 1881 the Bradford field was opened. The production in McKean county, known as the Bradford field, averaged very close to 81,000 barrels a day during 1881. That created a heavy stock of oil, until, in August, 1884, there were 39,000,000 barrels of oil in stock.

Q. That must have depressed the price.—A. The price of oil was higher in 1884, as you will see by the tables, than it was subsequently, when the stock was reduced one-half and the production was smaller.¹ Take the year 1884 and compare it with 1897.

Q. In 1880 it was \$1.24 and 1884 it was \$1.13 or \$1.15; there was a decrease between 1880 and 1884 of 10 cents a barrel?—A. The average was higher in 1884 than in 1880, as given by months in this table. Then take 1887; the production was not as great in 1887 as it was in 1884.

Q. And yet the price was lower?—A. The average price in 1887 was about 66 cents a barrel. The stock was then 31,000,000; it had been 39,000,000 in 1884. The production was, I think, about the same in 1887 as in 1884; I can tell in a moment by looking.

RESTRICTION OF PRODUCTION IN 1887.

Q. (By Mr. JENKS.) Was there not an effort made to restrict production at about that time?—A. There was an effort made, and it succeeded. By arrangement with the Standard Oil Company, in 1887 the producers purchased from the Standard 6,000,000 barrels of oil at a fixed price of 62 cents, and shut in their production to the extent of 17,500 barrels a day.²

Q. (By Mr. PHILLIPS.) Reducing it that much?—A. Reducing it that much.

THE CONDITIONS THAT MADE THE HIGH PRICES OF 1870.

Q. I would like to bring your attention to the price of 1870, \$4.90 a barrel; in 1890 you got \$1.07 highest and 72 cents lowest. What was it that enabled the producers of that oil to live at \$1.07, when in 1870 they got \$4.90?—A. In 1870 the producers made a great deal of money. They had a good market. Buyers came into the field to seek the producer, and to buy the oil directly from him and pay him. Some days it would go up half a dollar a barrel when there was competition for it. Many people were getting it for independent refineries. They would go right to Oil Creek to meet the producers, and say: "How much petroleum have you—a thousand barrels? I will give you \$4 for it;" and make a contract right on the spot. Open competition for the oil made that price.

THE COST OF DRILLING WELLS HAS DIMINISHED, BUT NOT THE COST OF TRANSPORTATION.

Q. Has the cost of production been very greatly lessened since that?—A. Yes; they are drilling wells at very much less cost than in 1870.

Q. The pipe system reduces the cost of transportation?—A. No; transportation has not lessened.

Q. I mean from the line out?—A. The line runs to the well. The price of local transportation has never been changed since the Standard Oil Company introduced their lines. When they laid their first lines 2-inch pipe was worth about 85 cents per foot; last year it was worth 6 cents per foot. They charged 20 cents then, and they charge 20 cents now; there has never been any decrease in the cost to the producer, or to any one who desires to have oil transported by local pipe lines.³

Q. What is the surplus in barrels at present?—A. The surplus stock of oil is a little over 11,000,000 barrels in Pennsylvania oil and about 14,000,000 barrels in Lima oil. A year ago Lima had more than 22,000,000 barrels surplus. Pennsylvania has increased its surplus about a million barrels the last year.

Q. The market is not glutted with that oil?—A. No; the stock is not more than should be carried for safety.

¹ See p. 547, for average prices and stock at the end of each year.

² See p. 277.

³ See p. 284.

CRUDE OIL HAS BEEN PRODUCED AT A LOSS, ON THE WHOLE.

I want to say one thing in regard to the producers. I have been intimately acquainted with them since I was a boy; I have lived among them; they have been my clients; I have been familiar with their business. I have never known a more energetic, able, and determined lot of men than the producers of petroleum, and yet, as a body, they have not grown rich, but rather poor. There were individual instances of producers becoming wealthy—many of them—but they were engaged in a speculative business, in which there are always chances of certain persons becoming rich. I believe the great body of producers have put money in rather than taken it out.¹

THE TOTAL PRODUCT IN 1870, 1890, 1891.

Q. What was the total product of the oil wells in 1870 and the total product in 1890?—A. The production of Pennsylvania oil in 1890 was about 35,000,000 barrels; I think the production in 1870 was not over 5,000,000 barrels.² That is from recollection. I am a little way from the exact fact, but not far. I think the production was about 90,000 barrels a day in 1890. In 1891 it ran up above 100,000 barrels a day by the discovery of the McDonald field, which was very prolific.

CAUSES OF CHANGES OF PRICE OF CRUDE OIL.

Q. I want to get a basis for an opinion as to what produced this rapid decline of prices from 1870 to 1890; that is the reason I asked this question.—A. That was entirely arbitrary; there was nothing to reduce prices so destructively as that.

Q. Did the consumption increase as fast as production?—A. I think consumption kept pace with production.

Q. Is there any way of showing that?—A. The export tables will show that it is true as to export oil, and I think it is certainly true as to home consumption.

Q. (By Mr. FARQUHAR.) How do you account for the abnormal prices of 1876 and 1877?—A. There was an open competitive market, and the Standard Oil Company was not really a factor in it yet. Those prices were the effect of speculation in the open exchanges.

Q. You mean to say those prices were entirely speculative prices, and not product prices?—A. People bought oil for manufacture as well—

Q. (By Mr. PHILLIPS.) Had not the discovery of fourth-sand oil under third-sand deposit something to do with lowering the prices very materially about 1873? Were the very high prices of 1876 and 1877 the result of a reaction from the very low prices that preceded?—A. I think the discovery of the Butler field, which was a very prolific field of oil, had something to do with the lowering of the prices in 1873, 1874, and 1875. Then there was a reaction. Oil went as low as 46 cents in 1873 or 1874.

Q. I have known it to be sold as low as 40 cents.—A. Yes; since.

A MANUFACTURING COMBINATION CAN DEPRESS THE PRICE OF RAW MATERIAL.

Q. You said a moment ago in your opening remarks that the refineries controlled the producers of the raw material; is that not true with all refining and manufacturing? Take flax, take cotton, take hemp, anything you please; does not the manufacturer, in the last analysis, control the price of the raw product just as these refineries control the price of crude oil?—A. But if there are a great many persons in the manufacture, there is competition between them, and that affects prices.

Q. Provided there is no combination there?—A. Yes; but where there is a combination the price is fixed arbitrarily. The combination simply fixes the price and the producers must take it.

REFINING BY PRODUCERS—OWNERSHIP OF OIL WELLS.

Q. If these producers should refine their own oil, what would be the result?—A. Then they would have to meet the Standard Oil Company in the refining markets.

Q. Would the Standard Oil Company have to go out of existence if the producers should refine their own oil?—A. If they refined it all, certainly; but the Standard people are producers.

Q. (By Mr. NORTH.) To a considerable extent?—A. About 23 to 25 per cent, I should say, of the entire production.³

Q. (By Representative LIVINGSTON.) Will you please tell us how many independent wells there are?—A. I think there are from fifty to sixty thousand wells

¹ See pp. 279, 282, 283; Mr. Boyle, pp. 415-417, 419.

² See p. 561.

in existence. Over one-half the production is owned by men who own less than 10 barrels a day apiece, so you can see the extent of the independent production.

Q. There is no way for those independent producers to refine oil, is there?—A. They are attempting to do it in the companies that I represent. They are attempting to transport it, and their independent refineries are attempting to refine it. The stock of the Producers' Oil Company, Limited, and the Producers' and Refiners' Oil Company, Limited, is owned chiefly by producers.

Q. (By Mr. KENNEDY.) It seems to me this independent question is becoming a little bit mixed. When you say "independent producers of oil," do you include these individual companies?—A. I include all companies that are not under the control of the Standard Oil Company.

Q. Then you say the Standard Oil Company produces only about 25 per cent of the oil that is produced?—A. Twenty-three to 25 per cent.

Q. That is, these independent producers produce 50 per cent of the oil?—A. Probably 75.

THE EXPORT TRADE—CONDITIONS AND EFFECTS.

Q. (By Mr. FARQUHAR.) In what form were your first exports to Europe? Was it refined petroleum or crude?—A. Both refined and crude were exported.

Q. In what year was oil exported first?—A. I think oil was exported to Europe as early as 1870; probably before that.

Q. What effect does the export trade in oil have on the market?—A. It gives a market for just the kind of oil they use, and to that extent widens the market.

Q. (By Mr. NORTH.) You get a drawback on tin plate?—A. We have never transported any oil in cases.

Q. Does the Standard Oil Company transport any oil in cases?—A. To some extent, but I think largely supplying their Eastern market from Russia and making tin cans¹—

Q. Drawback has at one time been a large source of revenue to them?—A. It has enabled them to manufacture their cans here, getting a drawback on the tin they use in the manufacture.

Q. (By Mr. FARQUHAR.) Has not this export trade equalized the profits between the producers in this country and the sales in their home market and Europe more than ever in the prices there?—A. It has helped to do it.

Q. Suppose you were in a measure restricted to prices that you would call not living prices, would you not have the export market in Europe with equal prices there, as you say? You could not live if you had to sell 60 per cent of your product at a loss and made a small profit on the other 40 per cent?—A. It would not take long to waste our capital at that.

Q. So you say you must hold a place in the home market as well as the European?—A. I think that the foreign markets do help the independent interests to maintain their foothold, and the Standard seems to have a greater facility in crowding out independents in America than there.

Q. Does this foreign market tend to maintain the domestic price?—A. I think it does.

Q. This foreign consumption seems to be enlarging all the time; does that not go against the idea of a monopoly on the part of the company which produces only 25 per cent of the whole crude product of America?—A. They produce only 25 per cent, but they virtually control 50 per cent more, because they fix the price on that additional 50 per cent. Therefore I do not think the foreign market does minimize the effect of the Standard Oil Company monopoly.

WHY THE PRODUCTION IS KEPT UP, THOUGH MOST PRODUCERS LOSE.

Q. You wish to say that the producers of this country do not receive a fair price for their product?—A. They certainly have not. I do not think that the countries which have produced oil are as well off as they would have been if they had never produced a barrel of oil; yet about 800,000,000 barrels of oil have been taken out of those countries.²

Q. (By Mr. KENNEDY.) At an average cost of what?—A. I think the average cost of taking it out has been about \$1; and for ten years, when production was great, they got very much less than that.

Q. (By Mr. PHILLIPS.) Perhaps you might explain to the commission why the production could keep up under these circumstances.—A. It is a speculative business. One man would come in and drill a well, get a thousand-barrel well and grow rich. The hope of that sort of thing led men to put a great deal of money into drilling these wells. They all hoped to get large wells; they did not find them. More money has been put into the business in ten years than has been taken out of it.

¹ See Mr. Archbold, p. 538.

² See pp. 281, 283; also Mr. Archbold, pp. 538, 539.

Still people make money often, though prices are low. There are wells that run as high as 15,000 barrels a day. Of course a man who has a well of that kind will make a large amount of money.

CAUSES OF CERTAIN FLUCTUATIONS OF PRICE.

MR. JENKS. I want to see if you have made clear the causes for three or four of the most important fluctuations. I understood you to say that the South Improvement Company was formed in 1872, and that within the next two years there was a great fall in price. What influence did the South Improvement Company have in the way of forcing those prices down, if any?—A. I think it had the effect of forcing prices down, because they had combined with the railroads and controlled transportation to a very great extent, and the producers became frightened.¹ Eighteen hundred and seventy-three was the panic year. You will remember the panic had some effect on prices. At that time, also, there was a new discovery, in Butler county. That promised to be a very prolific field; and it proved to be.

Q. Those two factors worked together?—A. Yes.

Q. Then in 1876 and 1877 there was a decided increase in price. You state that was partly due to speculation?—A. Principally to speculation, and partly to the fact that the Butler oil field had been largely worked out and the Bradford field had not yet been opened.

Q. There was in the year 1883 quite a decided rise. Do you remember about that?—A. While that was quite a decided rise, yet it was limited. I think the highest price was—

Q. It was not so high as it had been before?—A. \$1.24½ per barrel.

Q. What time was that in the year?—A. I don't recollect just now. It was the average for the year. That was largely due to the giving out of the field known as the Cherry Grove field, which was opened in July, 1882. The wells were very large, but they did not last a great while. In the fall of 1882 they commenced to decline, and because of that decline the prices went up.

Q. (By Mr. PHILLIPS.) Did not the Bradford field decline at that time very materially?—A. A great many people thought the Bradford field was giving out. I think that was owing to the decline of the Cherry Grove field and also the decline of the Bradford field.

Q. In the years 1888, 1889 and 1890, did that increase come largely from the limitation of the production by the Standard Oil Company?—A. My recollection is that the stock of oil was reduced from 31,000,000 barrels in August, 1887, to about nine or ten million in 1889. That, of course, would account for that rise, although it ought to have been much greater.

Q. There is another decided increase in 1895.—A. In 1893 the price was decidedly low. The McDonald field ran as high in 1891 as 81,000 barrels a day, and at one time 91,000. That caused quite a reduction in price; that was a natural reduction.

Q. In 1894 the prices were \$0.95½ highest, and \$0.80½ lowest; in 1895 it went up to \$2.60. That was a tremendous rise.—A. That was entirely arbitrary. The Standard advanced the price 25 cents per day for a period of about seven days, running the market from \$1.12 to \$2.60 per barrel.

Q. (By Mr. FARQUHAR.) Was that helpful to producers?—A. It helped the producers that had oil on hand to sell.

Q. Still, in the succeeding year, it only went down to \$1.50, so that was but a year's holdings of oil.—A. It went lower than that, I think—to \$1.05 at the lowest.

THE COST OF PRODUCTION OF CRUDE OIL.

Q. (By Mr. NORTH.) Are we to infer from your testimony that the Standard Oil Company arbitrarily fixed the price of crude oil at a figure which it knew to be below cost of production?—A. Yes; that is undoubtedly true, for in 1887 the price was maintained at 65 cents for months. Everybody knows it can not be produced for that. That is away below cost of production.

Q. (By Mr. PHILLIPS.) As a whole?—A. As a whole, I mean, it can not be produced for that.

Q. (By Mr. NORTH.) Will you state your judgment as to the cost of production at the present time?—A. It would, of course, be only an opinion. I think it can be produced now, and the amount of production maintained, at from \$1 to \$1.20 per barrel; but without much profit.

Q. The cost would vary according to local conditions?—A. Yes.

Q. (By Representative OTJEN.) And the flow of the well?—A. Yes. Over one-half of the wells now being operated produce less than half a barrel of oil per

¹ Compare Mr. Archbold, pp. 540, 553.

day; over 25,000 wells produce less than half a barrel a day, wells actually working every day.

Q. (By Mr. NORTH.) Are not all those wells producing at a loss?—A. In some places, where they couple them up, one man will operate probably thirty or forty wells; then there is some little profit at the present price of oil, but very little. In some cases they operate them at a loss. I have asked some of them why they continue to do that, and they said, with the hope that prices will advance so that these wells will become profitable.

Q. (By Mr. JENKS.) These prices that you give are prices at the wells?—A. At the wells.

THE COST OF PIPING.

Q. Piping is still 20 cents?—A. Yes, local piping.

Q. Could you give any estimate as to what the cost of piping is now?—A. I think the cost of pipage would be between 7 and 8 cents a barrel.¹

THE SHUT-IN MOVEMENT OF 1887.²

Q. (By Mr. PHILLIPS.) Senator Lee has referred several times to what was called the "shut-in" movement in oil, or limiting the production. It might be interesting and profitable if he would state what led up to that "shut-in" movement, and what action, if any, was taken in regard to the labor employed throughout the oil fields?—A. The price of oil was below the cost of production during the year 1887. The average price that year was about 66 cents a barrel. The Standard Oil Company said that they wanted to treat the producers fairly, but that they had an excessive stock of oil on hand—31,000,000 barrels—deteriorating in value, and that if we wanted to have a better price production must be decreased, so that they could use up that stock of oil, and take it off the market, and save loss by wastage. A number of the leading producers met a number of the Standard people at Niagara Falls and, after discussing the subject, the producers agreed to limit their production, in order that the Standard might dispose of that excessive stock of oil. I met with them, and I remember the contract by which the producers purchased from the Standard Oil Company 6,000,000 barrels of oil, to compensate them for limiting the production, and also to compensate the labor they employed: because it would cut off the revenue of the men who were engaged in that industry. Mr. Phillips, who was in that movement, insisted that we should set aside 2,000,000 barrels of oil to compensate the laboring men who were in the industry, and who would be thrown out of employment by cutting off the drilling of wells.

Q. The executive board of the Producers' Protective Association?—A. Yes; it was the executive board of the Producers' Protective Association that took that action, and the reason for doing so is well expressed in the preamble of this contract. I will read that. It is on page 69 of that same book—Committee on Manufacturers, 1888:

"Whereas there has accumulated, in past years, an excessive stock of crude petroleum, which is deteriorating in quality, and a portion of which each year becomes sediment, valueless for any purpose, and the carrying of which excessive stock requires the expenditure of vast sums annually; and whereas in consequence of the existence of said stock the price of crude petroleum has for the past year been largely below the cost at which the same was produced; now, in order, as far as possible, to preserve the said stock from further waste and to conserve the public interest and our own, this agreement witnesseth: * * *

Then the producers agreed to reduce their production 17,500 barrels per day, and purchase 6,000,000 barrels of oil from the Standard Oil Company at 62 cents. They were to give the profit of 2,000,000 barrels of it to the well drillers and pumpers who would be thrown out of employment, and to keep the profit on 4,000,000 barrels. That oil was sold separately; and the laboring men actually realized about \$50,000 more profit for their share than the producers did out of the 4,000,000 barrels.

Q. How was the money distributed?—A. That was distributed through their organization, the Well Drillers Union. They were allowed \$1 a day for the time they were unemployed by reason of this movement.

Q. (By Mr. JENKS.) The Standard Oil Company was itself in this movement?—A. The Standard Oil Company put up a million barrels and the independent producers put up a million barrels for the laborers.

Q. (By Mr. PHILLIPS.) Have you anything else to say in regard to production?—A. No; I have not. I believe that if there had been fifty concerns engaged

¹ See Mr. Phillips, p. 594; Mr. Emery, p. 606; Mr. Rogers, pp. 581, 583, 589.

² See pp. 277, 280; Mr. Boyle, pp. 423-425, 460-462; Mr. Archbold, p. 540.

in the manufacture of petroleum, just as wide markets would have been obtained, and that while the consumer would not have paid any more for his oil, the producers would have realized a much better price and would have had a handsome profit. As it is, I think they have not made any profit.¹

Q. (By Representative LIVINGSTON.) Where is the balance of that money now?—A. I think the Standard Oil Company could explain that. I think they have realized in the neighborhood of five hundred millions in profits or more.

THE PIPE LINE COMPANIES—CUSTOMS OF THE BUSINESS.

Q. (By Mr. JENKS.) Will you explain to us briefly the system of the pipe-line service and the use that the producers can make of the pipe lines? Tell how they give a ready market.—A. The oil is gauged by gangers, who run it into the line for the oil company and give the producer a ticket showing the amount of oil that is run in that day. That is telegraphed to the pipe-line office, and they keep books showing the amount of oil due each producer. Any day a man can call at the pipe-line office and sell whatever amount of oil stands on the books to his credit at the price that the pipe-line company fixes. If he desires, when he gets a thousand barrels, he can take out a certificate. That is, a certificate saying that he is entitled to 1,000 barrels of crude oil from such and such a line.

Q. (By Mr. NORTH.) That certificate is negotiable?—A. Yes. It can be sold on the open market.

Q. (By Mr. JENKS.) Then it practically amounts to this, that any producer can every day receive cash for what he has put in?—A. Yes, that is it; and it is true of all pipe lines. They must buy whatever is offered to them; not by law, but as a custom of the business.²

LIMITED ACTIVITY OF THE INDEPENDENTS IN FOREIGN MARKETS.

Q. (By Mr. KENNEDY.) Have the independent companies followed the Standard into the Eastern markets?—A. Only in a very limited way. The independents have not sold oil to any extent in India or China or South America or Africa.

Q. The Standard Oil Company has worked up the markets in all those countries, has it not?—A. They do sell oil in all those countries, yes. That is so far away from home that with our limited amount of oil it would be unsafe to enter into competition with them there.

OIL EXCHANGES—NEW YORK AND OIL CITY.

Q. (By Mr. FARQUHAR.) Do you care to say anything about the New York Oil Exchange? A. No; I think not. When the exchanges were in existence and doing business, the Oil City Exchange always fixed the prices.

EFFECT OF THE STANDARD'S ENTERING THE PRODUCING FIELD.

Q. (By Mr. PHILLIPS.) What effect, if any upon the production of oil, has been produced by the Standard's having entered the producing field in recent years?—A. On production?

Q. On producers or production.—A. I think it has tended to reduce the price of crude. They were very able competitors, and they could go into very deep fields to drill by means of their money, and could drill very deep wells and help keep the production high.

Q. Have they or have they not monopolized a large amount of the prospective oil territory under lease?—A. They have leased it in very large blocks in West Virginia, paying an annual rental and holding it for future development.

Q. Has that in any material way prevented producers from obtaining leases?—A. Undoubtedly, to whatever extent they secured the territory and kept others from coming into it; and with their large means they have been able to secure and hold very extensive blocks of territory.

THE STANDARD PAYS GOOD WAGES, BUT NO BETTER THAN THE INDEPENDENTS PAY.

Q. (By Mr. NORTH.) Are you familiar with the course of wages among the workmen in the main?—A. Yes.

Q. Will you tell the commission how their wages compare to-day with those prior to the organization of the Standard Oil Company?—A. I do not think wages are as high as they were before the Standard Oil Company began business, but I do not think it is owing to that fact. It was a new industry, and in a new indus-

¹ See Mr. Archbold, p. 540.

² See Mr. Boyle, p. 424.

try of that kind wages are always high. They have paid, and do pay, very good wages.

Q. The Standard Oil Company?—A. Yes; but not any better than the independent producers pay; in some cases not so good. But they—I want to do justice to them in that regard—I think do pay good wages.

Q. (By Mr. RATCHFORD.) The claim has been made by the Standard Oil Company that they pay the highest rate of wages to all branches of labor employed, including pipe-line men, traveling salesmen, etc. Is this claim, in your judgment, correct, or otherwise?—A. I think they pay a certain class of men in their employ very high wages. To men that are looking after departments of their business I believe they pay very high salaries. To ordinary labor I think they pay just what the independent producers pay, and others engaged in the same industry.

Q. Traveling salesmen?—A. I have no knowledge on that subject.

THE STANDARD OIL COMPANY MANUFACTURES 90 PER CENT OF THE OIL.

Q. (By Mr. A. L. HARRIS.) Can you furnish this commission with a list of the independent refineries now doing business?—A. Yes.

Q. With the amount of output, substantially?—A. Substantially.

Q. You have not that amount?—A. No.

Q. Can you furnish the commission with the list of refineries now operating either by or with the Standard Oil Company?—A. No; I could not do that.

Q. What changes have been made since April, 1888, as defined on page 350 of the book from which you have quoted?—A. You mean what refineries have gone over to the Standard?

Q. Yes.—A. I think that they control 90 per cent. They manufacture 90 per cent of all the crude oil manufactured in the United States.¹ If they do that, there is only 10 per cent left for others; and controlling 90 per cent, they can absolutely control the price. They are able to sell at a loss until they have driven their competitors out of the business; they have done that repeatedly.

A COMBINE IS HARDER TO DEAL WITH THAN AN INDIVIDUAL.

Q. (By Mr. LIVINGSTON.) Suppose there was no Standard Oil Company. Suppose that I, as an individual, manufactured 90 per cent of all the crude oil produced in the United States. Would not I, as an individual, just as emphatically control the price as the Standard Oil Company now does?—A. Yes; undoubtedly.

Q. The trouble is not so much that the Standard Oil Company are a combine, but rather that they manufacture the crude oil. Does not the simple fact that they manufacture 90 per cent, whether they are in a combine or out of a combine, give them the absolute power to fix the price?—A. Yes; but I think that I would rather compete against an individual owning 90 per cent than against a trust owning 90 per cent, for the reason that when the trust does anything wrong there is always some other wicked person that does it, and not the person who is caught. If you were doing it you would have to be responsible individually for whatever was done. But in a large combination of that kind you never can reach the person that does the wicked thing—it is always somebody else.

THE STANDARD OIL COMPANY A MONOPOLY IN RESTRAINT OF TRADE.

Q. (By Mr. NORTH.) Do you regard the production of 90 per cent of refined oil as constituting a practical monopoly of that industry?—A. Certainly.

Q. Then you think the Standard Oil Company is a monopoly in restraint of trade?—A. I do, undoubtedly.

Q. And that it exists in defiance of the laws of the United States?—A. Yes.

PRICES PAID BY THE STANDARD OIL COMPANY AND BY THE INDEPENDENTS.

Q. (By Mr. A. L. HARRIS.) You stated that after 1895 the Standard Oil Company ran down their price. I desire now to know whether the independent companies made any effort to increase the price fixed by the Standard Oil Company?—A. The companies with which I am connected have at times paid from 1 cent to 9 cents a barrel more than the Standard Oil Company was paying; at times they have paid the same price. They never paid less, except that once by accident, for half a day, we paid half a cent less, I think.²

Q. Did that have any effect on the price offered by the Standard Oil Company?—A. I question it. We had a better price; I do not know what brought it about.

Q. If it made no impression on the price they offered, it is very good evidence that they control the price of crude oil?—A. They would hold their price at a fixed point, no matter what we paid.

¹ Compare Mr. Archbold, p. 580.

² See Mr. Boyle, pp. 442, 444; Mr. Phillips, pp. 598, 599.

RAILROAD DISCRIMINATIONS.

Q. (By Mr. FARQUHAR.) You said that the Standard Oil Company had been able to secure discriminating rates from railroads for the transportation of their products. Can you state to the commission any cases in which it has been proved in open court, or before the Interstate Commerce Commission, that they did receive discriminating rates from railroads?—A. Yes; in the case of a bill in equity filed in the supreme court of Pennsylvania, on page 191 of the report of the Committee on Manufactures, 1888,¹ you will find the testimony of Mr. Cassatt, that they had received 80 cents a barrel from the Pennsylvania Railroad.

Q. Was this a sporadic case, or was it general?—A. It continued until the Standard wiped out all the refiners between Titusville and Pittsburg at that time.

Q. At that time?—A. Yes.

Q. How long did that last?—A. It lasted probably about a year.

Q. Would you say now that they still receive a discriminating rate from the roads?—A. That I have no proof of; but I was attorney in a case brought against the Pennsylvania Railroad by Logan, Emery and Weaver, when the general freight agent of the road said there had been no discrimination; the president of the road said the same, and a number of their chief officers; but when we subpoenaed their auditors, they came and testified that there had been discriminations. Those discriminations ran from 3 cents a barrel up to 28 cents a barrel. The amount of them in one year, as against Logan, Emery and Weaver, was something over \$24,000. They were testified to by both auditors, and the auditors' statements were brought in showing the exact amount.²

Q. (By Mr. JENKS.) When was this?—A. My recollection is that the suit was tried in 1889 or 1890. They compromised the suit and paid \$30,000 for these discriminations.

Q. (By Mr. FARQUHAR.) Do your independent companies own tank cars?—A. Yes; the independent refiners own tank cars. The Producers' Oil Company, Limited, own 48.

Q. Has there been any discrimination on the part of railroads in hauling these cars?—A. Yes.

Q. As between the independents and the Standard?—A. Yes.

Q. State as explicitly as you can where it has occurred and when.—A. It has occurred on nearly all the roads, and those questions are in litigation. The Interstate Commerce Commission assessed against the Pennsylvania and other roads a sum equal to \$86,000. Suits brought by the independent refiners against the railroads, for the recovery of that money, are now pending in the circuit court at Pittsburg.³

Q. You spoke some time ago about the rebate. Will you state the average price of the oil when the 80-cent rebate was given?—A. It fluctuated, of course; but it was from \$1.50 to \$2.50 a barrel.

Q. (By Mr. A. L. HARRIS.) What was the character of the rebates at the time you speak of in the Pennsylvania oil district? What I mean is this: What was the amount of the rebate, and whom did that rebate go to in that district?—A. That rebate was in the shape of checks, I suppose, or cash, and it has been estimated to have amounted to ten millions of dollars. It went to the Standard Oil Company chiefly, I suppose. I do not know how it was divided.

Q. (By Mr. PHILLIPS.) Is it or is it not in the testimony of Mr. Cassatt—was it not given, and the length of time, with the receipts of amounts?—A. It is in testimony on pages 242 and 243 of the work on trusts.⁴

Q. Can you give the commission the exact amount in dollars?—A. It is estimated to be, from October 17, 1877, to March 31, 1879, \$10,155,218.⁵

Q. For how many months?—A. From October 17, 1877, to March 31, 1879; a year and five months.

Q. (By Mr. A. L. HARRIS.) Was it paid to the railroad and then paid back to the Standard Oil Company?—A. The independent shipper would ship his oil and pay the open rate—we will say, \$1.80; and 80 cents of this freight that he paid was handed over to the Standard Oil Company. They got the rebate not only on the oil they shipped, but on the oil he shipped. No one could stand that. I do not say that 80 cents is the amount, but they did that in some instances.

Q. (By Mr. JENKS.) Governor Harris has asked you if you could furnish a list of the refineries that are in your company. Would you be willing to add to the list of those establishments also the capital stock of each one and the market value of it before it came in? Do you think you could get it?—A. Yes.

Q. I presume it may be a matter of record—and the capital in case any firms

¹ House Reports, Fiftieth Congress, first session, vol. 9. See the text.

² See p. 202; also Mr. Archbold, p. 516; Mr. Westgate, pp. 379, 380.

³ Compare Mr. Archbold, p. 514; Mr. Emery, pp. 660, 661.

came in that were not corporations. Were any of them bonded?—A. I think they were principally out of debt.

Q. So that there would be no bonds to put into a list of that kind. Did any of them have preferred stock as well as common stock?—A. I think not; not any of the refining companies.

Q. Would you be willing to give the details in reference to their stock?—A. I think they would be entirely willing to submit them to the commission.

Q. You will be kind enough to add that to the list?—A. Yes.

Q. You said this morning that you knew of a number of refineries that had been purchased by the Standard and dismantled?—A. Yes.

Q. Can you give us a list of those?

REASONS FOR DISMANTLING REFINERIES.

Q. (By Mr. FARQUHAR.) What are the usual reasons for dismantling a plant?—A. Those plants were under contract with the Producers and Refiners' Oil Company, Limited, to take oil from them. I can conceive two reasons for dismantling them: First, to prevent them from being in the trade as competitors; second, to injure the Producers and Refiners' Oil Company, Limited. The Standard declined to sell any of the material to the other independent refineries. They paid large prices for them and wasted the material; at least, they dismantled them, and refused to sell them to other independent refineries.¹

Q. When the commission hears representatives of the Standard Oil Company, that question of the commercial and legitimate reasons for dismantling may come before us. I should like your position on it.—A. I think it was done to take them out of competition, and to injure the only competitor that was in that field. I know of no other reason. They were good plants, well located. There would certainly be no reason for paying a high price for a plant and merely tearing it down, unless there was some design of that kind.

ONLY A MODERATE RISE OF PRICE WHEN PRODUCTION OF CRUDE OIL WAS LIMITED.

Q. (By Mr. LIVINGSTON.) Seventy-five per cent of this oil is produced by independent oil companies outside of the Standard Oil Company. If they could by consent and agreement reduce the production of oil one-half, what effect would that have on the independent companies? Would it largely increase the price of crude oil?—A. They did enter into an agreement to reduce the production 17,500 barrels a day, and it did not largely increase the price of crude, though it reduced the stock from 81,000,000 to 9,000,000.²

Q. It did not?—A. It did not; it increased it to some extent, but not to the anticipated extent.

DISADVANTAGES TO EMPLOYEES OF HAVING ONLY ONE POSSIBLE EMPLOYER.³

Q. (By Mr. PHILLIPS.) Have you any further remarks to make or information to give in regard to the effect on labor?

Q. (By Representative LIVINGSTON.) Do you mean to say that it is lessening the price of labor? Is that the idea?—A. I am not speaking so much of what has been done by trusts, but my opinion is this: That when all the people that are skilled in any branch of industry come to be employed by a single concern, and there is nowhere else to go to seek that kind of employment, they are largely under the control of that one institution, both as to their wages and as to everything else, and that such a condition is hurtful to labor, because there is no competition then for labor in that given line. Suppose all the men that are skilled in refining, for instance, are employed by one institution, and a man is discharged by that institution for some fanciful reason; there is nowhere for him to go to get employment. Now, I think that is a positive injury to labor. If fifty concerns were in the business, when a man ceased for any reason to be employed by one, he could go to another. If there is only the one employer, that man is driven out of that industry altogether, and must seek something new. He can not be as profitable either to himself or to the public in any new capacity as he would be in a capacity in which he is highly skilled. Maybe he has attained such an age that he can not go into any new business; then that man's labor is lost to the world. I know of instances where a trust has discharged a man because he had had some difficulty with, we will say, the general manager of a particular plant, and the manager immediately reported that man to all the other institutions and said, "This man is not to receive employment." For a year—in the case I have in mind; I do not care to give names—he was out of employment and could not get it. That was his business; he knew it; he had been in the business for ten years;

¹ See Mr. Archbold, p. 572; Mr. Westgate, p. 370.

² See pp. 277, 280, 284; also Mr. Archbold, p. 540.

³ See Mr. Archbold, p. 542.

and he could not get employment in any other institution connected with that trust. Now, I think that all these questions come in: and that the trust is always hurtful to labor because, just as it controls the price of the crude product, it will absolutely control the labor in that given industry. Suppose you have a trust with regard to all industries; then there is no place for a man to go. If he is thrown out of employment, where will he go to get work? Every man ought to be able in this country, rich as it is, to have a chance for employment. So I think that in that way it affects labor. There is another way. Under these conditions men are made subservient; their manhood is to some extent destroyed. They are not the same independent class of Americans that they would be if they felt that, if they were discharged by this employer, they could go to some other and get employment. It belittles men and injures them in every way. Therefore, I think the trusts are hurtful to labor.

LABOR ORGANIZATIONS. THE STANDARD OIL COMPANY AND ITS MEN.

(By Mr. KENNEDY.) Do you believe that combinations such as you have been talking about make the organization of labor more logical and necessary to the welfare of the working men?—A. If they do not organize and keep organized I do not know what will become of them.

Q. (By Representative OTJEN.) Are the men employed in the oil industry generally organized?—A. There is an organization known as the Producers' Protective Association, organized for the purpose of protection. They have not had any meetings in recent years because they have been devoting their time to the business part of the defense of their industry. They have not had any time to look after anything else.

Q. (By Mr. NORTH.) Are the employees of the Standard Oil Company organized into a trade union?—A. I do not know. I want to say for the employees of the Standard Oil Company that, as far as I know them, they are competent, polite, and a good class of men. So far as the producers are concerned, they have no fault to find with the class of men they employ to do their business. They are really good men. They have to employ that class of men.

Q. (By Mr. KENNEDY.) Is it a fact that the Standard Oil Company's employees are comparatively well paid and well treated, and are always loyal to the Standard Oil Company?—A. I know nothing about the question of loyalty. We have never attempted to inquire into that, but I think they are reasonably well paid.

POWER OF TRUSTS OVER THEIR MEN. THEY HAVE PAID FAIR WAGES THUS FAR.

Q. (By Mr. RATCHFORD.) It is claimed by a great many laboring men and labor organizations that a trust which controls a number of establishments, by reason of that large control of industry, is able to close down one or more of them in order to reduce wages or to lengthen the hours of labor or to bring about some undesirable condition for the working people, and at the same time suffer no loss in their product, because they can transfer their business to some other establishment for the time being. What is your opinion on that phase of the question?—A. I should think that would be true, for the reason that if they have a complete monopoly of the business, it does not make any difference what their output is. They can close half their establishments, and put out half the product, and double the price on it. They can put the price where they please; their is no power to control them anywhere.

Q. Have you any recollection of any instances in which that took place, or in which there is reason to believe that it was the cause of the trouble?—A. No. I do not recollect any at present. Trusts have not been long in existence, except in a few instances. It was necessary for these trusts to have the good will of their employees; and they have paid them fairly good wages and have not been in trouble with their labor.

Q. It is claimed by the friends of trusts pretty generally that they treat their workmen better, pay them higher wages, and grant more agreeable conditions generally than do individual employers or smaller companies. What is the truth about that?—A. I think there is nothing in that.

Q. Generally speaking?—A. Taking them all into consideration, I do not believe that is true.

STABILITY OF EMPLOYMENT.

Q. (By Mr. FARQUHAR.) Does a trust usually give more stable employment than individuals and smaller corporations?—A. I think that the length of the period that they have been in existence has not been long enough to determine

¹ See Mr. Boyle, pp. 428, 429, 441-446, 449; Mr. Phillips, p. 589, bottom.

that question. A great many individuals and companies have had employees for ten to fifteen and twenty and thirty years. The trusts have not been in existence so long as that.

Q. Is it not usual among the employees of the Standard to say, "As long as you behave yourself and attend to your business you will stay?" Is not that always the inducement held out to foremen and others in the Standard to keep their men?—A. Oh, they follow the business rule. When the exigencies of the business require it, they cut their employees without giving much reason for it. I do not know that they do that very thing; I do not charge them with that.

TRUSTS DISPLACE LABOR.

Q. (By Mr. C. J. HARRIS.) When they dismantle a factory, what becomes of the men that have worked there?—A. They find some other employment if they can.

Q. (By Mr. RATCHFORD.) To what extent, if any, does the operation of the trust displace men—traveling salesmen, foremen, or superintendents; labor of any kind?—A. I think it very largely displaces labor, but I do not know that it decreases the cost, because I think they add to the salaries of men that are in charge. They pay very high salaries to leading men. I think that the liberal payments, instead of being given to a number of men, are given to one or two, and they cut the laboring forces. I think it would do away with a great many traveling men, because the trust can fix their own price, and people must come and pay it.

Q. You seem to be pretty positive that labor is displaced in the operation of a trust?—A. I have not a bit of doubt of it.

Q. (By Representative LIVINGSTON.) Has the Standard Oil Company done any reducing of the wages of their employees in years gone by?—A. They did, during the depressed period, reduce wages.

Q. During what period?—A. During the panic of 1893, and subsequent to that. Probably not more than others; I do not know about that.

THE INDEPENDENT REFINERIES ARE INDEPENDENT.

Q. (By Mr. JENKS.) Do the four different companies of your organization work together in harmony?—A. Yes.

Q. Have you been able in your organization, since you came together and are working in harmony, to dispense with the labor or services of many of your higher priced men, your traveling men, and so on?—A. We never have employed any traveling men in this country. The refineries are all independent; they are not at all connected with our companies. Each refinery is an entirely independent concern. They simply buy oil from us, and we buy oil from them, just as we would buy it from anybody else.

Q. (By Mr. PHILLIPS.) Do they own stock in these pipe lines?—A. They own stock in the various pipe lines, and also in the Pure Oil Company. While they own stock, they own their refineries independently. There are the Independent, the Penn, the Continental, the Germania, the Crystal, the America, the Emery Manufacturing Company, the Columbia, and the A. L. Confer; they all own their plants. Sometimes two or three persons own one. In the Independent Refining Company, I think, there are only three persons; in the Continental I think there are but two. There are several others owned by one or two persons, and they are all independent.¹

RELATIONS OF THE REFINERIES TO THE INDEPENDENT COMPANIES.

Q. (By Mr. C. J. HARRIS.) Your companies do not pretend to be a trust, do they?—A. Oh, no; we are trying to keep away from trusts as far as we can.

Q. (By Representative LIVINGSTON.) If I understand, each of these independent companies owns stock in the general company?—A. Yes; in the United States Pipe Line Company, and also in the Producers and Refiners' Oil Company, Limited.

Q. And you view that pipe line as the agent of those other companies?—A. No; as an independent company in which various persons own stock. The companies stand each on its own footing as to dividends.

Q. Who pays the incidental expenses of this independent pipe line?—A. The company itself. It charges 15 cents for local pipage to the refiners. They have 15 cents pipage to pay the expenses, and if anything is left, that is the profit.

Q. (By Mr. PHILLIPS.) Was there or was there not a movement on foot to unite the various pipe-line companies and the refineries?—A. There have been sug-

¹ See pp. 270, 271; also Mr. Emery. p. 656.

gestions of that kind. It has been thought that we should be stronger if we were united into one organization.

Q. (By Representative LIVINGSTON.) You charge 15 cents for piping, and out of that you pay all your current expenses?—A. Yes.

Q. You have a monopoly on that; you are a kind of a trust, are you not?—A. No; the Standard is competing with us in the fields we are in: they rob us of that feature, I should think. Ten per cent could hardly be claimed to be a monopoly, and we are not 10 per cent even; we are about 5.

Q. (By Mr. PHILLIPS.) If these various companies became united, should you be willing, as an officer in each one of the four, to submit to thorough inspection of the books and accounts, and the profits that such an organization might make? A. We should be very glad if the Government would inspect us and everybody else; we should be glad to suffer an inspection in order to have some other people inspected.

SOME REFINERIES HAVE AGENCIES. THE MOST OF THEIR OIL IS SOLD THROUGH MERCHANTS.

Q. (By Mr. FARQUHAR.) How do these independent companies put their burning and lubricating oils on the American market?—A. Each refining company markets its own oil. They get orders, and some of them have stations. For instance, one company I know has a station at Rock Island, Ill., and one in Chicago; and through these stations it markets almost all its refined product.

Q. Have these independent companies permanent agencies for the sale of their oil?—A. Some of them.

Q. Or do they drum for their custom?—A. Some of them have permanent agents in certain places, shipping the oil to them and having facilities for storing it.

Q. Do you know whether the greater part of their product is put into the field through their own agents or through other oil houses in those cities?—A. I presume that the greater part of their product that is marketed in the United States is sold through merchants or others who are in the business.

QUALITY OF THE PRODUCTS OF THE STANDARD OIL COMPANY AND OF THE INDEPENDENTS.

Q. That being the case, the Standard Oil Company and your independent companies come into open competition there for the market?—A. Certainly.

Q. Do you know of any better qualification for the sale of oil, independent of monopoly, than the quality of the oil and the prices?—A. The quality undoubtedly should affect the price.

Q. The Standard Oil Company, coming in with a better quality of oil and selling at an equal price with the other, would limit the field?—A. If they made a better quality of oil.

Q. I say, presuming that they do; I made the question in that way.—A. Well, they do not.

Q. Is it not a fact that no company, whether a monopoly or not, can hold the American market unless it sells a better oil at an equal price?—A. No; I should not say that would be true, absolutely.

RAILROAD FAVORITISM.

Q. You said this morning¹ that some of the railroads have taken the buying of lubricating oil out of the hands of the purchasing agents, and that the oil is bought by one of the officers—the vice-president or the president of the road. Is it not a fact that in the economy of the equipment of the railroad, if you ran a poor lubricating oil you would lose by it more than the little cent or two that you might save on the gallon?—A. Undoubtedly.

Q. Would it not ultimately ruin the machinery and ruin the road?—A. Yes.

Q. Without any favoritism question to speak of in the selling between these people?—A. I would not say that.

Q. Do you not think that years ago, while favoritism did prevail in purchasing lubricating and burning oils on railroads and among large consumers, there was a favoritism and a large one, and that now the economy of railroads is such that even in their stationery and printing, where management used to be left with local agents and division superintendents, it is now concentrated in one head or function in the management of the road? Isn't it the same with the purchase of oil?—A. No; I think oil is made an exception.

Q. You do?—A. Yes.

¹ See p. 288.

Q. Can you deny that while temporarily the advantage might be given, for personal reasons, to the men who canvass, or to the company that offers to sell the oil, in the course of a year or two, the best product will stick—that is, at an equal price with any other?—A. That would be true if they were looking solely to the interest of the road; but if they had some ulterior purpose in purchasing, it would not be true.

Q. I am discussing the purely business proposition.—A. As a purely business proposition that would be true; and if a man was doing it for himself, it would be all right.

Q. So there is no monopoly that can be held in any product, in the United States or anywhere else, as long as you put the product or article on the market at an equal price?—A. I do not think that is true.

Q. Why is it here, in textiles and things of that kind that this country produces, that the product is the finest? And will they not hold the market for years against all other producers?—A. That may be true. It ought to be true always, but I am afraid it is not.

Q. (By Representative LIVINGSTON.) Do you sell your oil in States where they have an oil inspector?—A. Yes.

Q. You have no trouble with the laws of Georgia? They have an inspector, and you sell your oils there without let or hindrance?—A. Yes.

Q. Does the Standard?—A. Yes.

Q. They are supposed to stand the same test?—A. All have to. I think that with the general public they are on an equal footing. So they are to a large consumer that is purchasing for himself; but in the case of an officer of a railroad, there may be some reason why he wants—

Q. To shut out?—A. To shut out competitors in favor of them.

Q. But that is a good business reason, isn't it?—A. Not always, I am afraid.

Q. Usually?—A. I do not think it is usually.

Q. Would you not try to gain the European market, to shut them out of it by putting down the prices in Europe?—A. I think they could purchase just as good oil for one-half the price they are paying. If that is the case, your argument would not hold.

FREIGHT REBATES.

Q. In reaching the market—I use the State of Georgia as a mere illustration—in reaching the market of Georgia, what advantages are granted to the Standard Oil Company over your companies? Any?—A. Yes, we think so.

Q. In the way of rebates?—A. We think so.

Q. Have you established that?—A. It has been established in a number of cases; yes.

Q. Brought to your attention?—A. In Georgia? No, sir.

Q. Well, I only used that as an illustration. Has it been brought to the attention of the Interstate Commerce Commission?—A. Oh, yes; and they have assessed damages for that freight discrimination.

Q. They have collected it?—A. It is in process of collection now; they are still fighting.¹

Q. (By Mr. FARQUHAR.) I think the commission would be much obliged if you would furnish it with the names of these cases that have come into court, where there was sworn evidence to sustain these allegations, where they occurred, the defense made, and whether cases are now in process of litigation.—A. I will do that.

NONE OF THE PRINCIPAL RAILROADS BUYS LUBRICATING OIL FROM THE INDEPENDENTS.

Q. (By Mr. PHILLIPS.) Do any of these independent refiners secure a market for lubricating oil on any of the principal railroads of the United States to-day, or could they if united?—A. They do not now, and I doubt whether they could if united. It is a very doubtful question.

THE INDEPENDENTS REFUSE TO SELL OUT TO THE STANDARD OIL COMPANY. THE REASON.

Q. (By Mr. KENNEDY.) Would you state as your belief, judging from the experience of the past, that the Standard Oil Company would, if it could, to-morrow purchase all these refining companies, paying for them more than their real value?—A. I do not know whether they would do that now or not. They have offered to do it in the past. They made that offer in the fall of 1894 and in January, 1895.²

¹ See p. 287; Mr. Archbold, p. 516.

² See p. 271; Mr. Phillips, p. 593; Mr. Archbold, p. 530.

Q. Do you believe that if such an offer should be made the independent companies would refuse it?—A. I think they would. They have done it.

Q. So then the public must suppose that the independent companies have a good thing in the way of business?—A. No, that doesn't follow. The people who are interested in these pipe lines have a very large interest at stake in their producing properties. They own about 75 per cent of 80,000 barrels of oil a day; in other words, 60,000 barrels of oil a day. That amounts in a year to about 20,000,000 barrels of oil. We believe that the price of that oil is largely dependent upon having an open competitive market for refined oil. Their pipe lines will give them an open competitive market, and therefore they would not give them up. They had rather have them wiped out, if they must be. We were at a point where we expected them to be wiped out; but we were willing to suffer that rather than to sell them. We passed an act of the legislature that we could not sell them, and nobody could sell them, but they got that repealed. The Standard had that repealed, and a little while afterwards it purchased the Crescent pipe line. That law, prohibiting independent pipe lines from consolidating, was passed in 1883, at the same time when the free pipe line law was passed. That continued to be the law until 1895, when the Standard Oil Company secured its repeal. They had got a bill passed to repeal it two years before, but the governor of Pennsylvania at that time vetoed the bill. They got the repeal bill through again in 1895, and the governor signed it. So that the independent people who secured the passage of this bill were like Cortez when he went to Mexico. They were willing to burn their ships, and either stay in Mexico and fight it out or fall.

THE INDEPENDENT ORGANIZATION INCLUDES THE OWNERS OF 40 OR 50 PER CENT OF THE CRUDE OIL PRODUCTION.

Q. (By Mr. JENKS.) Did I understand you to say that about 75 per cent of the producing capacity of the Pennsylvania oil field was in your organization?—A. No; about 75 per cent is owned by independent producers, not affiliated or associated in any way with the Standard Oil Company; some of them are not our stockholders.

Q. About what per cent of the oil-producing fields do you have in your organization?—A. I think possibly about 40 or 50 per cent.

Q. (By Mr. PHILLIPS.) That is, stockholders?—A. Yes.

Q. But the lines themselves do not own anything?—A. No, the lines themselves do not.

IN THE LONG RUN, THE PRICE MUST BE HIGH ENOUGH TO PAY THE LEAST FORTUNATE PRODUCER WHOSE OIL IS NEEDED TO SUPPLY THE MARKET.

Q. (By Mr. RATCHFORD.) Speaking of the advantages of the larger concern, I want you to make a comparison as to the large and small producers. We will suppose, for instance, that A has oil wells producing 10 barrels per day, B produces 10,000 per day; how can A compete with B in the open market?—A. He cannot; but he ought to have an equal chance, for that very reason.

Q. The cost of developing a well is about the same whether it flows or whether it is dry?—A. Yes.

Q. Is not the advantage of B over A as great as the advantage of the Standard Oil Company over B?—A. You are comparing the manufacturer with the producer.

Q. Admitting that A produces 10 barrels per day and B produces 10,000, are the advantages of B over A as great as the advantages of the Standard Oil Company over B, as the larger producer of the two?—A. I do not see how you can make that comparison. You are comparing two entirely different things; you are comparing the manufacturer with the producer and one producer with another.

Q. The point I wish to bring out is simply this: Inasmuch as the cost of boring a well is the same, or nearly the same, whether it yields much or little, the individual who is fortunate enough to make a good strike, with a few additional laborers to run it, can handle 10,000 barrels as cheaply as the man who is not so fortunate, handles, perhaps, only 10 or 100 barrels; and because of his greater output he can, if he will, sell at a smaller margin of profit.—A. He can; but the price is usually fixed by the man who has the smaller well, for this reason: If he does not get a price that returns him at least the cost of production, he must quit. The price may not be fixed, if it is fixed arbitrarily, at a price which enables him to live. But if it enables a man who produces 10 barrels a day to live, the man who produces 10,000 per day from a small number of wells is simply getting a fortune.

Q. I understand you to say the small producer fixes the price.—A. No; but the price must be fixed so that he can produce, or the small well must be abandoned.

Q. Is that price fixed by mutual arrangement?—A. No, it is fixed arbitrarily by the Standard Oil Company.¹

MOST OIL COMES FROM VERY SMALL WELLS.

Q. (By Mr. PHILLIPS.) Is it or is it not an ascertained fact that the greater part of the production is coming from small wells and the great number of small producers?—A. Over a majority of that production is from wells that produce less than a half barrel a day.

THE REMEDY: FORBID DESTRUCTIVE COMPETITION.

Q. What is your idea as to the remedy?—A. That is a very difficult question. I want to be understood as giving simply my own view about it. The most difficult thing is to find a remedy for the evil.

Q. (By Representative LIVINGSTON.) It is no trouble for a man to know he is sick.—A. No; you can diagnose the case a great deal better than you can apply the remedy. I suppose the real evil ought to be reached. The real evil is not so much in the aggregation of capital. No one objects to a man's being rich, if he acquires his money honestly. No one objects to his engaging in business. We object to his driving others out of business, and doing it by the use of unfair methods. No one objects to large aggregations of capital engaging in business, if they do it fairly and honestly, and are willing to enter into fair, honest competition. I would try, if possible, to prevent them from abusing their power. I would make it a criminal offense, say, in a few words, that any person or corporation that engages in destructive competition shall be guilty of a misdemeanor and be punished with fine and imprisonment both.

Q. (By Mr. FARQUHAR.) You mean that as a national law or a State law?—A. We could not apply a national law, except to interstate commerce. It would have to be a State law where it concerned commerce within the State.

Q. How would you define "destructive"?—A. I would leave that to the courts and juries; they will find a way out. That is a question of intent; and that always enters into a criminal offense. If a man starts to sell a product, not for the purpose of getting a market for his own goods, but to drive somebody else out of the business, that is destructive competition. Let the jury find that intent from the evidence. Let them find it from the price, if they please. If the price is away below the cost, and they maintain that price for a long period, not just for a single sale, that is destructive competition. That is a crime—one of the highest crimes; nothing in this country has done so much damage in recent years as destructive competition, entered into deliberately. It is one of the most deliberate offenses that can be committed. No man need engage in it; he can easily avoid the penalty by avoiding the crime. That is one way.²

LIMIT THE CAPITAL OF MANUFACTURING CORPORATIONS TO \$1,000,000.

If I had the doing of it, I would never charter a corporation, except for public purposes, with over \$1,000,000 capital. That is large enough in any business to secure a perfect division of labor. I think that ought to be the limit of commercial companies. There is not much danger in this country from a company with \$1,000,000 capital. One man said to me: "This is our business. I can lose \$100,000 and spread it over half a million and not feel it. Your company can not lose \$100,000; it does not have it to lose; we will drive you out of business."

AS TO QUASI-PUBLIC COMPANIES, REGULATE THEIR CHARGES.

Q. (By Mr. A. L. HARRIS.) Would you include transportation companies in that bill also?—A. No, I would call that business public or quasi-public. I think that all telegraph companies, all electric-light companies, where they are in cities or where they deal directly with the public, all traction companies, should be put under severe regulation. The price of those goods can be regulated because they have a fixed unit. Fix the price of the thousand cubic feet of gas. Fix the fare for the carriage of passengers. You have no way of getting at a commercial company. If you can limit their capital to \$1,000,000, you will have a remedy. If you do not do that, you must do something else, or else the country is going to be ruined by these large aggregations of capital.

¹ See p. 436.

² See Mr. Archbold, p. 543.

NO ANTITRUST LAW CAN BE OF SERVICE, UNLESS IT LIMITS THE SIZE OF CAPITALS,
OR MAKES DESTRUCTIVE COMPETITION A PENAL OFFENSE.

Q. Would you reach the trouble better by what is commonly called the anti-trust laws, or in the corporation acts of the different States?—A. They would have to be real anti-trust laws; you would have to say that no company should have more than \$1,000,000 capital. You can have a perfect division of labor with \$1,000,000 capital; and all political economists say that is all that is desired by the aggregation of capital. That is not what the trust desires. The trusts desire to get into position to squeeze somebody; drive somebody out of business; whereby they can levy tolls on the public generally. That is what the trusts are for.

Q. (By Representative LIVINGSTON.) You recommend State laws controlling and regulating trusts; what would you recommend us to do with the State of New Jersey, that starts them?—A. I do not know what you could do with the State of New Jersey. I do not suppose any legislation could be secured in New Jersey. This will probably have to be reached by securing a healthy public sentiment first.

Q. If one State in the Union is allowed to issue charters just as she pleases, and do as she pleases, and those charters are operated in all the other States, how are you going to legislate?—A. You could say in the State of Georgia that no trust should be possible in that State. Suppose a dozen States should pass laws that no trust should be possible or no corporation should do business in those States with a capital of over \$1,000,000; that would enable independent companies to go in and do business in those lines. I do not object to the amount of capital. I only limit it to \$1,000,000 because a company with \$1,000,000 capital can not engage in destructive competition. It might be mean in a small way, but it could not do much damage. A company with \$100,000,000 or \$500,000,000 capital can drive everybody out of that business; and the question is, Will they not do it? There is no way of curbing their power except by restricting their capital, or else making it a penal offense to engage in destructive competition.

THE DUTY ON OIL IS PERHAPS MEANT TO PROTECT THE FUTURE.

Q. Have we any import duties on oil?—A. Yes, there is an import duty of 10 cents a barrel.

Q. How does that help?—A. There is no oil imported into this country. It does not help anybody, because there is no oil imported.

Does not keep anybody out?—A. No one.

Why is it put on?—A. I do not know; for the protection of the future, perhaps.

OVERCAPITALIZATION LEADS TO EXCESSIVE CHARGES.

Q. In addition to large aggregations of capital, is not the public also in danger on account of overcapitalization?—A. Undoubtedly. Having overcapitalized these trusts, they will want to show an earning power to the holders of stock; and in order to do that they must collect extortionate profits from the consumer if they have a monopoly. That will tend to drive the directors or trustees of these trusts into obtaining from the public excessive profits.

Q. (By Representative LIVINGSTON.) Do not all overcapitalized organizations go into bankruptcy inevitably?—A. I think a great many of them will.

TRUSTS KILL INDIVIDUAL ENTERPRISE.

(By Mr. RATCHFORD.) What effect, in your judgment, has the organization and operation of trusts and the large moneyed corporations upon the personal ambition, the individual enterprise of the American people?—A. I think it is very rapidly stifling it.

Q. Could you state whether or not, in your judgment, large numbers of individuals are kept out of business by reason of those things?—A. No question about it.

Q. You spoke of destructive competition; can you conceive of any way in which that destructive competition could be brought about more forcibly and more fully than by the tearing down and destroying of the rival establishments?—A. No; I do not know a more flagrant means of destroying competition than by paying exorbitant prices for competing plants in good condition and tearing them down. That is a notice to everybody that they do not propose to have competition.

Q. That probably works great hardship to the communities in which these plants are torn down?—A. Undoubtedly; it is a waste of that much capital, which it has taken years to build up. If a man burns his own house he is guilty of arson; if he destroys a new plant out of mere animosity and desire to injure somebody else, I do not know why he should not be guilty of an offense.

INCOME TAXES AND INHERITANCE TAXES.

Q. (By Representative LIVINGSTON.) Instead of preventing combinations of over a million dollars, as you suggested, suppose you levy an income tax of 50 per cent on the profits?—A. I am afraid they would lie about the profits.

Q. Would not that be a fairer way to do it?—A. I would be willing to do anything to wipe them out and give the people a fair chance. I think that would do the work if you could enforce it.

Q. (By Mr. FARQUHAR.) Would any State court regard that as constitutional, or any European court?—A. I have no hostility to any individuals. I simply would like to see some limitation put upon the powers of trusts in the interest of the people themselves.

Q. (By Representative LIVINGSTON.) It would not be class legislation if Congress should lay a tax on the incomes and profits of all trusts and combinations?—A. I should dislike to see any law passed that would recognize their existence.

Q. (By Mr. PHILLIPS.) What would you think of an inheritance tax, levied in some graded proportion to wealth?—A. I am afraid that would be open to objection unless it was uniform; and if it were uniform it would be avoided very largely, would it not, by people making gifts prior to their death?

GOVERNMENT VISITATION DESIRABLE, BUT NOT SUFFICIENT.

Q. (By Mr. FARQUHAR.) Have you any other remedy for destructive competition than the limitation of capital to \$1,000,000?—A. Government visitation might alleviate the evil, but that would only result in publicity. They do not seem to care much about that: they are largely defying public opinion.

Q. (By Mr. PHILLIPS.) Would you be in favor of Government inspection of corporations?—A. I think that ought to be done; the power of visitation was a common-law right in England to the founder of a corporation. He had the power of visitation, and as the State creates the corporation it certainly should have the power of visitation. It has an undoubted right to do it.

PRACTICABILITY OF PUNISHING DESTRUCTIVE COMPETITION.

Q. (By Representative OTJEN.) If you make destructive competition a criminal offense, how would you enforce the penalty against corporations?—A. I would make it apply to any person, corporation, or agent of a corporation. You cannot imprison a corporation, but the fine would apply to it.

Q. You would simply have to enforce the penalty in the shape of a fine?—A. Make all officers guilty of the offense. They are willing to risk anything, violate any moral obligation or rule; but there is one thing they do not like to do—they do not like to take any risk of imprisonment.

Q. It would be competent to fine a corporation found guilty of destructive competition, but would it also be competent to imprison the president or directors?—A. The law can say that any corporation, and all the officers thereof, and all the agents or employees connected with the corporation engaged in the destructive competition, shall be guilty of a misdemeanor, and on their conviction shall be fined \$500 and undergo imprisonment of one or two years in the penitentiary.

Q. (By Mr. RATCHFORD.) Do you believe the law should define exactly what destructive competition means?—A. Leave that to the courts and juries.

THE SHERMAN ANTI-TRUST LAW. THE INTERSTATE COMMERCE COMMISSION.

Q. (By Mr. A. L. HARRIS.) Have you any suggestions to make as to amendments that would make the Sherman anti-trust law more effective than it is now?—A. I have not, at this time; I would like to look that over again.

Q. Will you please do that and see whether it can be made a basis for a future remedy?—A. I think the law has had some good effects.

Q. Is it possible to bring it under the jurisdiction of the Interstate Commerce Commission in any way?—A. That is a pretty difficult question. That is a question a great many people have considered; I have been thinking of these questions for perhaps thirty years. I have been brought into pretty close contact with them for that period.

THE OIL TRADE IN CANADA.—RAILROAD DISCRIMINATION THERE.

Q. (By Mr. JENKS.) Do we export oil to Canada?—A. Yes; we sell a great deal there.

Q. Does your company sell any in Canada?—A. Yes.

Q. Have you come in contact there in any way with discrimination in railroad rates?—A. There has been conflict there. There has been some trouble about railroad rates there recently.¹

Q. Has your own establishment come in contact with that?—A. Yes, I think they have.

Q. Can you give the facts about that?—A. No, I do not believe I can now.

DISTRICT OF COLUMBIA, *County of Washington*, ss.:

I swear that the statements made by me of my own knowledge in the foregoing report of my testimony before the Industrial Commission are true, and that all other statements I believe to be true.

J. W. LEE.

Sworn and subscribed before me this 9th day of September, 1899.

WM. CALVIN CHASE,
Notary Public.

WASHINGTON, D. C., *May 16, 1899.*

TESTIMONY OF HON. FRANK S. MONNETT.

Attorney-general, State of Ohio.

The commission met at 10.50 a. m., Vice-Chairman Phillips presiding. Hon. Frank S. Monnett, attorney-general of the State of Ohio, testified.

Q. (By Mr. JENKS.) Will you be kind enough to state your full name and address?—A. Frank S. Monnett, Columbus, Ohio.

Q. You hold the position of attorney-general of the State of Ohio at the present time?—A. Yes.

Q. In the carrying out of your official duties have you found it necessary to bring suits against some of the great industrial combinations?—A. Yes.

SUITS FILED BY THE STATE OF OHIO AGAINST INSURANCE COMPANIES.

Q. What ones in particular?—A. We filed the first suits against eleven insurance companies, which included British, Canadian, and American companies, charging them with being in a state combination through local boards, or through a communication between local boards, amounting to a state organization; and also with being in an interstate combination at Chicago through a state organization. These cases have been pending, and are now in the hands of the court with 800 pages of printed testimony of the various witnesses. If the members of your commission care to have any of them, we can furnish you with the official copy of the testimony, and from that you can get the names of such witnesses as are available on the lines you want.

SUIT AGAINST THE STANDARD OIL COMPANY OF OHIO.

The next suit that we had was the State of Ohio *ex rel.* attorney-general against the Standard Oil Company of Ohio, which, I believe, has been pending since 1891. A decree was rendered March 2, 1892, against the Standard Oil Company of Ohio, it having been charged with being a member of the Standard Oil Trust, or being one of the constituent companies of the Standard Oil Trust. By an order of the supreme court of the State in November, 1897, I was directed to bring it (the Standard Oil Company of Ohio) before the court for contempt, charging it with having violated the decree rendered March 2, 1892, in not withdrawing from the trust in good faith, but in simply shifting or modifying the former system of doing business, so as still to get the benefits of the trust combination or arrangement. In accordance with that order from the supreme court I filed a complaint in contempt, a copy of which I will furnish your commission,² to which com-

¹ See Mr. Westgate, pp. 375, 378, 379; Mr. Gall, pp. 675-677, 680, 682-685.

² State of Ohio *ex rel.* The Attorney-General, plaintiff, v. The Standard Oil Company, defendant. History of the case, p. 81.

plaint the court gave an order for service upon the defendants, and the defendants thereupon came into court with an answer attempting to justify their conduct subsequent to the decree, to which answer we filed a reply with some twenty-nine interrogatories addressed to the president of the Standard Oil Company, who is also the chairman of the liquidating trustees, and also the chairman of the former nine trustees of the Standard Oil Trust, Mr. John D. Rockefeller, of New York, formerly of Cleveland, Ohio. Mr. Rockefeller answered these printed interrogatories under oath in part and demurred to part, which, under our code, he had the right to do, and part he refused to answer on the ground that they were irrelevant.

The court overruled the demurrer or the refusal to answer the main interrogatories; that was objected to, and they then came into court with a supplemental list of answers. Thereupon we took additional—rather, Mr. Rockefeller's—testimony in the way of depositions under a master appointed, and of that testimony I will give such data as your commission desires. In their testimony, as disclosed by the interrogatories, and by Mr. Rockefeller in person, and the secretary, F. B. Squires, of Cleveland, we were able to find data that warranted the State in filing suits against such constituent companies of the original trust as were doing business in Ohio.

SUITS AGAINST CONSTITUENT COMPANIES OF THE STANDARD OIL TRUST.

We filed independent suits against The Buckeye Pipe Line Company, a constituent company, which is the transporting company of the crude product; against The Ohio Oil Company, known as the "producing" company, which makes leases or contracts with the owners of oil in the rock, usually farmers; against The Solar Refining Company, which has functions substantially the same as the Standard Oil Company of Ohio, which is a refining company; and against The Standard Oil Company of Ohio, anew.

FOUR CAUSES OF ACTION.

In these suits substantially four causes of action were made. In the first instance we charged them with violating the public policy of the State, our procedure being based upon the constitutional right of the attorney-general to institute proceedings in *quo warranto* against any corporation that offends against the existing statutes of the State or against the public policy of the State, and with confederating and attempting to evade the decree of the supreme court in the decision of March 2, 1892, against the Standard Oil Company proper.

DOING A TELEGRAPH BUSINESS.

The second cause of action was based upon what is known as our "antitrust act," the Valentine-Stewart act, which was passed a year ago and took effect July 1, 1898. On taking the testimony at Lima, Ohio, in the case of the Buckeye Pipe Line Company, it was disclosed that they had a telegraph system, which, from a lawyer's standpoint, it was conceded, a company, doing a business of the nature they were, might have as an incident to their business, being a means of communication between their different posts; but in the testimony it was disclosed that they were exchanging business with the Western Union Telegraph Company, had stated monthly balances, and were acting as common carriers of telegraph messages in Ohio for whosoever applied to them. It was testified that they had produced election returns and other news in advance of the regular system. As they were exercising this franchise outside of their corporate authority, we made it an additional cause of action against them, charging them with exercising this *ultra vires* power. We have taken testimony to establish this, which I can furnish the commission. Under the Ohio law it would be necessary for them to have a special charter for that class of business.

It was disclosed and is in evidence, as claimed by the State, that in the relationship existing between the constituent companies (to which I will refer later), there were separate telegraphic contracts for the Ohio Oil Company, the Buckeye Pipe Line Company, and the Solar Refining Company, differing from the contract they had with their customers or the public generally. They used the Western Union blank contract for the ordinary telegraphic service, but had a separate contract and a separate account with each of these constituent companies, raising the legal presumption, as we claim, from the evidence, that they have a system organized about as follows:

THE ORGANIZATION OF THE BUSINESS DESCRIBED.

They have a purchasing or "producing" company, the Ohio Oil Company, which makes the original contract with the owners. The oil is then turned over to the Buckeye Pipe Line Company, known as "the crude product" company, which, in conjunction with the other pipe line companies, owned by Standard people, makes a complete system, and which, as we understand it, constitutes a single system, the Buckeye Pipe Line Company having the Ohio field, but doing business in Indiana also, which, subsequently to this suit, they turned over to the Indiana Pipe Line Company, also one of the constituent companies of the original trust combination. Then from the "crude product" or transporting department, with its telegraphic system, connected with all departments and all pipe lines, the oil is transferred to the respective refineries which are at Whiting, Ind., a suburb of Chicago, at Cleveland, Ohio, at Lima, Ohio, and at Parkersburg, W. Va.

The Buckeye Pipe Line Company delivers the crude oil to the refineries. The refined product, the kerosene and the gasoline, is transported to dealers and customers through another constituent company, the Union Tank Line Company, which has a system of tankage stations, i. e., distributing points, such as county seats, and cities of from 3,000 to 5,000 inhabitants and upward. They have contracts with railroads, which you can go into more fully than we have, and which will disclose the nature of the relationship to the railroads. This company gets a rate for their tank line, in shipping to the tank stations by the carload or train load, with an allowance for loading and unloading their own product, while for barrel lots and part carload lots the rates vary. According to the trust investigation of Ohio the charges for shipping by part carload lots are as much as 400 per cent of the charges for shipping in carload lots and delivering at tank stations by the Union Tank Line.

THE POWER OF THE TRUST DEPENDS UPON ITS CONTROL OF THE TRANSPORTATION SYSTEM.

The State claims this whole system of transportation to be an advantage which the Standard Oil Companies have as shippers, and by means of which they defeat competition. In other words, the secret of the power of the Standard Oil Trust will be found to be the discriminations or favors that they secure by controlling or monopolizing the transportation of the crude product and the discriminations they receive by various devices in transporting the refined oil, e. g., the discriminating rate in favor of carload lots and train loads, with allowances for loading and unloading their own product. When other shippers adopt similar methods, the Standard invents still other methods to evade fair competition.¹

Q. You understand this discrimination to be, in spirit at any rate, a violation of the interstate-commerce act?—A. The interstate-commerce act applies to interstate commerce; I refer to State commerce, namely, to Ohio and Ohio roads. On examination you will find the railroads are permitted to give a different and more favorable rate for carload lots or in tanks than in barrels. The argument that they adduce is that the return of gasoline barrels contaminates all other shipments; that they can not ship any other freight in such cars. If you examine the freight charges in cases where a competing pipe line has been constructed along a railroad, that formerly had a fixed rate, you will find that instead of the competitive pipe line which parallels the railroad lowering the price, it has absolutely raised it, showing that the independent shipper is discriminated against. He can not compete because rates have been raised, and he must pay their price if he ships through the pipe line.

ORGANIZATION OF THE TRUST.

Starting with the Standard Oil Company of Ohio, shall I explain how it entered the trust, and give the names of the other constituent companies, with the capital stock of each?

Q. Have you also the dates of the organization of these different companies, with the names of the leading officers?—A. Yes; I can furnish them. The Standard Oil Company of Ohio was organized originally the 10th day of January, A. D. 1870, and is commonly known as The Standard Oil Company. It had \$1,000,000 stock. It increased that stock the 12th day of February, A. D. 1872, to \$2,500,000. On the 18th day of March, A. D. 1875, it increased its capital stock by State authority to \$3,500,000. It remained in this condition from 1875 to the 2d day of January, A. D. 1883. It had 35,000 shares of stock at a par value of \$100 a share, which would make the par value of the total \$3,500,000.

¹ Compare Mr. Archbold, p. 543.

Mr. Rockefeller's testimony is ambiguous as to whether they transferred the stock directly to the Standard Oil Company of Ohio first, or whether, as owners of the stock, they transferred that to the trustees of the Standard Oil Trust; but in any event all the stockholders agreed to the trust contract of 1882. Two days afterwards they modified it. The company in Ohio had originally 9 directors of the Standard Oil Company and they were afterwards reduced to 7; the 7 continued to vote the 9 shares. The theory of the Standard Oil Company was that a corporation could maintain its existence by 7 directors holding each a share of stock. They did this to comply with the statute. Seven directors could elect a president and secretary and necessary officers, and the remaining stockholders would be at liberty to assign their stock to trustees. Other companies did the same, thus organizing and maintaining a trust. In other words, they argued the corporation would not be responsible for the acts of the individual stockholders, and that theory ran through the entire organization of the trust; viz, that stockholders could act independently of the corporation. The suit was begun by my predecessor, General Watson. The 84,998 shares had passed out of the hands of the stockholders into the hands of the 9 trustees.

THE CONSTITUENT COMPANIES.

There were three classes of companies that entered into the combination. First, they had all the stockholders and members of the following 14 companies; The Acme Oil Company (New York); Acme Oil Company (Pennsylvania); Atlantic Refining Company of Philadelphia; Bush & Co., Limited; Camden Consolidated Oil Company; Elizabeth Acid Works; Imperial Refining Company, Limited; Charles Pratt & Co.; Paine, Ablett & Co., Limited; Standard Oil Company (Ohio); Standard Oil Company (Pittsburg); Smith Ferry Oil Transportation Company; Solar Oil Company, Limited; Stone & Fleming Manufacturing Company, Limited. All the stockholders and members of these corporations and limited partnerships were required to sign an agreement to turn in their stock (except enough to preserve State organizations), as I have explained to you. A second class of companies consisted of the interests of W. C. Andrews, John D. Archbold, and a long list known as the individual owners, who signed the original trust agreement. A third class consisted of corporations, 25 in number, which assigned a controlling interest in the companies to the trustees. They were: The American Lubricating Oil Company; Baltimore United Oil Company; Beacon Oil Company; Bush and Denslow Manufacturing Company; Central Refining Company, of Pittsburg; Chesebrough Manufacturing Company; Chess Carley Company; Consolidated Tank Line Company; Inland Oil Company; Keystone Refining Company; Moverick Oil Company; National Transit Company; Portland Kerosene Oil Company; Producers' Consolidated Land and Petroleum Company; Signal Oil Works, Limited; Thompson & Bedford Company, Limited; Devoe Manufacturing Company; Eclipse Lubricating Oil Company, Limited; Empire Refining Company, Limited; Franklin Pipe Company, Limited; Galena Oil Works, Limited; Galena Farm Oil Company, Limited; Germania Mining Company; Vacuum Oil Company; H. C. Van Tine & Co., Limited; and Waters-Pierre Oil Company. These 89 companies, with the long list of individuals, are all that entered into the original Standard Oil Trust; The respective stockholders, partners, and individuals, on an appraisement agreed upon, received new trust certificates for their proportionate interests in the stock or assets transferred to the trust.

APPRAISEMENT OF THE BUSINESS OF THE CONSTITUENT COMPANIES.

Q. Will you tell us, first, how this appraisement was made and what its basis was?—A. Well, the consideration for the transfer and conveyance of the money, property, and business of each of the Standard Oil Companies was trust certificates of the Standard Oil Trust, issued by the trustees of the trust, equal in par value to the appraised value of the money, property, and business so transferred. The stock was to be delivered to trustees provided for in the trust agreement and their successors, and no stock was ever to be issued by any of the contracting companies except for money, property, or business equal at least to the par value of the stock so issued, nor was any stock issued by any of said companies for any purpose, except to the trustees herein provided for, to be held subject to the trusts hereinafter specified. There was not any watered stock. They entered the trust at the actual appraised value; the appraisers were interested men, and it would have been of no advantage for them to inflate it. They attempted to get actual value, and on that basis they issued trust certificates.

Q. Probably the selling value at ordinary sale?—A. It was placed on the income value—its selling value. The trust agreement provided for 9 trustees to be elected. The first three were John D. Rockefeller, O. H. Payne, and William Rockefeller, and they were elected to hold office until the first Wednesday of April, 1885. The next three were J. A. Bostwick, H. M. Flagler, and W. G. Warden, to hold office until the first Wednesday of April, 1884; and the next three, Charles Pratt, Benjamin Brewster, and John D. Archbold, to hold office until the first Wednesday of April, 1883. The trustees were thus a continuous body. In the beginning there was one-third for 3 years, one-third for 2 years, and one-third for 1 year, who held office until their successors were duly elected and qualified. The 39 original companies were subsequently merged into 20 companies. A list of the 20 companies and the capital stock, the nominal capital stock as they now exist, is about as follows:

Companies.	Appraised value.	
Anglo-American Oil Co., Limited.....	\$6,913,639.49	\$5,000,000
Atlantic Refining Co.....	8,631,373.87	5,000,000
Buckeye Pipe Line Co.....	7,941,088.15	10,000,000
Eureka Pipe Line Co.....	1,547,055.16	5,000,000
Forest Oil Co.....	8,528,813.11	5,500,000
Indiana Pipe Line Co.....	2,014,053.91	1,000,000
National Transit Co.....	25,796,712.97	25,455,200
New York Transit Co.....	4,999,300.00	5,000,000
Northern Pipe Line Co.....	707,067.00	1,000,000
Northwestern Ohio Natural Gas Co.	1,386,760.00	3,273,500
Ohio Oil Co.....	8,260,373.04	2,900,000
Solar Refining Co.....	711,793.87	500,000
Southern Pipe Line Co.....	3,279,018.23	5,000,000
South Penn Oil Co.....	3,021,654.87	2,500,000
Standard Oil Co., Indiana.....	1,036,518.61	1,000,000
Standard Oil Co., Kentucky.....	3,604,800.78	1,000,000
Standard Oil Co., New Jersey.....	14,983,943.30	10,000,000
Standard Oil Co., New York.....	16,772,186.29	7,000,000
Standard Oil Co., Ohio.....	3,423,014.72	5,000,000
Union Tank Line Co.....	3,057,187.41	3,500,000
Capitalization twenty corporations.....	121,681,312.63	
Excess.....	102,233,700.00	
	19,397,612.63	

The capitalization of these 20 companies is \$102,233,700; the excess of value over and above their capitalization at the date of this inventory was \$19,397,612.63.

THIS INVENTORY BASED UPON THEIR OWN TESTIMONY.

Q. Will you make it clear what you have based this inventory upon and who took the inventory?—A. It was taken by the representatives of the trust certificate holders, I think.

Q. (By Mr. NORTH.) On what basis was that appraisal made; do you know that?—A. I asked Mr. Rockefeller the following question: "Give the surplus money in the hands of each and every constituent company, corporation, and limited partnership as represented by trust certificates of the Standard Oil Trust on or about January 1, 1892, and how much after the payment of their last dividends, stating when such dividends were declared and paid and the total amount of each, and whether said dividends were turned over in each and every case to an official representing the Standard Oil Trust." And this was the answer he gave:

"I have not in my possession or power data showing the surplus money in the hands of each and every constituent company, corporation, and limited partnership, as represented by trust certificates of the Standard Oil Trust on or about January 1, 1892, nor the amount of such surplus money in their hands after the payment of their last dividends. During the year 1892 a careful inventory and appraisal was made of all the assets of said companies, and the result was found to be as follows:" (The above figures are taken from this complete answer.)

Q. That was their own appraisal?—A. That was their own appraisal. We were obliged to take that, as they refused to produce their books. There is a matter now pending before the courts of Ohio whether or not it invades constitutional privileges if they are required to disclose their books for such purposes. We have asked for the books, or original testimony, so far as it bears upon our litigation.

DIVIDENDS AND THE VALUE OF THE TRUST CERTIFICATES.

I then asked for the last dividends of said companies, prior to November, 1897. The copy of the record of the Ohio supreme court proceedings, that I leave with you, will give you the list of the companies and amount of dividends paid by each. Some of the companies pay quarterly dividends, some annual, and others, apparently, have declared no dividends for the last year.

LIST OF DIVIDENDS.

The last dividends of said companies prior to November 9, 1897, were as follows:

Anglo-American Oil Co., Limited, June 15, 1897.....	\$506,480.00
Atlantic Refining Co., Mar. 15, 1897.....	1,999,600.00
Buckeye Pipe Line Co., Sept. 15, 1897.....	3,999,780.00
Eureka Pipe Line Co., Sept. 15, 1897.....	599,868.00
Forest Oil Co., Oct. 30, 1891.....	287,100.00
Indiana Pipe Line Co., Mar. 15, 1897.....	999,450.00
National Transit Co., June 15, 1897.....	2,545,475.00
New York Transit Co., Mar. 15, 1897.....	1,999,600.00
Northern Pipe Line Co., Sept. 15, 1897.....	232,244.25
N. W. Ohio Natural Gas Co., Sept. 15, 1897.....	29,497.50
Ohio Oil Co., June 15, 1897.....	999,887.50
Solar Refining Co., June 15, 1897.....	147,234.50
Southern Pipe Line Co., Sept. 14, 1892.....	300,000.00
South Penn Oil Co., June 15, 1897.....	2,498,900.00
Standard Oil Co. (Indiana), Mar. 15, 1897.....	699,300.00
Standard Oil Co. (Kentucky), Mar. 15, 1897.....	1,998,000.00
Standard Oil Co. (New Jersey), Sept. 15, 1896.....	2,499,775.00
Standard Oil Co. of New York, June 15, 1897.....	1,740,725.00
Union Tank Line Co.—no dividends declared.	

No dividend, the company claims, has been paid by the defendant company since the distribution of surplus made on March 17, 1892. Prior to August 5, 1891, the defendant company was the owner of a large number of tank cars, most of which had accumulated under the management of the trustees, which were rented to other companies. Its stockholders and directors determined that it should discontinue the transportation business, and on August 5, 1891, the defendant company sold its tank cars to the Union Tank Line Company, and received in payment therefor the sum of \$3,500,000. Of this sum, on March 17, 1892, it handed over to the trustees \$3,219,540 for distribution by them among the holders of trust certificates, this being the distribution referred to in the answer filed by this company, and, the company claims, the only distribution or payment made by the defendant company to the trustees since the former decree of this court. This sum, or the balance remaining thereof after settlements of contracts, agreements, and accounts by said trustees, as shown in their resolution of May 16, 1892, was distributed to the holders of the trust certificates. The surplus since accumulated in the hands of the defendant company amounts to \$700,000, which is invested in Government bonds.

The answers to the preceding interrogatories are all we have to show to whom, in every case, dividends were paid. They were paid in each case by the company declaring the same to its stockholders of record, the liquidating trustees receiving dividends from companies other than this defendant upon that portion of the capital stock of the said several companies which is held by them, awaiting reissue to the dividend owners thereof on surrender of trust certificates.

Q. (By Mr. JENKS.) They are not all quarterly?—A. No.

Q. Can you give the distinction?—A. I can not give you the distinction. I will furnish you with a list of the entire dividends, at the last payment, including the quarterly, which amounts to something over \$24,000,000. According to that, the value of trust certificates is to be estimated at about 480 or 500 per cent, and since they have it in their power to control the retail price of oil, they can, by raising or lowering it, make a dividend at about what they please. They have raised the retail price of gasoline and oils at noncompetitive points since this suit was instituted, and it has the effect of increasing the value of their trust certificates. I can give you the dividends that have been declared since 1892.

Q. Could you furnish us the prices at competitive and noncompetitive points?—A. Yes; I will do that later. Just prior to the date of General Watson's decree they organized a Union Tank Line Company, and they took out of the business

of the Standard Oil Company of Ohio the assets formerly used in the transportation of the refined products, amounting to \$3,500,000, so that these constituent companies now have their respective departments. As I narrated in the opening of my testimony, although substantially the same men are in control, the companies have different functions. On March 17, 1892, they turned over to the trustees of the trust for distribution, after the decree of the court against the trust (which is one of the things we claim to be a violation of the order of the court) the \$3,500,000 assets so acquired; and that was distributed among the holders of the trust certificates after the courts ordered them to withdraw from the trust. They were interrogated further as to what they have since done with the accumulations of the Standard Oil Company. They have attempted to account for their accumulations by charging off in profit and loss accounts by way of depreciation in the plant. These figures I can furnish you. Mr. Squires claimed (he refused to produce the books) and gave as his conclusion February 7, 1895, that \$230,019.96 was charged off for depreciation of plant December 31, 1894, and on or about May 13, 1896, they charged off \$1,200,000 more for depreciation of plant. They hold \$700,000 in Government bonds.

Q. Is that amount charged off for depreciation supposed to include the dismantling of any plant they had purchased and put out of operation?—A. No. The Standard Oil Company, as a "going" concern, had accumulated assets all these years, according to our theory. They only redeemed 51 and a fraction per cent of trust certificates, or enough to have the control, and they continue as they always have.¹ These Standard Oil trust certificates are still on the market, and are nourished in some way, or they would not be paying these trust-certificate dividends. The other 19 companies must at least be nourishing them. The Standard Oil Company of Ohio had to account for the distribution of its income. It had this theory, viz, that it has earned nothing since the decree, but will not produce the commercial books to corroborate it.

BOOKS BURNED BY THE TRUST.²

Q. How about the charge of burning their books?—A. We adjourned on the night of February 15, on Thursday, and they were required to appear before the court on the following Tuesday to show reason why they should not abide by the order of the master and the decree of the court and produce their commercial books. We received an anonymous communication that they had burned their books. We subpoenaed certain parties and had them testify as to the fact. The information to the State, after following up the matter, was that they had burned 16 boxes of books. I give you Mr. McNirney's testimony touching upon the subject.

Attorney-General Monnett then read extracts from the testimony of Mr. John McNirney as to the burning of the books. The direct examination of Mr. McNirney in full is as follows:

JOHN McNIRNEY, of lawful age, being by me first duly sworn, as hereinafter certified, deposes and says as follows:

Q. (By Mr. MONNETT.) State your name and residence to the notary.—A. John McNirney, 85 Oregon, Cleveland, Ohio.

Q. What is your business, Mr. McNirney? What company are you working for?—A. The Standard Oil Company.

Q. How long have you been working for them, and what time?—A. Three years next September, as car builder and repairer.

Q. On what street is their car-building works?—A. On Broadway, I believe.

Q. Where are the general offices of the Standard Oil?—A. As I understand, on Euclid avenue, what they call the Standard block; and they have got another general office for the shop on Broadway.

Q. Then part of the works is on Independence street, is it not?—A. I believe it is. Now, I don't know anything about that. I know that the works where I work is on Broadway.

Q. In the car shops?—A. In the car shops; the hill shop.

Q. You may state whether or not you were called, on or about Saturday the 19th of November, to the general offices to do any work in the way of removing boxes or books, or anything.—A. Yes; I was.

Q. You may state just what that work was, and commence with the first. What time of day did you get there?—A. We got there about 11 o'clock in the forenoon.

Q. What was the first thing you did? What did you help do?—A. The first thing we did was to lower a lot of books from the fifth story to the ground floor.

¹ See Mr. Archbold, p. 574.

² Compare the testimony of Mr. Archbold, p. 543.

Q. Lower them?—A. I didn't say books; I say boxes. I don't know what was in the boxes. To lower a lot of freight boxes—supply boxes. We call them supply boxes.

Q. Did you help pack the boxes or anything?—A. No, sir.

Q. Whom did you lower them to? What teamsters, if you know any of them?—A. There was a teamster there, but we was going to take the books—I say boxes—out in front; but, as I understood, the janitor objected and said we must not take them out in front; we must take them out in the rear of the building.

Q. You lowered these boxes with a tackle from the rear window?—A. No; on the passenger elevator.

Q. You lowered them with that?—A. With that; yes, sir.

Q. What was done with them after that? What teamster?—A. We took them up again. When they objected, we took them upstairs again.

Q. Then what was done with them?—A. Then we lowered them from the back window down in the yard in the rear.

Q. What kind of a device did you use to lower them with?—A. A tack¹ e.

Q. What teamsters, if any, got them?—A. I could not tell you. I could not swear to the name of the teamster. I know him, but in our capacity we don't come in contact with the teamsters very much.

Q. Was Edward O'Hearn one of them?—A. I could not swear that was his name. I would not swear that was his name. I know him personally, but I don't know his name. I meet him every day, but I don't know what his name is.

Q. You would know him if you saw him?—A. Yes.

Q. A black-mustached man, about your age?—A. An Irishman.

Q. A little heavier set?—A. Yes, sir; I would know him if I saw him again. I see him every day. I don't know his name.

Q. Was there any other man assisting?—A. Yes, sir.

Q. Who assisted you?—A. Moran.

Q. Moran; what is his business?—A. He is a car builder and laborer.

Q. Do you know a man by the name of Gabeline?—A. Yes; I know him.

Q. Did he assist you?—A. I believe he was at—

Q. Where was he; at the offices or the carworks?—A. At the general offices.

Q. Do you know a man by the name of Shafer?—A. Yes.

Q. Was he assisting in any way?—A. I believe he was there, too.

Q. At the general offices?—A. At the general offices.

Q. What did they do?—A. They assisted to lower the boxes.

Q. After they were removed and taken down the tackle, then where were they taken to?—A. I believe they went to the warehouse.

Q. Did you ever afterwards see them; and if so, what did you do with them? Did you after that see the same boxes?—A. I saw the books; I don't swear they are books, because I don't know what was in the boxes.

Q. Where were they when you saw them the next time—the same boxes?—A. In the warehouse.

Q. You may state, then, if you had anything to do with the opening or burning any books about that time.—A. Yes, sir; we did burn some of those books next Monday. No; we didn't burn them all; I don't think we burned all we took out. I did not keep no track, and wasn't interested, and don't know how many books we burned.

Q. Did you have more than one burning; were you at it more than once?—A. Yes, sir; twice. The first lot we burned in the car-shop furnace.

Q. What sized books were those?—A. Large and small.

Q. Give the size of the biggest ones, the thickness.—A. That high [indicating].

Q. That would be 2½ feet high?—A. Well, I don't know. I say about 20 inches.

Q. The books were about 20 inches?—A. The chest about 20 inches, and they come up to the top.

Q. About how thick were they?—A. All sizes; I didn't pay no special attention. We burned some big boxes and some small ones. I wouldn't swear how big they were.

Q. You held this way: about 8 inches high and 6 inches wide.—A. We didn't pay much attention, because we had to get them in there quick. I know they were large, heavy books, almost as much as a man could lift, some of them; what I call ledgers—large books.

Q. Did you burn up loose papers?—A. Yes, sir; we burned papers and letters in a sack.

Q. How many were left to burn the next night or on Monday night, you say?—A. I think we burned 9 chests and 6 sacks. Those sacks were all letters; copying books, I should think, or something like that. Loose papers, waste paper, I say.

Q. Letter-press books and letters and waste paper?—A. I should say waste paper.

Q. How many chests were there originally, about; do you remember how many made a load?—A. Sixteen, I believe, made a load; 16 chests.

Q. At the furnace, who helped you throw them in?—A. Moran.

Q. What is his position?—A. Car builder and repairer.

Q. What is his first name, do you know?—A. I couldn't tell that; you know, although I know him 2 or 3 years, yet I don't know his name. We work with them every day and don't know their first names.

Q. Is he your boss?—A. He is a young fellow; he used to cut bolts; he was a kid, about 20 years; he used to cut bolts.

Q. Were there any of the books that were not burned that were concealed down there in that package or hid away?

(Objected to.)

A. What I know—I don't think we burned all the books, because we took more than we burned, as far as I know. I don't know anything about that.

Q. Who else about the offices up there—at the general offices—assisted in this in any way besides Moran; do you know?—A. In the burning of the books;

Q. Either at the offices or in the burning of the books; what other parties?—A. I don't know their names.

Q. What part did Gabeline—did he help take them out of the boxes?—A. No; he didn't help to take anything out of the boxes. He did not know what was in the boxes.

Q. He just helped move the boxes up at the offices?—A. Yes, sir; we were short-handed, and they sent a party from the car shop to assist us load the boxes at night.

Q. Were the boxes themselves loaded at night, after they were taken down by the tackle?—A. The boxes were locked when we went there—all nailed up and locked, securely locked; I don't know whether they were securely locked; some of them had no locks on.

Q. You described, if I understood you, as having taken them down, or a part of them down in the elevator first, and then the elevator man—.—A. The janitor objected, and we had to take them up, if I understood that.

Q. The reason you had to take them back again and he would not let you come down the front way, you had to take them out of the back window?—A. Yes, sir; that is the reason we had to lift them to the third story and lower them out of the back. We could have done very quickly if we could have taken the boxes in the front.

Q. What street, then, was the wagon backed up on?—A. There is no street there; it is a yard.

Q. How many different teamsters do you think had a hand in hauling the stuff?—A. Now, I think there was about three; I don't know the name of the teamsters; the first load I don't know anything about. They took the first out on Friday—took that up to the offices, and we destroyed that load in the morning. I don't know who brought that load up.

Q. Was it Saturday morning that you destroyed them?—A. Yes; Saturday morning, and O'Hearn, I guess, was the man's name that took the 2 loads on Saturday night.

Q. Were they the same boxes each time, and return the empty boxes?—A. No, I would not say the same boxes; they have lots of boxes—any amount of them, hundreds of boxes.

Q. What kind of sacks were those?—A. Gunny sacks; common ones.

Q. About how high would they be when they were full?—A. About that high [showing].

Q. About 2 feet high?—A. Potato sacks; what commissioners use for potatoes.

Q. Gunny sacks, such as commissioners use for putting potatoes in?—A. Yes, sir.

Q. The first time you burned them, about what hour did you commence burning them down there in the car shops?—A. I don't know about the hour; probably 8 o'clock.

Q. Saturday morning?—A. Half past 7 or 8.

Q. On Saturday morning was the first?—A. Yes, sir.

Q. Then when did you commence on the second time?—A. We commenced then about—Monday we commenced about 10; maybe half past 10.

Q. The same parties present each time?—A. Yes, sir. Now, not all the parties, because only 2 of us fired the pump-house boilers.

Q. Why did you change from the car-shop furnaces to the pump-house boiler?—

A. As I understood it, because they put the steam down—the books would not burn.

Q. How do you mean—putting the steam down?—A. In the car shops they fire with shavings from the cooper shop and car shop; there is nothing but bones and shaving and small stuff goes in there.

Q. It don't keep a steady fire?—A. Yes; the shavings keep a steady fire; but when books went in they didn't burn rapid enough to keep steam up, so the steam went down.

Q. And then you had to go over to the other shops. What kind of furnaces have you at the second shop?—A. Just a common—I guess Sterling boiler; I don't know the name of the boiler. I know we fired the boiler from about 10 o'clock, I guess, till half past 1—we put these books in.

Q. Large, solid books burn fast or slow?—A. I judge they burned kind of slow. Paper burned all right and kept up good steam.

Q. But the heavy books in the first furnace practically put the fire down so low that you could not run?—A. I don't know; but that is what I understood.

Q. How far is the second furnace from the first one—the same building?—A. No; there is the pump house on the river, and the car shop is on the hill.

Q. The last books were burned by the river in the pump house?—A. Down by the river.

Q. Who all did you see up there at the general offices besides the two you have given? Moran is one you have given and Gabeline is another.—A. He don't know anything about the burning of those books.

Q. Moran helped you at the general offices; Moran helped you each place at the general offices?—A. Through the whole transaction.

Q. Through the whole transaction?—A. Yes.

Q. From whom did you get your orders to go up to the general offices and do the burning?—A. The car-shop foreman.

Q. That is this Mr. Moran?—A. No.

Q. Who is the car-shop foreman?—A. His name is George Fields; he is the car-shop foreman, or was at that time, because the master car builder was away at that time, and he was acting as master car builder.

Q. When did he give you these orders, with reference to the first that you started out; on the same day, on Friday?—A. What orders?

Q. To go after these books, or to go up to the general offices?—A. Yes, he gave me orders to go up to the general offices and get these books.

Q. About what time of day was that on Friday?—A. On Friday, I should judge, about half past 9 or 10 o'clock in the morning. We got up here about 11. I should say, as near as—I would not swear to the exact time, because I don't know, though it was before dinner time when we got up there; the clerks were all there yet.

Q. The clerks were all in the office yet?—A. When we got up there.

Q. Was anybody in the office when you were moving these boxes out?—A. They were all in there—all the clerks.

Q. Did anybody up there give you directions about getting them out other than Moran? Who gave you directions about where to get the boxes up at the offices?—A. They had the boxes tagged for distribution.

Q. What places were they tagged to—to what places were you to take them?—A. Well, now, I couldn't tell that; I don't know whether they were tagged for the car hill shop, or just Charles Hogan, for distribution.

Q. Who is Charles Hogan?—A. He is general superintendent, as I understand.

Q. Tagged to him. Where does Charles Hogan hold forth?—A. What is that?

Q. Where does Charles Hogan have his headquarters, at the Broadway or Independence street shop?—A. I believe his headquarters is at Broadway.

Q. What kind of a looking man is he?—A. A fine looking man.

Q. Black-moustached man?—A. No. He is a young man; he has got no moustache at all; smooth-shaven, clean-faced; not a very oldish man. He is superintendent. He can tell you more about those books than I can.

Q. That is Charles Hogan?—A. Charles Hogan.

Q. I was informed he could, but we were not able to subpoena him yet.

Q. (By Mr. JENKS.) You believe these books that were burned were the ones you required Mr. Squires to produce?—A. That is the fair legal presumption from the testimony, considering the size of the books, the size of the boxes, the number, the circumstances, and the refusal to produce them afterwards, although Mr. Kline in open court stated that they had not destroyed them, that they had them yet, and that they would not produce them on the request of the chief justice of the court. They absolutely refused to produce them, and relied upon

their constitutional privilege to refuse to answer. The exact testimony as to the burning of the books I will furnish you for your own conclusions. The only purpose in bringing it in here is to show you we are adopting their explanation as to their profits, the way they distribute them, etc., the reason being that we do not have the substantive evidence which they keep from the public.

Q. You have spoken of the trust certificates—perhaps you can furnish us a copy of those.—A. Yes; I also hand you this list of dividends declared by the Standard Oil Trust and the amounts. It is part of Mr. Rockefeller's testimony.

DISTRIBUTION OF THE TRUST CERTIFICATES—SALARIES.

Q. (By Mr. PHILLIPS.) For what period?—A. Covering from 1892 to date, if you wish them. If you care to have it, I will furnish you a copy of a share of trust certificates that were issued to the original stockholders, Mr. Rockefeller receiving more than any other man. He received, January 1, 1892, for his stock in the Standard Oil Company of Ohio alone, 191,700 trust certificates. His interests in the Standard Oil Company of Ohio netted him in trust certificates alone, at that time, a par value of \$19,170,000. Mr. Rockefeller receives \$30,000 a year salary, as I understand it, from the Standard Oil Company of Ohio, which was the amount he received originally as chairman of the trustees of the Standard Oil Trust. The trustees of the trust held 466,280 shares. They also held more than half of 85,000, about 23,814. Mr. Rockefeller seems to have held the majority of these, or the balance of power—that is, of the 17,500 shares he holds 9,585 shares.

MR. ROCKEFELLER HAS ABSOLUTE CONTROL.

Q. That gives him, individually, absolute control?—A. Yes: it is a scheme whereby, when these 20 companies were once in the trust under the control of the 9 trustees, Mr. Rockefeller could control the trustees. It is practically a 1-man power for the whole organization, and when you look at it, he, as an individual stockholder, assigned to himself as a trustee, and then as a trustee assigned to himself as liquidating trustee, which he is still. He has, with his henchmen, the power to fix his own salary and those of the trustees, and when sifted to the bottom I think it is a fair deduction to say that he has control.

Q. (By Mr. JENKS.) If I understand you, he does not need the aid of his "henchmen"?—A. Not for part of these companies. Before a man could have his trust certificates reconverted into constituent stock and get out of the trust he would have to hold \$86,000 worth. In other words, the men who hold the larger amounts and who are the trustees, are able to convert their certificates and still hold the balance of power in the 20 constituent companies, having the voting power now as they had before. They have, to all intents and purposes, the opportunity, at least, to absolutely control the 20 companies as much as they had before the decree; the decree has not bothered them except in bookkeeping.

Q. Will you make it a little clearer how the organization of this company brings that about?—A. I understand that the owners of the original constituent stock, in turning it all over to the 9 trustees, got in return a fractional part of the stock of every one of the other companies. When they came to convert their trust certificates back into constituent stock they did not own a distinct portion in any one company, but a portion in all the 20. They might have enough trust certificates to secure, we will say, 2 shares in a large company and but 3 or 4 in any others, but not enough to secure more than fractional shares in the small companies, from which they could receive no dividends, fractional shares not paying dividends.¹ Therefore, there is no inducement to persons holding trust certificates to turn an investment paying 85 per cent on their original purchase into something for which they can get nothing, viz, scrip or fractional shares. Such persons are forced to stay in the trust, or hold trust certificates; but the larger owners can get theirs reconverted, and they, being so few in number, and being trustees, are still in command.

AMOUNT OF DIVIDENDS PAID BY THE TRUST.

Q. You stated that the holders of the trust certificates were receiving 85 per cent on these certificates.—A. I will give you the exact figures. I should say that the 972,500 original trust certificates only represents a part of them, for they had it in their power under this contract to issue practically what they pleased. December 15, 1898, the liquidating trustees, that is, Mr. Rockefeller, representing

¹ See Mr. Rogers, pp. 582, 587.

² See Mr. Archbold, p. 542.

the Standard Oil Trust certificates, held their meeting November 8, 1898, at 26 Broadway, and December 15, 1898, adopted the following resolution:

NEW YORK, December 15, 1898.

At a meeting of the liquidating trustees of Standard Oil Trust, held November 8, 1898, the following resolution was adopted:

Resolved, That there be divided, from the income of the stocks still remaining in the hands of the liquidating trustees, a sum equal to three dollars (\$3) upon each share of said trust; also a further special sum equal to four dollars (\$4) upon each share of said trust, payable on and after December 15, and that the transfer books be closed from 3 p. m., November 16, to 10 a. m., December 16, 1898.

Enclosed please find check on National City Bank of New York for your proportion of the distribution, in accordance with the above resolution.

No acknowledgment.

(Signed) WM. T. WARDWELL,
Assistant Treasurer.

The following is the form of the check:

No. A B 2528.

NEW YORK, December 15, 1898.

NATIONAL CITY BANK.

Pay to the order of Geo. Rice forty-two dollars.

TRUSTEES TO LIQUIDATE STANDARD OIL TRUST.

By H. M. FLAGLER,
Treasurer.

\$42.00.

Being quarterly payments, these dividends would be at the rates of 12 and 16 per cent per annum, which would be nearly 30 per cent for that year on the original basis of value. According to this, 35 per cent would seem to be a fair deduction. In 1892, after distributing \$3,121,725 surplus, which they had on hand, among the holders of 972,500 shares, they distributed \$3.21 on each \$100 of surplus. On March 15, June 18, and September 15, 1892, they paid \$3 a share upon the trust certificates. On May 20, September 15, and December 15, 1893, they paid \$3 a share, and on March 15, June 15, September 15, and December 15, 1894, \$3 a share.

Q. (By Mr. PHILLIPS.) Is \$3 a share generally a quarterly payment on \$100? That amounts to \$3,000,000 per quarter, \$12,000,000 per annum.—A. Their dividends at one place were given at \$24,000,000. That included the dividend on stock, 51 per cent of the trust certificates having been turned back into stock, while 49 per cent are still held as trust certificates. That is the dividend annually on the trust certificates.

Q. Three dollars per share each quarter?—A. Yes. On March 15, 1895, they paid \$3 a share, less the income tax, which, I suppose, was returned to them; on June 15, 1895, they paid \$3 a share, less 6 cents per share, in anticipation of the income tax, the income-tax case being then in the hands of the court; on August 21, 1895, they paid \$3 a share, and on November 20, 1895, they paid \$3 a share and \$5 extra. The next quarter, March 17, 1896, they paid \$3 a share and \$10 extra.

Q. That would be \$18,000,000 in that quarter?—A. Yes; that quarter. On August 4, 1896, they paid \$3 regular and \$7 extra; on November 5, 1896, \$3 regular; on November 18, 1896, \$3 regular and \$2 extra; on February 17, 1897, \$3.07 extra; on May 19, 1897, \$3 regular and \$7 extra; on November 17, 1897, \$3 regular and \$5 extra. That takes it up to the time for which I asked data. I have summarized here somewhere the total dividends paid up to that date. I think I can get that for you. I have summarized it in a statement to the court.

SALARIES, ETC.

What the 20 constituent companies paid out to directors and their respective officers we have no means of ascertaining, except for the one Ohio company. It is probable their salaries run from \$40,000 to \$50,000 for the president of the larger companies. Of course, under the decree of the court, they have to pay these salaries through some other device than the trustees. They must now pay them through the constituent stock companies. Mr. Rockefeller, on cross-examination, said he receives his income or dividends from his holdings, just the same now as he did when they were in the trust, but in a different form. He receives them as holder of a certain number of shares in the 20 companies, which he says are now resolved into constituent stock, while before that he received it in dividends on

¹ See Mr. Archbold, p. 574.

trust certificates. Mr. Corrigan's testimony and the pleadings set forth that Mr. Rockefeller held, since 1892, a large block of these trust certificates as collateral security and was the beneficiary of the income for his protection. As I said, that was in a separate suit, and will be found in the testimony of Mr. Corrigan.

VALUE OF TRUST CERTIFICATES BASED UPON INCOME.

The present value of the certificates based upon income is 500 times \$72,500. As a prominent judge puts it: "There is no expert who is better qualified to testify as to the value of a plant than the shrewd manipulator and buyer in the open market," for he gathers all the information that governs the market. Considering the fact that three-sevenths of the trust certificates have not been reconverted, in connection with Mr. Rockefeller's testimony that he gets his interest just the same now as he did before, the present value of the aggregate stock of the companies and the trust certificates may be fairly estimated at \$480,250,000, provided they have not issued, as they could under the trust agreement,¹ more than the original amount of trust certificates. If that is all of the trust certificates that are out, they would now be worth, instead of \$97,250,000, their original estimated value, at least 5 times that amount; and if the constituent stock is worth, in the hands of the trustees or the holders, the same, being in a different form only, that would be the stock value.

Q. (By Mr. JENKS.) Have you anything further in regard to evasions or profits that you can furnish?—A. No; you can make your deductions from these figures, I guess.

THE PURCHASE AND DISMANTLING OF COMPETING PLANTS.

Q. Can you give us any information on the question of the purchase by the Standard Oil Company of competing companies and the dismantling of their plants?—A. The refining plant at Whiting, Ind., has absorbed the business of the plant at Cleveland since 1892, making a fair deduction from Mr. Squires's testimony that they charged off the 2 items I have heretofore given you. They have reduced their men more than two-thirds in Cleveland and transferred them to other fields. If you will call Mr. D. W. Brown, of Cleveland, and Scofield, Shurmer & Teagle, you will get the data on this subject. I am only giving the conclusions. After establishing the new plant at Whiting, they got a freight rate to southern fields, e. g., New Orleans, of 23 cents a barrel, as against one of about 33 cents and a fraction from Cleveland; in other words, Scofield, Shurmer & Teagle, competing from Cleveland, were handicapped by the difference between 33 cents and 23 cents in freight rates, almost 50 per cent more freight in sending to a distributing point in the South. The commercial wisdom of their establishing a plant at Whiting and shipping at a lower rate over the Illinois Central is very apparent, for no other competitor could start from Whiting or ship from there. While they would not dare, under the interstate-commerce law, have a different rate for different people from Cleveland or from distributing points, they managed to get different rates by changing their refineries to noncompeting points.²

As to the dismantling of the plants at Marietta, I think I can give you the data from Senator Davis's testimony. They practically dismantled all the competing concerns there and at Parkersburg, and left nothing but a burnt-out crater. The last one to go was the Argan Refining Company, which they could not dislodge because its owners, Mr. Rawn and Mr. Peabody, were the directors of the Baltimore and Ohio Southwestern Railway, and the oil trade was a source of large profit. One of the opportunities for discrimination in freight rates consists in the bookkeeping arrangements between the Standard Oil Company and the railroads concerning the price to be charged up against the roads for lubricating oil furnished by the Standard. As they did not furnish the lubricating oil to the Baltimore and Ohio Southwestern under Mr. Rawn, they could not freeze out or exterminate the Argan Company; hence they bought the plant, paying \$12,000 a year to remain idle, and are now dismantling it.³ They have taken up the pipe line leading to the plant. Although the Argan continued selling oil, apparently in competition with the Standard Oil Company, it was in fact the Standard Oil Company's own plant. The Argan people get \$12,000 annually, besides a bonus that was paid down. I think the plant is to remain idle for 10 years, but at the end of 10 years, at the rate of the present disintegration, it will continue to remain idle. I advise you, if you will allow the suggestion, to get ex-Senator Davis, of Marietta; he is a very intelligent gentleman and can give you the data with reference to the destruction of competing plants at that point. Mr. Peabody was the other

¹ See p. 542.

² See Mr. Westgate, p. 376, middle; Mr. Rice, Mr. Page.

³ Compare Mr. Davis, pp. 351, 361; Mr. Archbold, p. 544.

man who had an interest in the Argan. They furnished the lubricating oil to the Baltimore and Ohio Southwestern from the Argan. The Argan was able, with that advantage, to compete with the Standard, which could not destroy them.

Q. Have you any information in reference to the prices paid by the railroads to the Standard for lubricating oil?—A. No; I can not give you correct data; you can get railroad men on that point; if you call Ira Rawn, of Cincinnati, you can get the information; Mr. Peabody died about 6 weeks ago. After the Corning field was opened up, above the Macksburg field, they raised the transporting price of the pipe line to 17 cents. At 17 cents it was unprofitable for the owners of those fields to ship oil to Parkersburg or Marietta.¹ In gaining control of the transportation department, you will find, gentlemen, lies the secret of the maintenance of discrimination in favor of commercial trusts.

TRANSPORTATION COMPANIES EXERCISE PUBLIC FUNCTIONS, AND COULD BE CONTROLLED.

If Congress would enact laws, or if the executive officers would bring these companies before the courts, they could be punished, for it is to be remembered that the right of eminent domain can not be exercised by corporations except as granted to them. The right of eminent domain is authority for a corporation to take private property for public purposes. If, after it is once so taken, the corporation having that governmental function vested in it were held down to the same strictness in its exercise that the Government holds all other officers exercising similar functions, there would be very few of these industrial combinations. It is a plain proposition that these trusts must necessarily link themselves with sovereignty, and it is entirely inconsistent with the fundamental principles of the Government that corporations so obtaining private property should use such property in any other manner than for the public good. If an assayer, or a man commissioned to coin money, who is only exercising a governmental function, should clip the coin and make it light weight, and profit by the difference, he would no more be violating the principles of the franchise he is exercising, in a moral or commercial sense, than these men who take public property, as a pipeline company or a railroad company, for the purpose of a common carrier, which they can get only through power from the State, and afterwards use it for private ends. The remedy is simple; it is one in which the courts have never once faltered when it is presented to them. When a corporation exercising governmental functions, such as the right of eminent domain, does not return the contractual relation to sovereignty required of it, viz, that of a common carrier, its charter should be taken from it, or, if that be too drastic, the franchises it is now exercising should be taken away. Whenever a common carrier or railroad company undertakes to water its stock or to discriminate between one town and another, or whenever it undertakes to get advantage through a tank-line freight rate as compared with a barrel rate or other means of shipping, it could be easily made a ground for forfeiture; it is all under legislative control. It is a violation of the fundamental contract they made when they accepted the charter. It is not true that it is due to a difference in talent and ability that such men as the trustees of the Standard Oil Trust have been able to defeat their competitors; it is a matter of a criminal abuse of the commercial privileges they have received. The railroad company or the pipe-line company has no more right to abuse the power granted it by the State in its charter than the man who is coining money on contract for the Government has to coin 50 cents of metal into a dollar; it is just as much a crime as the violation of any other governmental function exercised by an executive officer.

GOVERNMENT SHOULD MAINTAIN COMPETITION.

Q. Would you favor the regulation of rates by the Government itself?—A. I have answered that. While I am not a believer in Government ownership, with the present limited civil service, I do say that the remedy is for the Government to maintain competition. The competition of giants with one another will regulate their conduct, but a pigmy can not compete with a giant. There is no one man so strong that, if the Government does not assist him, he will not find a competitor.

Q. Is it your idea that the pipe line companies should be forbidden to discriminate, or that the Government should hold the rates down to what is reasonable?—A. If a pipe-line company charges 20 cents, when it costs less than one-tenth of a cent a barrel per mile for shipping, it is an abuse of a governmental function, and the

¹ See Mr. Davis, pp. 352, 353.

company ought to have its charter taken away for excessive charges. Persons obliged to compete under such circumstances are like farmers who should have to pay \$3 to \$5 a load for hauling their wheat, while someone else has the public right of hauling his for a dollar.

Q. Have you any specific suggestion as to how that rate could be held down?—A. The Cudahys, at Chicago, would run a pipe line; they have been for years trying to get a pipe-line privilege in Indiana and Ohio. One of the independent men, of New York, said he would give \$42,000 for 3 miles of line to connect up his lines with the seaboard. Wherever a common carrier is undertaking to thwart a competitor the Government ought to interfere. If the owner of a public utility is obliged to submit his rates to open competition there will be no more oppression in that department than in any other.

GROSS RECEIPTS AND PROFITS FROM THE BUSINESS IN OHIO.

To illustrate, the Buckeye Pipe Line had a gross income in 1898, ending May 1, from the Ohio fields, as I understand it—and this is the sworn report of Mr. Theodore M. Tole—of about \$6,763,094.64.

Q. What is Mr. Tole's official position in connection with the organization?—A. He is called the tax agent of the Buckeye Pipe Line Company. He is of New York. You will find him also making reports for the other Standard companies, although these companies claim they are not a trust and have no connection with the trust. They have a faculty of having the same tax agent and the same attorneys and the same telegraph companies and other common agents, that give it a colorable union, to say the least. The gross receipts were \$6,763,094.64. The universal rate everywhere, except on oil right from the field at Corning, has been 20 cents a barrel. In 1897 their gross receipts, at 20 cents a barrel, were \$6,800,833.19. Their gross receipts for 1896 were \$5,941,567.85. The total gross receipts for these 3 years are \$19,495,495.68 for the Ohio business. Counting the shipping price at 20 cents a barrel, the total amount received from the Ohio fields for 3 years would be 97,472,475 barrels, or over 30,000,000 barrels a year. This, based upon the gross receipts returned for taxation, is the amount shipped through the Buckeye Pipe Line. The leasor gets 60 cents a barrel for one-sixth of the oil, and at that rate the landowners received out of their Klondike of wealth, for the 3 years, \$9,747,000. We have no means of knowing what additional royalties or sub-contracts they make. At the rate of \$4 a barrel, the noncompetitive price of oil, the gross receipts for Ohio would be about \$120,000,000 a year.

Q. This is refined oil you are speaking of?—A. This is the refined oil at their noncompetitive price of selling. They get 8 to 11 cents. I will assume in this that when the Buckeye Pipe Line Company give us the gross receipts for Ohio business their oath is correct, and that they get 20 cents a barrel for all the Ohio oil shipped. The Ohio landowners, for the 3 years, receive a little over \$3,000,000 annually. It takes about 4 barrels of crude oil to make 3 of refined, and the shrinkage of 1 barrel, or one-fourth, is made into by-products, such as paraffin, axle grease, etc., for which they get as much as the refined oil,¹ so that they practically average, as experts tell me, \$4 a barrel, making, at this time, about \$120,000,000 gross from the Ohio product.² Figuring it in round numbers, all over 3½ to 4 cents per gallon is net profit; it can be delivered at that price in Ohio. In fact, they cut it down to 4 cents a gallon whenever they have competition. They get 8 to 11 cents when there is no competition. The value of all the farm products of Ohio (I mean by farm products wheat, wool, oats, barley, live stock, etc.) taken from the tax-return valuations is between \$52,000,000 and \$53,000,000. The oil combination's profits, if our deduction is correct, are about equal to the combined incomes of the farms in the State. In other words, by their system of non-competition, consumers, on the one hand, pay that much more, and the producers, on the other, receive that much less than they should. They drive the producer and consumer that far apart. There is no secret in the refining of oil; there is no patent on shipping; it is simply in stealing the powers of the Government, thereby controlling transportation. The State is now seeking to take away the charters of such companies as abuse their powers and franchises in this way.

BASIS OF THE LEGAL PROCEEDINGS IN OHIO.

Our action is based upon the statutes of Ohio and upon the cases of *Darcy v. Allein* (Coke's Reports), and *Richardson v. Buhl et al.* (77th Michigan, 632); the *Salt Company against Guthrie* (35th O. S., 666), and *Emery v. Ohio Candle Company* (47th O. S.). It is no new principle. That will be the remedy. Under our Ohio law, when a corporation violates its charter by *ultra vires* acts, or is exer-

¹ See Mr. Archbold, p. 570.

² See p. 315, and Mr. Archbold, p. 544.

cising a franchise contrary to the statutes, the State revokes the charter, the courts appoint 2 trustees, who have the functions and powers of a receiver, who take charge of the business and wind it up and sell it to law-abiding investors. The iniquity of the Oil Trust in Ohio is for the owner or the one producing the oil and getting barely the lowest competitive price for it to be paying at the same time a trust price for the refined product; and it is no answer to say that a small number of people get the best wages because they are hired by the trust, when the great body of the people are contributing in receiving a mere pittance for crude oil.

EFFECT OF THE STANDARD OIL COMPANY ON WAGES.

Q. Can you give us any data regarding the effect of the Standard Oil Company on wages? You called attention to the fact some time earlier that it threw a great many people out of employment through the destruction of competing plants.—A. That you will get from men who have the actual data. It necessarily throws all the men out of employment when they dismantle a plant.

Q. The specific data on this point you have not yourself?—A. I can give you the original testimony later, when it is printed; but if you will get Mr. Davis and Mr. Butts, of Marietta, and Mr. Rice, formerly of Marietta, they can give you the exact data and the losses. I have given you the facts concerning the Argan Company. The trust shuts out all competition in the payment of wages, because while men may go into the oil field and buy oil they can only ship it through the trust's transportation department. There is no competition in selling, for there can be no competition where the Standard is the sole buyer. If you select an oil field anywhere in Ohio, you can not get to a refinery except through their pipe lines. It is true they furnish you a market, but if you do not take their price you can not start up; you can not refine; the moment you refine and go to ship you find yourself blocked; they will destroy your plant by reducing the value at a given point and raising it at noncompetitive points, so that they will be no losers themselves. I have a few statistics on the prices of oil at competing points and noncompeting points which I will leave with the commission if they care to have it.

RELATIONS OF THE STANDARD OIL COMPANY AND THE PRESS.

Q. Can you give us any information with reference to the influence of this company on public sentiment? It is asserted, is it not, that they control the press more or less completely?—A. Well, in view of the fact that some newspaper reporters are here, I presume it would not be a very wise thing to discuss that. The Standard Oil Company of Ohio, after this suit was begun, through Henry M. Aphorpe, of Cleveland, and Mr. Jennings, of Columbus, organized what is known as the Jennings Publishing Advertising Agency. At the time we took our testimony at Marietta we found several men who had received marked copies of certain papers in Ohio making a fervid defense of the Standard Oil Company; and while they did not try to abuse the court, they were abusing the attorney-general and other officers of the court, which meant, in fact, the court. It was said that capital was being driven out of the State; that the Standard Oil Company was liberal in wages; that they had given largely to charity, and that they were also about to donate something to one of the State universities. I was handed a contract while I was examining a witness at Marietta, a typewritten contract, that they had negotiated the week before for one of the Marietta papers.

Q. That is, to purchase the paper outright?—A. No; the earlier part of this contract referred to advertising the paraffin and other by-products of the company, and then they had 6 or 8 lines which contracted for space on the editorial page, where their matter was to appear as news, and if it did not so appear, or there was any mark of advertising about it, the papers were not to receive any pay. For such matter as would be furnished them, by boiler plate and other means known to the newspaper world, they got from 20 cents in the larger cities down to 4 cents a line in the smaller ones, for news items; and then if the county papers were assiduous in defending the merits of the trust's charitable undertakings they would take thousands of copies of them and send marked copies to proper parties. If you have run across some of your constituents who are being oppressed by the price of oil, they should be satisfied thoroughly by marked copies of Gunton's Magazine and the Sandusky, Ohio, papers.¹

Q. (By Mr. PHILLIPS.) You do not mean to say that Gunton's Magazine is in favor of trusts, do you?—A. If you want to get the best, get Gunton; I think Mr. Tole's speech was there. A leading daily in the State has been having a great many articles in favor of trusts on one page, while on other pages appeared articles demanding antitrust legislation, although Ohio has perhaps as stringent a law as any State in the country. They were demanding more legislation and

¹ See p. 321; Mr. Lockwood, p. 330; Mr. Rogers, p. 587; Mr. Boyle, pp. 404, 487.

investigation. Now, you might say they imagined our trust investigation last winter was done to put off ultimate action. We find that investigations similar to this are very useful in enabling a legislature to get down to bed-rock facts, as in the short session of legislatures no committee can do what you are doing, and when legislation is backed up by public sentiment the law can be enforced. I have aimed not to be partisan in this matter, but I feel that the operation of some of the trusts in Ohio has been so against the average citizen that anything that can be done to relieve them ought to be speedily done.

STANDARD OIL COMPANY AND POLITICS.

Q. Have you any information as to attempted influence of the Standard Oil Company in politics, aside from what you have already explained and aside from any connection with the press?—A. Well, I expect it would not be advisable for me to discuss that. Mr. Harris lives in Ohio; he may give you the names of contributors; I suppose we could all give names of people we suspect collect these funds, but I do not want to testify on that.¹

Q. It may be that you can file official papers with us or give us transcripts of testimony in the case of the alleged attempt at bribery of the attorney-general of Ohio?—A. I can give you just what I file with the court, when the testimony is through. I shall be glad to give you an official transcript of whatever is taken.

METHODS OF DRIVING OUT COMPETITION.

Q. Can you give us any official information with reference to any other trust organization in the State of Ohio besides the Standard Oil Company? You have already spoken briefly with reference to combinations of insurance companies; can you tell us with reference to any others?—A. Before I leave the Standard Oil Company it might be interesting to the commission to speak of the means which they adopt for driving out competitors. Mr. W. H. Clark,² of Newark, Ohio, for 7 years an employee of the Standard Oil Company in their retail department, would give, I think, full information to the commission on the subject. After he left their employ they arrested him, charging him with embezzlement; they only found this charge against him, as his testimony showed, after he commenced selling independent oil for an independent company. He has had the same experience as the testimony before our trust committee showed that all competitors have. His sworn testimony is that he sold 4 grades of oil for the Standard Oil Company out of 1 tank; that he turned the faucet to the right for 1 kind, to the left for another; and that if that did not suit the customer he went to the front end of the wagon and switched the faucet there a little.³ The Standard Oil Company corroborated that a little, except that they said they gave a higher grade of oil than that called for, if they did not have the grade desired, at the same price. That was their defense to it.

They have a plan of sending agents around—I think competitors call them buzzards—where there is competition, to follow up the competitor's wagon, take the name of the customer and the amount of oil sold, and mail it to the central office of the division. A special agent of the Standard Oil Company is then sent out who follows up the competitor, making tests. He will clean up the lamp of the customer of the competitor, make a test, and then leave their own oil of as high a grade as the competitor's. If they can not succeed in that way they then commence cutting rates, and the rates are cut until they are below a living price or until they have driven out the competitor. Then the man who is inspecting and following the competitor goes to another town where they have competition. When they have driven out competition in a given town the oil goes back again to the old price. They sold oil for 4 cents at Dayton, where they had competition, while at Urbana it was 8. These towns are but a short distance apart. You will find when you get experts upon it that they have not only had the same grade of oil at different prices in the same town at the same time, but that they have had as much as 50 and 60 per cent difference in towns 30 miles apart.

THE TRUST PROBLEM STATED BY LORD COKE.

The experience has been substantially, I think, as Lord Coke put it in that original proposition. I would like that to go into my testimony. He laid down the proposition that every court from that day to this has substantially followed. I cite that case, which is approved, and which is a very good analysis for a commission or a court to go by. It is the old case of *Darcy against Allein* (Coke's Reports, Part XI, 84 b). He says: (1) "That the price of the same commodity

¹ See Mr. Archbold, p. 544.

² Compare testimony of W. H. Clark and B. A. Mathews. See also Mr. Archbold, p. 544.

³ See Mr. Clark, pp. 331, 332, 338; Mr. Mathews, pp. 432-434.

will be raised, for he who has the sole selling of any commodity may well make the price as he pleases." (2) "The incident to a monopoly is, that after the monopoly is granted the commodity is not so good and merchantable as it was before, for the patentee, having the sole trade, regards only his private benefit and not the commonwealth." (3) "It tends to the impoverishment of divers artificers and others, who before, by the labor of their hands in their art or trade, had maintained themselves and their families, who will now of necessity be constrained to live in idleness and beggary."

Q. (By Mr. NORTH.) What is the date of that case?—A. It is an old case, two centuries old; it has been cited by all our authorities. It is an analysis of the effect of trusts; you have the benefit of all the courts in England and this country who have followed that decision.

POSITION OF THE ENGLISH COURTS.

Q. Are there any analogous English cases?—A. Oh, yes; they commenced in Queen Elizabeth's time by the sale of franchises, by which one person could buy and sell exclusively all of one commodity; and in the case of salt and iron, where court favorites having exclusive control had become so rich and arrogant in dividing with sovereignty, the courts, independent of parliamentary acts and independent of precedent, revoked their charter, or individual franchise, for it was then called a franchise. Since then, if you look down through the reigns of the Georges and Victoria, you will find that they have had parliamentary legislation and court decisions down to date against monopolies. Under some parliamentary acts they have sustained a limited monopoly. In transportation you will find England has sustained what we call pooling, but under our decisions pooling is as obnoxious as any trust. The steamship companies have succeeded in getting a parliamentary act relating to pooling in rates that has been sustained.

Q. (By Mr. JENKS.) In the Mogul Steam Navigation Company case?

Q. (By Mr. NORTH.) Have you any knowledge of the methods of the German Empire in that case?—A. No; nothing more than a text-book knowledge, the same as you have access to. You have access to all that.

Q. (By Mr. JENKS.) Can you take up the case of some of these larger companies that you have brought suit against?—A. Well, I have brought suit against the brewery trust of Cleveland.

PRESENT STATUS OF TRUST LITIGATION IN OHIO.

Q. (By Mr. PHILLIPS.) Before passing to that, would you be willing to give to the commission the present status of the litigation against the Standard Oil Company in your State?—A. The Standard proper of Ohio, as I said in the beginning, has a decree against it; it is an adjudication that it is a trust in Ohio; that it is a scheme or system whereby the stockholders or a majority of them entered into this combination, and that their act is the act of the company. The corporate fiction will be ignored when the acts of the stockholders accomplish corporate oppressions, and so far as this company is concerned, which was only 1 party to the original contract, it is a denounced contract. The violation of the decree, their failing to withdraw from the trust, is what the contempt proceedings were instituted for under the order of the court. We have taken the testimony of Mr. Rockefeller by interrogatories, also parol testimony of about two days, and the testimony of F. B. Squires and that of John D. Archbold. We took the testimony of numerous other witnesses outside of this suit. The company refused to give substantive testimony from their commercial books, and the officers so refusing are now before the court under a charge of contempt. The evidence is being printed and submitted, and the case will be heard probably in the second week of June. The punishment for violation of the original decree can amount to any fine that our supreme court sees fit to inflict commensurate with the wealth of the client or the defendant. It could amount to \$700,000 if the court chose to inflict so much of a penalty. I think it is deserved, and I am maintaining that the punishment in contempt, besides a fine, could extend to taking the charter away without any further action. But as there is no precedent for taking a charter away as punishment in contempt, we have an independent action for that purpose against the Standard Oil Company of Ohio, charging them with additional offenses. Now the later suits were commenced for the purpose of forfeiture of the charter and the testimony taken in those proceedings is quite voluminous. We have a suit pending against the Buckeye Pipe Line Company under the charges I have related to you, with a large amount of testimony taken, and witnesses are before the court for contempt for refusing to answer questions submitted to them. So that the executive department, the attorney-general's office, has presented the testimony up to the point where the court will have to decide what they can be compelled to answer. Their defense is that it is

violating the Federal Constitution as well as that of the State to compel them to disclose their acts of a private nature. We contend that when the sovereignty inquires into the acts of its creatures it does so in accordance with the visitatorial power which is reserved to the State, and that it is simply a legal anomaly to say that the government can create a creature and then not control it, just as the national banking act permits the National Government to investigate the banks. So that if the contempt proceedings are heard in June—and I think they will be—and if we are successful and the officers of the company are held in contempt, they will incur the penalty. Mr. Rockefeller's testimony has disclosed the amount, more than half, of the trust certificates that the stockholders have redeemed up to the filing of the petition, in November, 1897.¹ We should then be in this condition: We should have the transportation department for the crude petroleum of all the other companies that do business in our State under control, and it should be in the hands of a company that would permit competition and an open and equal chance to all producers.

Q. (By Mr. NORTH.) As a result of winning your pending suit?—A. Yes; the Standard Oil Trust or the Standard Oil Combination could not exist without the control of the transportation of the crude petroleum; and this suit aims at the very heart of the trust, namely, the transportation department. It would effectually control it. It needs no further legislation. The National Congress can not regulate it so far as Ohio is concerned, because it is an Ohio creature, but so far as interstate business is concerned you would have jurisdiction over that. The remedy is primarily with the attorneys-general of the various States where the charters are granted. The attorney-general of New Jersey could solve this question in sixty days if he would take the charters away from New Jersey companies that are violating the public policy of the country, viz, that no creature of the government can use its power to the injury of the government or to the injury of the people.

Q. Do you believe that the Federal Government can accomplish anything through the jurisdiction over corporations created by one State and doing business in a great many others?

WITNESSES IN TESTIFYING SHOULD NOT BE HELD TO INCRIMINATE THEMSELVES.

A. You have been having that fought out in the Supreme Court of the United States in the Stock-yard Cases. They held they could not. The Addyston Steam-pipe Case, that is now being argued, is on the same point; but all corporations, like the Union Pacific, that have been created by the Federal Government and are doing interstate business, are reached by the Sherman antitrust act. Michigan, I think, has adopted an antitrust act similar to ours this year, but introduced a clause like that in the interstate-commerce act, which provides that any witness testifying concerning a trust shall not be held to criminate himself, and the testimony so given can not be used against him. The United States Supreme Court has said that this exemption can be given to a witness, and that any testimony that he has given is a privileged communication, the same as it would be before a Congressional investigation like this. That will prevent a witness from stating, as they do in case of material testimony, among other objections, that it tends to criminate them. The Standard Oil Company refuses to give testimony now in Ohio because the testimony would tend to criminate the officers.² But that Michigan clause will forbid the witness from using that constitutional prerogative by making it a privileged communication, and all trust laws should contain that clause.

Q. (By Mr. A. L. HARRIS.) Which State report is that oil case in?—A. Forty-nine, O. S.

Whereupon the commission took a recess until 2 p. m.

WASHINGTON, D. C.,
Tuesday, May 16, 1899—p. m.

Hon. FRANK S. MONNETT again on the stand and examination resumed:

Q. (By Mr. PHILLIPS.) Does any member of the commission desire to ask any questions?

Q. (By Representative OTJEN.) What did I understand to be the income, the profits, of this trust in Ohio during the year?—A. The gross receipts from non-competitive prices would be 120-odd million dollars; and, taking the best information as given before our various investigations that the refined oil could be delivered in Ohio for less than 4 cents per gallon, it would make a net profit on the Ohio oil, which is about 40 per cent of all the oil produced in the United States, in the neighborhood of \$50,000,000—\$50,000,000 to \$53,000,000.³

¹ See Mr. Archbold, p. 574.

² See p. 307, top.

³ Compare p. 311, and Mr. Archbold, p. 544.

OIL CAN BE RETAILED IN OHIO AT 4 CENTS.

Q. Did I understand you to say that it is your opinion that the oil could be sold in Ohio at 4 cents a gallon; that that is about the cost price of oil?—A. It can be retailed at 4 cents in Ohio at a profit.

Q. At 4 cents?—A. Yes; 4 cents. There is testimony placing it at a point even below that. Is that too low a price?

Q. That is the refined oil?—A. That is the refined oil. There was testimony that the cost was lower than that; but that is for the refined oil.

Q. In places outside of Ohio there would simply be in addition the cost of transporting it?—A. Yes; the cost of transportation depends usually upon the arrangements from the distributing centers with the Union Tank Line Company.

Q. Of course in some places it would be higher than in others?—A. At water points like New Orleans and New York, where they meet the competing water lines, the rates are much lower than they are e. g., 150 miles north of New Orleans.

Q. Is that true of such places as Detroit, Chicago, and Milwaukee?—A. Yes; as compared with such points as Duluth, Detroit, Milwaukee, Buffalo, and Cleveland, you will find, if you investigate any transportation department, that the rates on all commodities at inland points are much higher, as a rule. In other words, the low through-freight rate is made up by charging excessive local rates; and that is true of oil as well as of other commodities. The competition—from testimony before our railroad commission last winter—of the Canadian Pacific, a subsidized government road, compels our roads, in order to compete, to make a cheaper rate per ton per mile than they have had where they did not come into direct competition with the subsidized railroad, and when they are practically below cost at a competing point they must make that up at inner shipping points, so that there is discrimination against inland States like Ohio, Indiana, and Illinois, so far as the local shipping is concerned, to keep up the general average.

THE CHARGES OF BRIBERY AGAINST THE STANDARD OIL COMPANY.

Q. (By Mr. KENNEDY.) I should like to ask the witness whether he has any knowledge of attempts by the Standard Oil Company to interfere with judicial proceedings against them by resorting to bribery?—A. As I said to the commission this morning, the bribery charges made against them are made officially in a complaint in the Supreme Court, beginning with General Watson, naming the parties, and bringing the case down to myself. I will furnish the commission the data that we have alleged and set forth therein, with their answer and motion and my supplemental complaint, and when the testimony is taken, which will no doubt be kept in record, I will furnish the commission that also, if it is desired. To go into the merits of the pending case I do not believe advisable.¹ It is a matter purely with the court—a contempt matter—and will be furnished from our office just as it transpired. Mr. Watson, I suppose, will be ordered to testify before the commission at an early date. I can give you the testimony that was adduced, showing that they purchased competitors' clerks at times to furnish them, clandestinely, information as to the working of their competitors. At Cleveland, Ohio, a Scofield, Schurmer & Teagle man was to get so much a month for furnishing their rivals information. He was to furnish the amount of oil shipped, the names of the customers, the cost price, and all the details every evening to the Standard Oil Company. These arrangements were made by John Squires and afterwards by F. B. Squires, according to sworn testimony.²

Q. Were they successful?—A. The one I have described was partially successful. The man who was bought up in some way—I do not know how—was found out. At least, he gave up the information to his employer. Testimony might be furnished to you of the witnesses in reference to Jennings's advertising agency. That system is in vogue all over the State; wherever they can successfully do so, they employ an agent or employee of a rival company. There is one instance where an employee at the railroad station was to leave the information at a given saloon near the depot, where the Standard Oil agent gathered it. They jump onto the wagons that are hauling oil and ascertain the destination of their rivals' oil. This information is all furnished to the Standard Oil offices. They get such information free from the agents of the railroads, if they can, and if they can not they get it from others. I do not know whether you call it proper, and whether a man is at liberty to sell his time and inform the Standard Oil Company of what is going over his railroad. I suppose there is no criminality about that; yet it would be bad ethics in a postmaster to permit such information to be furnished through his employees. The Squires's bribery of a clerk was the only case of hiring rivals' clerks to furnish the data. This was brought out in court in a contest between Scofield, Schurmer & Teagle and the Standard Oil Company. Mr. Brown, of Cleveland, can give you the names and further details on that subject.

¹ See Mr. Archbold, p. 544.

² See also p. 356; Mr. Archbold, p. 573.

EFFECT OF PIPE LINES ON FREIGHT RATES.

Q. You spoke this morning about railroads in Ohio which have pipe lines paralleling them, and which are in league with the Standard Oil Company, to the detriment of independent small producers. I do not understand that you were specific in regard to these railroads. Can you be now?—A. I did not put it in that way. I said that only as a deduction, viz, that where a pipe-line company had been run parallel to a railroad company—I was speaking of the conducting of the whole business—that the records would show that the freights for shipping oil were raised after they had a competitor in a pipe line. The natural result would ordinarily be that severe competition by the pipe line would bring railroad rates down lower than they were before. You can draw the inference from this that through some arrangement the rates, instead of being lowered by competition in these particular cases, were raised. I am basing that, of course, upon testimony.

Q. Do you care to say what railroads?—A. I think when that came out that the Erie was spoken of; the C. & M., down by the Maxburg oil field, was one of the companies; and the Lake Shore, I think, was charged with that in a contest in which Virgil P. Kline was fighting the Lake Shore for discrimination in rates.

REDUCTION IN THE PRICE OF OIL NOT DUE TO THE STANDARD OIL COMPANY.

Q. (By Representative OTJEN.) It is claimed by the Standard Oil people and their advocates that by their combination and improved business methods they reduce the price of the oil product. What is your information upon that subject?—A. That is the favorite argument of Mr. Dodd and others. Calico ran down from 75 cents to 4½ cents per yard, and they might as well have credit for it; and we used to haul wheat by wagon for \$10 a load across Ohio, where they now ship it for a small fraction of a cent per ton per mile. I think that they, like every other producer, had to keep within reasonable bounds in their prices, but they have been profiting at the rate of millions out of noncompetitive rates, notwithstanding the price was reduced. I think they are not entitled to the credit of the reduction because of improved methods or the great amount of oil discovered, any more than of the reduced price of any other commercial commodity. I present here a table which shows the Standard Oil Company's prices of kerosene and gasoline from tank wagons on the same day in different towns in Michigan and Ohio, where they had competition and where they had not. The figures for towns in Michigan are taken from the sworn testimony furnished our trust commission last winter. The figures for Ohio towns were prices in 1896.

Names of towns and State.	Conditions of trade.	Price of kerosene.	Price of gasoline.
		Cents.	Cents.
Detroit, Mich	Competition	5.5	7
Adrian, Mich	No competition	8	—
Ann Arbor, Mich	do	7.75	—
Clifford, Mich	do	8	—
Howell, Mich	do	8	—
Grand Rapids, Mich	Competition	5.5	6.25
Monroe, Mich	No competition	7.5	8.75
Kalamazoo, Mich	Competition	5.5	—
Bay City, Mich	No competition	7.75	—
Lansing, Mich	Competition	6	7.25
Coldwater, Mich	No competition	8.25	—
Jackson, Mich	Competition	6.5	7.75
Saginaw, Mich	do	6	—
Mount Clement, Mich	No competition	8	8.5
Marlette, Mich	do	8	—
Muskegon, Mich	do	8	—
Battle Creek, Mich	Competition	6.25	—
Benton Harbor, Mich	No competition	7.25	—
Cleveland, Ohio	Competition	4.75	6
Sidney, Ohio	No competition	8.75	10
Dayton, Ohio	Competition	6.5	6.5
Xenia, Ohio	No competition	8	—
Hamilton, Ohio	do	7.5	—
Oberlin, Ohio	do	7.5	—
Troy, Ohio	do	7	—
Youngstown, Ohio	Competition	6	—
Canton, Ohio	do	6	—
Warren, Ohio	do	5.75	—
Galion, Ohio	No competition	8	—
Newark, Ohio	do	8	—

Since this table was first published, at Newark, Ohio, and since we took testimony exposing the Standard Oil Company's practice of charging 3 or 4 different prices for oil out of the same tanks, competition has come in and the price of oil has been reduced to 4 cents.

Q. It is your opinion, then, that the lowering of prices has been due to other causes than any which could be attributed to the Standard Oil Company?—A. The Standard Oil Company has taken advantage of each improvement for refining or handling oil. There was an advantage in getting an increased profit out of the by-products. They seized upon, as every other commercial institution would, the improvement that would bring profit out of the by-products. Then there has been a great improvement in methods of boring for oil, and the pipe-line system, which was originally introduced by other parties than the Standard Oil Company, has simplified the method of transporting the crude product. The tank-car system has been a big improvement in saving the use of barrels. If the Government protects these giants, it must keep competition open so that they will compete with one another just the same as small men compete with one another. The eternal law of competition will prevent the excessive profits and greed that the Government does not seem able to prevent when a monopoly is fostered through exclusive grants in the transportation department.

COMPETING COMPANIES IN OHIO.

Q. (By Mr. A. L. HARRIS.) What companies are competing with the Standard Oil Company in Ohio now?—A. There is only a limited competition: I think Scofield, Schurmer & Teagle; and a man by the name of Peter Shull, at Mansfield, has an independent agency, but only a limited territory. Scofield, Schurmer & Teagle originally had a contract whereby they were limited in the amount they were to sell to what would enable them to live.¹

Q. They have competition with more than that?—A. They have competition, but it is not a successful competition either with regard to the pipe lines or the tank line. Neither is competition in rates successful, according to the claims of competitors.

Q. How do they get clear of the competition of the small companies in Ohio?—A. If you take the testimony of Senator Davis, you will get more accurate information on that question. I have to do more with the legal phases. One way is that which I have narrated. They have what their competitors call "buzzards," who follow up competitors, as I have explained; and they have had for a long time several rates, or various favorable rates, with the railroad companies. They soon became strong enough through this means to control a part of their territory and to sell at a noncompetitive price, or a price high enough to enable them to establish a competitive fund. In this way and through their advantage in the transportation department they were able to undersell and run out small men.

Q. Have they followed up the fields in Ohio?—A. Yes; I understand they have, which is perfectly logical so far as that enterprise is concerned. They have expert prospectors who are always on the ground the minute that a field is discovered. With their system of transportation, under their own control, they determine the value of the well and can get pretty nearly the lion's share for their portion.

STANDARD OIL COMPANY CONTROLS THE PRICE OF THE CRUDE PRODUCT.

Q. Even in the new field they substantially control the price to the producer of the crude oil?—A. Certainly, certainly; Senator Davis will give you an account of the plan whereby they shut out the producers in the Corning field by raising the freight rates 17 cents per barrel.² They ship and condemn oil according to their own methods and fix the price according to their own standard. The oil market price, which is under the combination's control, is sent out from Oil City every morning to the oil fields.

Q. Is there any indication at present of the old system of rebates that they once had?—A. On the Lake Shore? No; they have various freight rates. You will find, when you get into the transportation department, that favorite railroads get some advantages. They do not need to resort to the old-style rebates. They can charge their own prices, which amount to rebates, when they own the pipe line or own a controlling interest in the railroad.

Q. (By Mr. FARQUHAR.) What portion of the crude product of the United States does the Standard Oil Company itself own?—A. Well, according to the testimony, they control, either directly or indirectly, from 90 to 97 per cent of all the crude product. That, of course, I get only from the testimony; I have no means of gathering the data.

¹ Compare Mr. Archbold, p. 545.

² See p. 352.

Q. Of that 90 per cent, do you know how much they own?—A. How much they own?

Q. Own.—A. No; I do not personally know. Ninety per cent is the estimate; e., 90 per cent is the lowest estimate of the amount they control.

Q. That is, you mean by the expression "control" that they have control in purchasing the crude oil from others. But the question I asked was, Do you know, can you approximate, how much the Standard Oil Company directly own of the crude-oil product?—A. No; I can not furnish you with that data.

Q. Would you think it was half?—A. I should think it was a great deal more than that.

Q. (By Mr. PHILLIPS.) That is, in the Ohio field?—A. I know it is a greater per cent than that in the Ohio field. If they have control of the transportation from a new field, they do not need to own any of it, so far as the producer is concerned. If they determine how much they are going to pay for it and are not satisfied, they can fix the producer's price at whatever it costs to produce, simply living wages, and let him bore and worry over the cost of getting it from the rock.

Q. (By Mr. FARQUHAR.) As a business proposition, is it not in testimony that they only own 75 per cent of the whole product?

Q. (By Mr. PHILLIPS.) Does not that refer to the Pennsylvania and the Virginia fields—to what is known as the white-sand oil—and not the Ohio?¹

RELATION OF THE STANDARD TO INDEPENDENT COMPANIES IN FOREIGN MARKETS.

Q. (By Mr. FARQUHAR.) I understand that, but you speak of their control. Is it not true that the independent companies, independent pipe lines and others, have and exercise a certain freedom in selling their oils in foreign markets and otherwise, independent of the Standard or independent of its practices?—A. When you come to the question of their relationship with the steamship companies, the interests they have in them, the arrangements they are enabled to make through acts of the British Parliament, the way they head off the Russian oil, etc., you will have to get witnesses that know. All you can observe is the result. There is a little book, recently published, which will explain the way they manipulate the English oil market and give you the details more accurately than I can give them.²

Q. (By Representative OTJEN.) What is that?—A. It was handed to me while Mr. Archbold was on the stand in New York. I do not remember the name now, but can furnish it to you.

Q. (By Mr. A. L. HARRIS.) Is Cook the author?—A. No; it was a little red book, a pamphlet about 4 by 6 inches, and contained all the testimony as to how they managed to control the Russian oil market, i. e., I mean prevent the Russians controlling the English market.

Q. (By Representative LIVINGSTON.) Whose testimony is it; I do not understand?—A. It is simply a pamphlet, prepared by someone, that is circulating in England. It gives the history of the Standard Oil Company's control of the English market.

Q. I would like to know something official. Of course we can not receive that book as an official statement.—A. I can not give you that book's source of information.

Q. Which line of steamers is the Standard Oil Company interested in?—A. You can get hold of all the information relating to their entire system of water transportation, as well as their system of land transportation. There are witnesses that can furnish you that. If you get some of the independent oil dealers in New York that are competing by water (there are 8 or 4 firms down there), they will inform you.

Q. (By Mr. PHILLIPS.) Are they all independent refiners?—A. They are independent refiners; they have not their pipe lines quite through to seaboard. They have been able to have their system of pipe lines, like the Standard, but they have competitors there. Of course there is no way of controlling a water highway except through the methods of shipping, viz, classification of freight.

Q. (By the CHAIRMAN.) Does any member of the commission care to ask anything further?—A. It would be impossible by means of my investigation to reach anything outside of what we came in contact with ourselves, but you will find it all. There are people, or witnesses, who will furnish you that.

Q. (By Representative LIVINGSTON.) Do the independent refiners have any arrangement with the transportation companies by which they can compete across the water with the Standard Oil Company?—A. That I can not furnish you; you can get that, however. I understand they ship oil "camel-back" and

¹Compare Mr. Boyle, p. 499; Mr. Archbold, pp. 560, 561; Mr. Lockwood, pp. 408, 409.

²Compare Mr. Archbold, p. 546.

almost every other way in the old country. In some places they have a fair competition, and in others, we think, they do not. So far as Ohio and the United States are concerned the secret of the difference between their success and that of the others lies in their gaining control, as the testimony has shown, through the powers they receive from the Government and through the transportation companies. That is my theory of it.

COPIES OF STOCK AND TRUST CERTIFICATES.

Q. (By Mr. JENKS.) You said this morning that you could furnish a copy of the trust certificate issued to the certificate holders under the old trust form. Can you also furnish us a copy of the stock certificates that they issue at present to the stockholders?—A. I think so. [Showing book.] Here is a lithograph copy of the Standard Oil Company's capital stock certificate after they increased to \$3,500,000. Do you care to have it read? That is one of the stock certificates.

Q. Make that a part of your testimony with one of these other similar forms.—A. There are two of these here, and then I have here also a printed form of the trust certificate. They do not always put the exhibits in connection with the testimony, and you have to look for them at the close of the testimony. Here it is on page 51 of Part II of the Record in the case of the State of Ohio *ex rel.* the Attorney-General *v.* the Standard Oil Company. Well, Mr. Rockefeller's own personal one is here, and that will give you an idea. (Reading)—

STANDARD OIL COMPANY.

No. 301.

Capital, \$3,500,000.00.

1244 shares.

Incorporated under the laws of the State of Ohio.

This certifies that J. D. Rockefeller is the owner of ninety-two hundred and forty-four shares of the capital stock of the Standard Oil Company, transferable only on the books of the company in person or by attorney on surrender of this certificate.

Witness the seal of the Company and the signatures of the President and Secretary, at Cleveland, Ohio, this 28th day of November, 1892.

(Signed)

J. D. ROCKEFELLER,
President.

(Signed)

F. B. SQUIRE,
Secretary.

[SEAL.]

[Standard Oil Company,]
[Cleveland, Ohio.]

(Reading.)

Know all men by these presents:

That we, John D. Rockefeller, Henry M. Flagler, William Rockefeller, John D. Archbold, Benjamin Brewster, Henry H. Rogers, Wesley H. Tilford, and O. B. Jennings, trustees for winding up the Standard Oil Trust, by W. H. Tilford, our attorney in fact, and John D. Rockefeller, of _____, do hereby constitute and appoint John Bensinger, of New York City, our true and lawful attorney for the purposes following, to-wit:

Whereas John D. Rockefeller has placed in the hands of said attorney assignment No. A 365 for ~~the~~ of the amount of corporate shares held by said trustees on the first day of July, 1892, in each of the companies whose stocks were so held.

Now the said attorney is hereby authorized to secure from each of said companies transfer upon their corporate books of said stock and stock certificates for whole shares, and scrip for fractional shares thereof, and when the said certificates and scrip are received from all the companies referred to the said attorney shall deliver the same to John D. Rockefeller, and the said assignment No. A. 365 shall at the same time be delivered to the said trustees.

And the said attorney hereby agrees to obtain the said certificates and scrip and to deliver the same and the said assignment as above specified.

(Signed in print.)

JOHN D. ROCKEFELLER.
HENRY M. FLAGLER.
WILLIAM ROCKEFELLER.
JOHN D. ARCHBOLD.
BENJAMIN BREWSTER.
HENRY H. ROGERS.
O. B. JENNINGS.
WESLEY H. TILFORD.

(Signed in ink.)

W. H. TILFORD, Attorney in Fact.
JOHN D. ROCKEFELLER, per GEO. D. ROGERS.
JOHN BENSINGER.

Q. This is the form of the stock certificate in lieu of the trust certificate?—A. They authorized him to transfer that, and then he received from the constituent companies, the 20 companies I mentioned to you this morning, his share of each of those. All those forms are here, if you care for them. The correct trust certificate is here also. I do not suppose you care to have the legal intricacies; they show how they get out of the trust and how they got into it. On page 125 there is a copy of the Standard Oil stock certificate. (See p. 306.)

That was the original trust certificate, or copy, then, of 34,993 shares, or 35,000 shares less the 7 shares.

THE CONTRACT WITH THE NEWSPAPERS.

Q. That will be sufficient, I think, along that line. You spoke this morning also with reference to the contract that was made by the Standard Oil Company or its representatives with some of the newspapers. Can you furnish us with a copy of that contract or give us its substance?—A. Mr. Cook gave the first testimony at Marietta on this point. The testimony that was afterwards given was in reference to the Xenia Herald's contract. George W. Cooke, of Marietta, has given the essential parts of it here, I notice, in his testimony; and I think I can furnish it to you from this record.

Q. Will you be kind enough to quote that accurately as it was given in the testimony?—A. I thought I had the page showing some of the publications for which he received pay. Here I see his exhibit (reading): "Whether the Standard Oil Company of Ohio is in a trust or out of a trust is a question for the courts to decide; but whether the consumers of oil are getting a better quality at less cost and handling with greater safety than formerly is a question for the people to decide. In the commercial affairs of life it is things, not words, that count in making up the balance sheet of loss or gain, of benefit or injury. Monopoly and octopus, combines and trusts, are haughty words, but the best goods at lower prices are beneficial things. It is much easier to say harsh words than it is to make good things cheap."—Lima Times Democrat.

Q. This material was furnished by the company?—A. Furnished him by the company. I see here on page 82 of the typewritten copy of Mr. Clark's testimony (reading): "The publisher agrees to reprint, on news or editorial pages of said newspaper, such reading notices set in the body type of said paper and bearing no marks to indicate advertising, as are furnished from time to time by said Jennings's agency, at a rate of — per line, and to furnish such agency extra copies of paper containing such notices at 4 cents per copy, or to mail the same to a list of subscribers furnished by said agency at 4 cents per copy." To be fair to the company, a little bit of newspaper controversy arose. They claimed that in that there were 2 words left out, and it proved to be so, for afterwards when we obtained the original contract the words "acceptable to the publisher" were left out; in this testimony here those words do not appear, and therefore it was claimed in the Jennings suit that this contract was not correctly copied. But although the printed form did not contain the words "acceptable to the publisher," it made no difference in effect, for the subject-matter published must have been acceptable or it would not have been published.¹

COMPETITION WITH THE STANDARD (RESUMED).

Q. (By Mr. PHILLIPS.) Some time after the discovery of the limestone rock, or what is denominated as Lima or Trenton limestone rock oil, did or did not the price settle to 15 cents per barrel, more or less, for a year or so after it was discovered?—A. That I do not know. As to such details the active dealers can give you them. The temporary glutting of the market would reduce the profits until it became regulated again.

Q. During the time of the Standard Oil Company's control independent pipe lines have frequently been built in the different fields, have they not?—A. Yes.

Q. Do you know by what methods they undertook to compete with these independent pipe lines? Was it by reducing the pipage of the oil, or by putting a premium on the oil piped, or both? Do you know?—A. Sometimes they temporarily raised the price to producers so that in the producing field the competing pipe line company could not pipe the oil temporarily at the price; and in other cases they would watch that pipe line company's refining customers and would break them up when they sold the refined product. Mr. Davis has had sad experience in that line; he can give you the details of that.

OTHER COMBINATIONS' PROFITS NOT SO GREAT AS THE STANDARD'S.

Q. Do you know of any other company, corporation, trust, or monopoly in recent years that has made such a vast sum of money as has been made by the Standard Oil Trust?—A. The nail trust ran up the price of nails, until the company cleared a large amount of money in a few months.

Q. I mean, made it in hand, accumulated the fortune?—A. The nail trust ran up nails from 86 cents to \$3 and something, and they cleared \$7,000,000 in a shorter time than the Standard would have made a similar sum.

Q. I have alluded to the larger accumulations.—A. Oh, no; none that I know of.

¹ See p. 312; Mr. Lockwood, p. 309; Mr. Boyle, p. 457; Mr. Rogers, p. 537.

Q. Can you summarize briefly what methods they have pursued? You have passed over a number of them. Could you summarize to this commission what methods they have pursued to secure this fabulous sum of money?

Q. (By Representative LIVINGSTON.) You mean the nail trust?

Q. (By Mr. PHILLIPS.) No, no; the Standard.—A. You will have to obtain those facts from the men who come in contact with their methods; beginning with the Pennsylvania road and the freight blockades and the pipe line fighting, and coming up to the fights they now have in the courts. It would be impossible for me to give you accurate data. I expect Mr. Phillips here can give you some points on that fight. There are several witnesses you can get upon that point. I suppose Mr. Lee could have given you something; I understand he has testified.

STANDARD OIL COMPANIES IN DIFFERENT STATES.

Q. (By Mr. A. L. HARRIS.) In what State did the Standard Oil Company get the charter under which it is operating now?—A. The Standard Oil Company of Ohio is chartered under Ohio laws; the Standard Oil Company of Indiana is chartered under Indiana laws. There is also a Standard Oil Company of Pennsylvania. The Buckeye Pipe Line Company is of Ohio. The Union Tank Line Company, a more recent incorporation, operating in combination with the others, is a New Jersey corporation. I suppose there are ten or twelve States represented. If you want to know why we let the trust live in Ohio, it is because we can not help ourselves.

Q. (By Mr. FARQUHAR.) You proceeded against the company under the Ohio law?—A. The Standard Oil Company, not the trust. I will write out a list of the companies for you. They are in different States but all act together to accomplish a common result, viz, to make the trust certificates valuable. The original contract was denounced by the court, but it still bears fruit in dividends collected by holders of trust certificates.

DISCRIMINATIONS IN FREIGHT RATES WITHIN A STATE.

Q. (By Mr. A. L. HARRIS.) I thought they were incorporated in the different States?—A. On page 26, in this report, Mr. Harris, there are some tables in reference to the advancement of freight rates growing out of the competition in oil. This is our Ohio trust investigation report and shows where they increased the freight before and after a certain period from 16½ cents in 1888 to 19 cents in 1898. On the Rock Island road they increased the rates from 18½ in 1888 to 29½ in 1898. These tables can be furnished you, and they will show you the discrimination against independent shippers. The freight was increased for the independent companies, when compared with the rates in force when the Standard was shipping by railroad.

Q. (By Mr. FARQUHAR.) In your investigation of these affairs did you ever find that the railroad charter regulates freight charges?—A. We have a statutory freight regulation; a maximum rate.

Q. Maximum rate?—A. They can not charge more than so much per ton per mile for certain specified commodities; in that sense, I mean.

Q. In what sense?—A. The fixed rate is as high as 5 cents a ton per mile. The competitive rate for coal to Duluth has been as low as one-seventh of a cent a ton per mile, so that the statutory rate of many years ago has practically given no protection to the shipper in recent years.

Q. If an Ohio road delivers coal at Lake Erie at a lower rate for a long haul than for a short one, provided it must do this to get the extra tonnage needed in order to pay dividends and make profits for the road, if it still keeps under the maximum rate, do you call it discrimination?—A. What I referred to especially may be illustrated by facts. The town of Nelsonville, which is perhaps 60 miles below Columbus, has received the same kind of groceries or freight from Baltimore at a rate no greater than they were charging from Columbus. In other words, the wholesale grocers of Baltimore were able to compete with those of Columbus because of the discrimination in the transportation of freight. By means of through freight rate discriminations like this great terminals such as New York and Chicago are placed upon a competitive basis with the inland cities. That is the most extreme case that we have. There was another case where the total charge for shipping coal from the Hocking field to the Dayton asylum was the same as the rate, over a road controlled by the same company, to Sandusky city, and through, I think, to Duluth. But these figures on coal discriminations can be furnished you from freight-rate tables, i. e., within the State; there is no law against discriminating on long and short hauls. We contended, by a bill

before the legislature, which was defeated by a strong lobby, that the rate for State roads ought to be based upon the interstate rate, and that we ought to have the same rate per ton per mile on our State business that the Interstate Commerce Commission requires on interstate business. We fought for that very strongly, but were defeated. Our theory is that while it is necessary to maintain corporations by an income sufficient to bring proper return for investment, and while it is conceded by everybody that corporations are a necessity and that we should not be hostile to them, the State commerce should not be levied upon in short hauls in order to reimburse companies for their losses in competing at waterway terminals. Or, in other words, they ought so to distribute their charges as to equalize them between the inland cities and the terminal points.

Q. Can a railroad, chartered in Ohio and under an Ohio maximum freight-rate law, make rates independent of the interstate-commerce rates themselves?—A. Yes.

Q. The same as the constitution of New York with the New York Central?—A. Yes.

Q. (By Representative LIVINGSTON.) I suppose the Standard Oil Company and independent refiners get special rates on the oil that they ship?—A. That is a pretty severe charge to make against any railroad.

Q. I am not making any charge; I am asking you a question.—A. I suppose the independents do not get the same rates as the Standard does.

Q. Which do not get as much?—A. The independents do not get as favorable classifications of freight. The Standard is always getting rates through some special classifications, or allowances for loading and unloading, or in contracts for lubricating oil, etc.

Q. Oh, yes; they could get all the oil facilities. I believe the independent refiners are fighting the Standard Oil Company?—A. That may be, but at many disadvantages. I do not think they have an opportunity to fight; it is not a fair contest.

Q. It is a contest of some kind?—A. Yes.

PRICE OF OIL WOULD BE REDUCED WERE IT NOT FOR THE STANDARD OIL COMPANY.

Q. If the Standard Oil was destroyed would the price of oil to the consumer be reduced?—A. Most assuredly.¹

Q. Would not that reduce the price from the independent refiners to the consumer also?—A. I presume it would.

Q. What interest have the independent refiners in fighting the Standard Oil Company?—A. Because there is a legitimate profit to be made in the business, and all they ask is that the government keep its hands off, and not use its power to assist the Standard people.

Q. You are against the protection of the Standard Oil Company by the government?—A. I am against any corporation getting assistance from the government to the exclusion of others. Everybody is entitled to the same privilege.

TRUST FOSTERED BY THE GOVERNMENT.

Q. Do you call that protection or subsidy? Or what would you call it? Is it help?—A. It amounts to this: Does a sovereign State have the right to delegate governmental functions to a transportation company, be it a railroad company or a pipe-line company, and when such a company has received such powers through its charter and by exercise of the right of eminent domain has condemned private property for public uses, ought the State to permit it to devote that property to private ends? It is manifest that this contract with sovereignty requires such a corporation to give every man the same opportunity to use the railroad or pipe line. There are no powers delegated by a government such that one man can take advantage of another, if the governmental functions so granted are fairly exercised. The board of directors of a railroad who are exercising the right of eminent domain have no more right to give you or me a rebate, to the injury of another shipper, than the county treasurer would have to charge us 1 mill or 2 mills and in turn give me back half my taxes. It is just as much an offense for men to exercise these governmental functions wrongfully as it would be for a taxing officer to give rebates in taxes. That is our position.

Q. Your position is that, it being a public franchise given by the State, all the cities of the State are equally interested?—A. That is it exactly. The board of directors of a railroad company is exercising governmental functions as much as a Congressman is. As I said this morning, if a man is coining a dollar for the

¹ See p. 317; also Mr. Archbold, p. 543.

government he has no more right to cut it in two and put half in his pocket than a board of directors has to organize a railroad and exercise the right of eminent domain over private property and then afterwards abuse the right thus granted by fostering a monopoly. And there is where, if you allow me, the modern remedy that is being advocated of absolute government ownership is a mistake, because the government owns them now in the sense that the government can control. They get their life from the government; they have sovereignty breathed into them by the government; they can not exist without the government; they can be destroyed by the government at any time.

Q. Is the only wrong which you charge against the Standard Oil Company that of discriminating against some of the cities of your State as compared with others? Is that the only wrong they are guilty of in seeking discriminating freight rates? Is that all the wrong?—A. Oh, no; that is the basis of their getting the advantage. We say they get the advantage from the government by charters, the powers of which they abuse. That is one of the wrongs, but that is not the only offense committed by them.

THE REMEDY FOR THE EVILS OF THE TRUST COMBINATION.

Q. How would you remedy that wrong if you were on this commission and were asked to suggest a remedy?—A. If I were on this commission, I should say that so far as State charters are concerned, that is a matter for State control; an offense against a State charter is a subject for State punishment. The States originally ceded to the Federal Government certain powers only, and reserved unto themselves all that they did not so cede. One of the powers reserved to themselves is that of granting charters to incorporated companies, and this is peculiarly within their rights. When you come to corporations that are doing interstate business, then your commission can step in, and you have the right to investigate that and Congress to control that by Federal legislation. Attorney-General Griggs was right, and so were President Harrison and President Cleveland, when they enunciated the doctrine that the remedy is peculiarly a matter within the State's control.

Q. I have brought you right down to the point again. Would you do that by levy and sale, or by condemnation of the stuff when you catch it on the train, or how would you reach it? Suppose, in interstate commerce, that a Standard Oil tank was going across from New York to Virginia, and we knew it and seized it in Pennsylvania, and that, after that, the tank of oil, being in possession of the marshal or sheriff, was condemned or confiscated. Would that be your remedy?—

A. The Sherman Act was pretty nearly that drastic; it would be a good remedy. The Sherman Act has been sustained, and it has gone that far. If a desperate remedy is required for a desperate case, and that proved to be hard, and you enforced it on the dealer, the roads would get a modification of the law; but I do not think anything is too severe to stop the abuse that is going on.

Q. Suppose the tank was condemned and the engine and cars hauling it were all condemned and confiscated; would you think it would break up the evil?—A. I should think it would break it up, but I do not believe it necessary to be that severe. I would not interfere with all innocent shippers on the train. You may have mail and express and through freight. Here a punishment of an especial character is needed; take the property that is involved in the offense. If it is the buyer, why, stop the buyer; if it is his oil, stop the oil.

Q. That would be a punishment upon the party that owns the oil, but none on the railroad?—A. Then, where you have your through railroads or interstate roads, take the charter away.

BETWEEN THE FEDERAL AND THE STATE GOVERNMENTS AN ABSOLUTE REMEDY IS EVER PRESENT.

Q. That goes back to the State authority?—A. It goes to the United States if you have a Federal charter. The Union Pacific has a Federal charter. Between the Federal Government with a Federal charter and the States with a State charter there is an absolute remedy ever present and never divested from the people; it is constitutional; the legislature can not take it away. In our State private property is ever held inviolate by the constitution. The attorney-general, to illustrate, is a constitutional officer, and it is his duty to appeal to the courts to forfeit every charter the powers of which are abused, independently of the court's ordering him to do so. That is, he does not have to get a form of written order from the governor, or the legislature, or the court. By the constitution the power is vested in him to bring before the highest tribunal any corporation so offending, as much

as the prosecuting attorney is vested with power to bring a criminal before the grand jury. We have many such cases now pending before the courts. I take it that the Supreme Court of the United States and the supreme courts of the States will do a corporation no harm when doing right, and if they are in the wrong they will be punished. It is the legal and constitutional way to try these matters, and they should not be subject to mob rule.

Q. (By Mr. FARQUHAR.) Are the independent producers chartered corporations in your State?—A. Why, the Argan was. I do not know, but I think Scofield, Schurmer & Teagle are a partnership. I do not know of a single independent one that is alive.

Q. You spoke of the remedy. I don't think it is clear to the commission exactly what you may call the gravamen of the complaint of the independent producers?—A. The Standard, by means of controlling transportation, causes the producer to receive always less than the true value for his oil. This is effected by discrimination in rate tariffs. The Standard has been able to determine the price of crude oil and the rates for shipping it, and the independent producers of the State demand protection so that they can obtain equal shipping facilities, which they do not now get.

Q. What more protection can they get than the farmer who is selling 50-cent wheat in the West? Do not these independents with their oil sustain the same relation to the railroads as the farmer with his wheat?—A. When the wheat shipper is at a noncompetitive point on a railroad and when the company, in order to meet competitive rates at a point like Duluth, charges such a price that he can only receive 50 per cent of the value of his product in the markets of the world, he is injured in just the same way as the oil producer by excessive charges for transportation.

Q. (By Mr. FARQUHAR.) And without remedy?—A. He has his remedy.

Q. What is his remedy?—A. The Federal court held last year that the interstate commercial rate can not be so low that tribute must be levied upon State commerce in order to maintain traffic; or, take the converse of the proposition, you can not make the State traffic so high and the interstate so low that the State shipper is contributing to the interstate shipper. The remedy that I suggest must be finally adopted is this: That the State and interstate rates must be so adjusted that the burdens will be equalized. Whenever you have accomplished that you have demonstrated the fundamental principle that the public highway is controlled by the public; the railway is a substitute for the highway. The public owns these highways, and there must be an honest classification of freight rates, and a fair allowance for loading and unloading, and the roads must not abuse this principle in order to grant favors to certain shippers. There can be an absolute destruction of vested interests by classification of freights and by charging exorbitant local rates. Four hundred per cent more on a ton per mile basis is required to carry freight from Columbus, Ohio, to Cardington, Ohio, than from Columbus, Ohio, to Cleveland, Ohio.

Q. (By Mr. RATCHFORD.) I should like to have you revert to the subject of the proposed law in Ohio and explain the main features of it a little more fully to the commission. You were touching upon it a little way back and then went to another subject.—A. You have the Ohio statute here; I can take it up briefly. We have passed an antitrust law, and it went into effect July 1, 1898. We have quite a number of cases pending under it. There are the cases of the beer trust, the Standard Oil Company, the Buckeye Pipe Line Company, the Solar Refining Company, and others.

PROPOSED LAW FOR THE REGULATION OF FREIGHT RATES IN OHIO.

Q. I have reference to the law looking to the regulation of freight rates.—A. The general proposition was to amend our maximum freight rates, bring them down somewhere near the commercial competitive rate, and then make the interstate rate per ton per mile the basis or measure of the per ton per mile rate for Ohio business; in other words, to apply the long-and-short-haul clause of interstate commerce to Ohio business, and not permit discrimination against inland noncompetitive towns and in favor of competing towns like Cleveland and Cincinnati. That is all there was of it. It was a per ton per mile for local business the same as a per ton per mile on through business, exactly. Just to make it perfectly clear to the commission, the bill proposed that the same tonnage rate per mile be charged for a 10 or 20 mile haul as for a 50 or 100 mile haul. It allowed a variation of 10 per cent only for a shipment of less than 20 miles.

Q. Did the railroad companies oppose that?—A. They opposed that violently.

Q. What was the position of the coal companies?—A. I do not think they appeared before the commission. Mr. Rend was there on the trust investigation; he was an unwilling witness; we caught him and subpoenaed him.

Q. Do you know whether the coal men of Ohio ever complained against this discrimination in freights?—A. Yes; they have now filed complaint in my office; I think Collins and Fahy are among them; they are now out gathering testimony on this. In order to maintain the coal trust, coal cars of the independent coal producers were side tracked. That is the complaint. I will furnish you testimony here from the gentlemen who were discriminated against. While they told us they were getting the same rate they said they did not get the same conditions. They could not get their coal delivered in time to fulfill their contracts with customers. By such means the independent coal producers' customers were destroyed. I have given Mr. Jenks the names of the gentlemen; I think that they will testify on these points, and give you a little data, because one of them was an employee, at the time, of one of the leading railways involved in the matter.

Q. What were the principal objections raised by the shipping companies against that law?—A. The most intelligent reason given was, I think, by the gentleman representing the Erie or the Lake Shore; he stated that if the freight rates were all adjusted on that basis he believed it would be exactly fair, but that certain manufactures were now built up, and certain centers prosperous on the other system, and it would demoralize and derange towns and industries, and that it would create panic in one place and flush times in another, before it would be possible to get back to the normal condition of affairs. The Pennsylvania Company has a gross income of \$15,500 per mile; if it could distribute that gross income in that way it would make no difference to the company; it has to have that much—\$15,500—to pay dividends on its stock and pay for repairs, taxes, and employees. It makes no difference to the railroad company itself where that comes from, and they would just as lief distribute it equitably between local and through shippers, but the moment they attempt that trouble arises on account of the great competing centers like Chicago and Duluth, where the companies come in contact with the Canadian Pacific and the water ways; and they can not undertake it, because, when they meet water, they have to make water rates.

Q. Have you any reason to believe that the producers of coal in your State were induced by any coercive means to keep their hands out of that fight?—A. Well, the ways of the lobbyists are so mysterious we do not have an opportunity to find out.

Q. However, you are of the opinion they favor equalization of rates?—A. I think so, yes. I think every independent producer would favor equalization of rates. We do not want Baltimore to compete with Columbus in shipping groceries to Nelsonville; we do not want the wealth of Ohio poured into New York or Chicago; we want our share of it; and we would have it if we had no discriminating rates. By discriminating in transportation you can dry up the most fertile valley on the face of the earth; you can reduce all the little cities along the line of a railroad to villages, and give this wealth to the great centers, by discriminating in railroad rates alone.

Q. (By Mr. PHILLIPS.) Are there not a number of chartered companies in Pennsylvania controlled by producers that are operating in your State, for instance, the Empire Oil Company and perhaps the Victory Oil Company? They may have been chartered in New York State; but are there not a number of chartered companies controlled by producers doing business in your State?—A. As far as the oil business is concerned my opinion is based purely upon conclusions of testimony taken; they do not practically compete in their respective territories; for instance, the Standard Oil Company of Ohio has its territory and the Pennsylvania Oil Company sells in a portion of Ohio, but practically they do not compete, because they are all one system, although they claim they are acting independently. They never wage a war between any of these different companies. I never heard of one.¹

WHAT WILL BE THE EFFECT OF PRESENT INDUSTRIAL DEVELOPMENT ON GOVERNMENT?

Q. (By Mr. KENNEDY.) I should like to ask you if it is your opinion that the evolution which is now going on, if unchecked, will lead to a control of the industries of this country and to control of the Government by a few hundred or a few thousand men?—A. Well, that is mere conjecture. I feel as though we are under a republican form of government. We have as socialistic a form of government as man has ever been able to invent; and as soon as the people have an opportunity to control matters in the way I suggest—to take away charters, as well as grant charters—a condition of affairs will never rise whereby the monarchical

¹ See Mr. Archbold, p. 545.

institutions you suggest will be substituted for our republican form of government. Monarchies represent primogeniture and the principles of tying up property in a few hands. All this is what brought on our Revolution. I do not think we will drift back into these abuses, although we have made rapid strides in the last 2 years toward these monarchical ways. I believe it has gone about as far as it will go. Commissions like your own honorable body are getting the facts impartially; Congress and the people will know of the evil; you will diagnose the disease. There have been a good many patent medicines advertised to cure governmental ills, but they do not reach the disease. I think when you go through with this investigation and procure data you can give us more light on these questions. I know this from 3 years of experience in my office. I know, so far as the State is concerned, that it has absolute power to regulate many of the abuses you refer to, namely, the abuses of governmental powers exercised by creatures of the State.

Q. Would not the result which I suggested be realized if other industries were controlled in the way that a few men in the Standard Oil Company control the oil production of the country?—A. Yes; that would be the result. The socialists are advocating that this abuse be continued, and claim that it will demonstrate the possibility of Government ownership. When a few men get possession of all public utilities the socialists propose taking them away. That is their theory. The Government ought to own all public utilities, and ultimately the only way to demonstrate the possibility of such a system will be to allow a few people to demonstrate it first. Men with power, like Rockefeller and others, will demonstrate the feasibility of central ownership and control, and then the Government can take their place.

Q. That is the point I wished your opinion on.—A. If we always had men like Rockefeller to run such things it might be better for the public than governmental ownership.

GOVERNMENT OWNERSHIP OR CONTROL AT PRESENT WOULD BE DANGEROUS.

Q. Would it be preferable to have the Government control these public utilities or to have a few men, the representatives of the corporations, run the industries pertaining to them and run the Government too?—A. The Federal Government has 100,000 employees now and it almost raises a panic every time we have a Presidential election, so great is the demand for spoils. I do not know what would happen if you added any more to that. It looks to me as if, under the present civil-service rules, the Government ownership of any or all these utilities would create such a public disturbance that our institutions would be in danger.

LOCAL GOVERNMENT OWNERSHIP SUCCESSFUL.

We have a great many instances of public ownership in Ohio; 76 per cent of the waterworks plants are owned by cities, and many electric-light and gas plants. Local powers are granted to cities, giving them the opportunity to buy street railways; that can be followed up by rights to maintain interurban roads. The experiment has been successful, as no doubt you know, in the old country. Glasgow, Vienna, and other cities owning their public utilities.

I have been converted to that theory, viz, that cities should be given the right to determine for themselves what public utilities they desire to own or control. It will furnish a check to further abuse of municipal franchises operated by private companies.

FRANCHISE TAXES IN OHIO.

Q. (By Mr. FARQUHAR.) I suppose you have in Ohio a law the same as the Ford franchise bill of New York, taxing that class of property?—A. We are pioneers on that principle, you know. We have the Nichols law, where we take the stock valuation as the tax valuation, and not the value of physical tangible property. Other States have been following our law. Michigan has been following it, even extending it to railroads; we have not proceeded that far. We substituted the excise tax—one-half of 1 per cent for an additional tax upon railroads. Since I have been in public office we have had a fight on that, but the law passed. We drew from the Pennsylvania Company \$96,000 additional tax under the excise law; we collected \$450,000 under the excise law, the one-half of 1 per cent on gross receipts. That is what New York is doing now, except that New York proposes to make it 1 per cent.

SUIT AGAINST THE BREWERY TRUST.

Q. (By Mr. JENKS.) Take up the suits against some of these other combinations, outside of the Standard Oil Company.—A. Yes; we have other suits; one against the Cleveland and Sandusky Brewing Company, which is now operating a trust; some 10 brewers have placed their property in a pool and paid a promoter \$30,000 for mortgaging their property back to themselves, and attempting to raise the price of beer over their competitors. The trust is on the same plan as the other trusts; we have testimony that 1 man asked \$5,000,000 for his plant which was only worth two and a half million; they would not buy, and then undertook to destroy his business. They would not cut the prices of beer; but wherever there was a competitor with a long established business and possessing the good will of the business, they would buy him out. If the plant was worth \$10,000, they bought it for fifteen or twenty thousand, if it could not be obtained for its true value; and then put their beer in the place of the independent dealer's beer. They went out and bought up his customers, and almost raised a commercial and industrial war among the saloon men in the barrooms of Cleveland. We commenced suit 3 weeks ago against this brewery trust, under the Valentine-Stewart act.

THE TRUST PROMOTER.

Q. You raised one point that you did not bring out clearly, viz, the question as to the power of the promoter.—A. The Standard Oil Company trust is not run by a promoter. Other trusts will take a firm of attorneys and draw up one of these contracts and start out and get options on the leading industries that are making a profit in any one craft or business. The owners will sign options to sell their plants for a given amount to an individual, who becomes in fact a trustee. When he gets all the options he can on competing plants they then organize a corporation, usually in New Jersey, and this individual turns these plants all over to the trust, and claims it to be an absolute sale to a new company. The courts in Missouri have recently walked right through that fiction and held that trusts can not be disguised by one corporation buying the plants for the purpose of deeding them to one man, who deeds the same to a company formed for the purpose of buying in competing plants. A promoter works it up; the new company issues bonds—first-mortgage bonds—and sells them, and the promoter pockets the profits. In this particular case he received \$30,000.

Q. That is a matter of evidence?—A. That is a matter of evidence. It is from a statement gathered by attorneys preparing the testimony for our contest. It is the testimony of men who have made affidavit. It amounts to this: 10 companies are paying a man \$30,000 to get them to combine their interest into one company. It is a mere myth, it is a South Sea bubble scheme; but there are always men glad to try it.

Q. In the case of the brewers' combination that you have spoken of what was the amount of stock they issued, as compared with the valuation of the plants?—A. They issued preferred stock, usually for about the amount of the actual value of the constituent plants.

Q. That is true in this specific case?—A. Yes; and the common stock may be from three to five times that, and represents nothing except speculative value.

Q. Do you recollect how it was in this specific combination?—A. No; I can not give that. I know they issued mortgage bonds enough to pay for the actual property purchased. They have not transferred a single share of trust stock in 4 weeks, since the suit was filed. A great many of the interested parties are German, and they expressed a desire to settle—to have the investments put back into competing companies.

THE CRACKER TRUST.

Q. Can you mention any other combinations in Ohio that have been prominent?—A. Well, we have a suit pending now against the cracker trust. Under their promise, so far as the Ohio territory is concerned, they agreed not to violate any State laws. Although we have not taken testimony, we have filed interrogatories. They have a system of bonuses that they give back to the customer if he buys exclusively of them, and the only evidence we have of their violating the tacit understanding with the State is in the case of a new cracker firm which recently leased grounds and buildings in Columbus and bought machinery. When it was found they were leasing a building and buying machinery, the president of the cracker company sent for them and told them that if they undertook to go into business (that is their statement to me) the cracker company would

ruin them. The reply was that contracts were out for cracker machinery and the construction of buildings, and that suits for damages would follow if proceedings stopped. Thereupon the trust agreed to take the plant off their hands whenever it was completed. Those trusts are not so dangerous, because I do not believe that when competition can enter any trust can long thrive. The New York trust could not; the whisky trust could not. Only when they get some private advantage in the transportation department do they ultimately thrive.

Q. Have you any information of still others in the State of Ohio?—A. We have the tobacco trust, but we have not filed a complaint in that case as yet. The next suit filed was that against the tin plate trust, ten days ago, in Cincinnati, by the prosecuting attorney.

SUIT AGAINST THE CENTRAL PASSENGER ASSOCIATION.

Q. That is substantially all that you have direct evidence against so far?—A. We have a suit pending against the Central Passenger Association.

Q. (By Mr. PHILLIPS.) Is that the American Tin Plate Company to which you referred earlier?—A. Yes. He said he had evidence now to start the suit; I do not know what the name of it is. The Central Passenger Association has grown up since the decision in the Joint Traffic Association case of the United States. We base our suit on the strength of that decision. So far as Ohio business is concerned, we claim that the Ohio courts have jurisdiction over railroads in the State and can prevent them from pooling their issues through the Central Passenger Association and issuing thousand-mile tickets with rebates, holding up \$30 and giving back ten after the mileage book is used up, in case it has not been transferred. It is questioning their power to pool rates for the purpose of selling thousand-mile tickets. We insisted that since that joint-traffic decision we must have competition between railroads so far as Ohio business is concerned.

Q. (By Mr. JENKS.) If I understand you, the different railroads of the State of Ohio have agreed to issue thousand-mile tickets for \$30 and give a rebate of \$10 when the ticket is used up.—A. The Central Passenger Association is made up of different railroads. They sign the tickets individually. They have an executive committee located at Chicago; and they have by-laws and a constitution that we have had furnished us through interrogatories that were attached to their pleadings. They sell a thousand-mile ticket which connects over the different railroads that are in the combination, and then return \$10 in case the ticket is not transferred. It is really a scheme to prevent scalping. It is aimed at the scalper, but is really a scalping system. The railroads themselves furnish directly to scalpers thousand-mile tickets that are good over a number of roads. This system destroys the competition that small travelers used to enjoy. The Central Passenger Association is organized to prevent competition.

Q. Are there other combinations concerning which you have information?—A. That is all.

TRUST LEGISLATION.

Q. Have you further suggestions to make as to remedial legislation?—A. Here is a copy of the Ohio statute. We collated different trust statutes last year very carefully when we drew this act, and based it upon the trust investigation. We find that if we had to do it over we would add that clause I spoke of in this morning's testimony, exempting any witness testifying from incriminating himself. That has been approved by the United States Supreme Court. That clause should be added to the statute. Texas has this year added a special amendment to this act that has substantially the same features. At least, they have an act reaching directly the insurance companies; but as we had an antitrust insurance law in our State, we did not incorporate it here. They suggested State confiscation—merely duplicate damages—while the Sherman Act made it triplicate.

Q. (By Mr. A. L. HARRIS.) How many States have similar laws?—A. Twenty-six States have antitrust laws, if I have the facts correctly, and this winter there have been quite a number of bills pending. I do not know what finally passed.

Q. (By Mr. RATCHFORD.) Have you studied the measure pending in the Michigan legislature on this subject?—A. Yes.

Q. What is your judgment of it?—A. They have adopted ours; we forwarded them a copy; they put in the amendments we suggested. We are not entitled to the credit of our bill. It is a composite bill of the New York, Illinois, and Texas laws. We did the same last year; we took the latest acts for a guide; and they are doing the same now.

Q. (By Mr. NORTH.) Would a law of that kind in three-fourths of the States be a sufficient remedy?—A. It would correct all but the interstate features.

Q. Would not it practically compel suspension of business on the part of trusts?—A. It would; yes.

Q. (By Representative OTJEN.) You have indicated how the trusts might be run by the State, but supposing these corporations are organized in New Jersey, as many of them are, how would you reach them in Ohio?—A. We have reached them in nearly all the States under the insurance legislation, or what is called offense against the comity of States. A State can legislate and impose conditions upon which a foreign corporation can come into it. We have, under our trust law, reached them; a foreign corporation is reached the same as a domestic corporation so far as they do business in Ohio contrary to trust laws.

Q. There would then be very little distinction between companies organized in any other State and in your own State?—A. There is no distinction. States have more power and control over a foreign corporation than over a foreign individual; a corporation must do business in a foreign State upon such terms as the State authorizes.

Q. (By Representative LIVINGSTON.) Do you consider section 11 of the Ohio law a very practical one, where it authorizes the recovery of damages to twice the amount, to protect the State? I mean to ask this question: Are a great majority of the people so situated that they can take advantage of that clause?—A. No; the average man is not; the small dealer is not damaged enough to warrant him in doing so. They baffle him by wearing him out with vexatious litigation. He can not litigate as a large rival concern might do. For instance, a poor girl in Chicago took a contract for laundry and the laundry trust there followed up her customers. She sued the combination and recovered a verdict of \$5,000, which has been sustained; but litigation of that kind is expensive, and in this case the attorneys took it through. They bore the expense to get it through, so that ordinarily it is not an effective remedy. It is well to have them in cases where the damages are enough.

Q. Have you any suggestions to make to the commission concerning interstate regulation?—A. No; I am not conversant with that at all; I have given my attention entirely to the State feature.

AFFIDAVIT.

STATE OF OHIO, *County of Franklin*:

I swear or affirm that the statements made by me of my own knowledge in the foregoing report of my testimony before the Industrial Commission are true, and that all other statements I believe to be true.

F. S. MONNETT.

Sworn and subscribed before me this 20th day of September, 1899.

[SEAL.]

GEO. C. BLANKNER,
Notary Public.

WASHINGTON, D. C., *June 8, 1899.*

TESTIMONY OF W. H. CLARK, NEWARK, OHIO.

The commission met at 2 p. m., June 8, 1899, Vice-Chairman Phillips presiding. Mr. W. H. Clark testified.

Q. (By Mr. JENKS.) Will you kindly give the commission your full name and address?—A. W. H. Clark, Newark, Ohio, 208 North Fifth street.

Q. Have you been engaged in selling oil for the Standard Oil Company?—A. Yes.

Q. At what different places have you been engaged in this business?—A. Marietta, Urbana, Springfield, Columbus, and Newark.

Q. For how long a time?—A. I went to work in 1898.

Q. And have been working all the time between 1898 and now?—A. Solidly, up to February 7.

METHODS USED IN BREAKING UP THE BUSINESS OF COMPETITORS IN MARIETTA, OHIO.

Q. What kind of work have you been doing at these different places? What has been your experience with the Standard Oil Company and what are their methods of doing business?—A. I was first employed at Marietta, Ohio, as office boy.

Q. At what time?—A. In the fall of 1898, I think. I went there as office boy and was later promoted to warehouseman or cooper. There we had quite a time. We had the Producers' Refining Company, the Argan Refining Company, the George Rice Oil Company, and the Marietta Oil Works to contend with. While there Mr. Curtis, an oil driver, a colored fellow, was buying of the Argan. We got Mr. Frank Davis to compete with him, i. e., with the Argan price; we had Mr. Davis put his oil down cheaper than the Argan Oil Company.

Q. Was Mr. Davis an oil dealer before?—A. No; he was furnished a horse and wagon and I hired him by the week. Things went on that way for a time. After awhile Mr. Curtis got tired of his business and came to us and told us that if we would make some arrangement so that he could buy oil of the Standard Oil Company he would. We made the arrangement and took a mortgage on Mr. Davis's wagon. We put up a bluff, foreclosed the mortgage, and let him go.

Q. As soon as Mr. Curtis came to terms with you, did you stop the business of Mr. Davis?—A. Yes, and the price went up.

Q. Can you tell us about the price at which you sold, while Mr. Curtis was selling the oil of the competing companies, and then what the price was afterwards?—A. The oil was 7 cents while Mr. Davis was selling, and when he quit oil went up to 12 cents.

Q. And further?—A. After Mr. Curtis bought of us a little while he went back to the Argan again: I forget the name of the man who managed the Argan, but he went back again. Mr. B. A. Mathews, Columbus, Ohio, sent down Mr. Ebricht under a salary, and we played the farmer racket. We went out and got a big cart and barrel with a faucet in it, and went around selling cheap oil.¹

Q. Who was Mr. Mathews?—A. He was manager of the Standard Oil Company stations of the Ohio Southwestern.

Q. And was Mr. Ebricht a man that had been sent down by him to do this work for you against Mr. Curtis?—A. Yes.

Q. About how long did Mr. Curtis keep up competition, the first time, before he yielded?—A. I think it was about three or four months.

Q. What was the result of the competition, the second time, by Mr. Ebricht?—A. Why, we cut the price again and Mr. Curtis had to come back to the Standard Oil Company again. After I left Marietta I went to Springfield, Ohio, and took a country tank wagon. While at Marietta we sold our oil all over the surrounding country. We had probably 15 or 20 towns; we sold up the Muskingum as far as Beverly, up the Ohio as far as Newport, and down the Ohio as far as Frost, on the B. and O. Railway. We had two storage tanks, besides our gasoline, and we sold 8 grades of oil.

DIFFERENT GRADES OF OIL SOLD OUT OF THE SAME TANK.

Q. Two storage tanks from which you sold 8 grades of oil?—A. Yes; we had 8 different prices. We sold O. S. T., i. e., Ohio State Test, the Prime White, the Water White—

Q. Can you give us the prices of these different grades?—A. I can not remember them now; there was about one-half cent difference. We had to change the prices to suit the customer. We had the Red Star, the Water White, the Crystal Light, the Eocene, the Hyperion, and the Silver Light, while at Marietta.

Q. Do you say the difference of price between these different grades was about one-half cent on an average?—A. Yes; we would begin about 6 cents a gallon and run as high as 10½ cents.

Q. If you were selling a man this oil at 10½ cents and he thought that price too high did you agree to sell him a lower grade at 9 or 9½ cents, and furnish it out of the same tank?—A. Yes; and furnish it out of the same tank under a different name.¹

Q. Was that generally by the orders of the Standard Oil Company?—A. Yes.

PUTTING GASOLINE IN TURPENTINE.

Q. What men, for example, gave you the order to do that?—A. Mr. Hollingsworth and Mr. Mathews. They said that people did not know what they wanted, and that we should give them what we thought they needed. If a man came in there and wanted to buy a good oil for 10 cents we gave the best oil we had, of course, and charged him 10 or 10½ cents. We sold turpentine at Marietta to W. H. Stryer and Siler Brothers, druggists there. We would often get a barrel of turpentine and to increase the profit we would put 3 or 4 gallons of gasoline in the turpentine. Gasoline is worth 7 cents and turpentine 38 or 40 cents. We poured the gasoline right in the hole of the barrel.²

¹ Compare Mr. Mathews, pp. 491, 492, 493.

² See p. 493.

Q. Was that also under instructions from the Standard Oil Company's manager?—A. Yes; the boss was there, and said he would teach us a trick in turpentine, and he taught us.

Q. Have you anything further concerning the price of oil while you were in Marietta?—A. I think of nothing in particular.

Q. (By Mr. PHILLIPS.) Do you mean to tell the commission that you sold the same quality of oil from the same tank under different names and at different prices?—A. Yes.

Q. The oil was of the same quality and yet different in price?—A. Yes.

Q. (By Mr. JENKS.) After leaving Marietta, where did you go?—A. To Springfield.

Q. And what position did you hold there?—A. I was country tank-wagon man.

METHODS AND PRICES AT SPRINGFIELD, OHIO.

Q. Can you tell us something of your experiences there?—A. When I went to Springfield I had 21 towns outside of that place, and after awhile the trade became so heavy I could not hold it. I could not take enough oil to satisfy the trade. Finally, Mr. Mathews and Mr. T. L. Cragin, his brother-in-law, came over there. They shipped in another wagon from the Milburn Wagon Company, Toledo, Ohio, and Mr. Foley, the agent at Springfield, went out and hired George Blazer to go to work. Mr. Blazer came down, and on the first trip went to Cedarville. While down there he found the prices were mixed up; he did not know what to do, and I think brought most of it back. Mr. Cragin was there and told Foley to explain to him about how to sell the different grades out of the same tank, by turning the faucet one way for one kind and a different way for another. Foley did not want to tell him, and said: "You tell him yourself." Finally, between the two, they told Mr. Blazer how it was.

Q. Did you overhear this yourself?—A. Yes; and Mr. Blazer said: "If I can not work for an honest company I will quit." He quit that day. This was George Blazer, Springfield, Ohio; he lives near the East street shops.

Q. Is that something you know from having heard it all yourself?—A. Yes.

Q. Go on from there.—A. While at Springfield I sold George H. Bell, at Cedarville, Water White at 6 cents and Silver Light at 6½ cents. I have often sold as many as 4 grades, the same as the rest of them, but out of the same tank at 4 different prices.¹

Q. Were the prices uniform to different customers?—A. No.

REBATES; ANYTHING TO HOLD THE TRADE.

Q. Not even when the grade was named the same?—A. No; we gave them the same and made a ticket out for the same; but we rebated them.²

Q. That is, you would rebate to some customers and not to others?—A. Not to the others.

Q. Did you have any principle with reference to these distinctions; or, if anyone objected, did you just simply provide for him?—A. We always had to do something for a kicker. Anything to hold the trade; that was what we were there for; to keep other companies out.

Q. Was there much competition there?—A. We had the Charles Ludlow Oil Company and a Cleveland company, but I do not remember the name.

Q. Did you at any time cut prices below cost against some of these other companies?—A. Why, we would cut in case we had to; we would sell as low as 4 cents, and still charge other customers 7 cents.

Q. You said that, in order to drive the Argan out of business, you sold to Mr. Curtis at Marietta cheaper than they could furnish oil to him?—A. Yes.

Q. Were you doing the same thing here?—A. Yes. Our instructions were: Get the trade regardless of prices.

Q. Had you much opposition in Springfield?—A. Yes.

Q. Do you know who were the independent companies selling there?—A. There was only one in Springfield, the Charles Ludlow Oil Company; but afterwards it was consolidated with the Standard Oil Company.

Q. Can you tell anything else of your experience on the tank wagons?

Q. (By Mr. KENNEDY, interrupting.) How long were you engaged in that work, selling several different grades of oil out of the same tank?—A. About 7 years.

Q. Did you feel that you were engaged in dishonest work while doing that?—A. I spoke to them about it; they said it was not for me to say what to do, but to do what was said. That is the reply they gave me.

¹ Compare p. 493.

² Compare p. 494.

Q. Did the Standard Oil Company pay you well, while in their employ?—A. Not very well.

Q. (By Mr. JENKS.) What wages did you get in these different positions?—A. When in Springfield I got \$35 a month, but went to work in the morning at 4 o'clock, and many a night worked until 9, 10, or 11, before getting in.¹ I had 1 trip through Lawrenceville, North Hampton, Tremont, Terre Haute, and Bowlesville.

Q. (By Mr. KENNEDY.) Did you leave the employ of the Standard Oil Company because you felt you could not engage in this dishonest practice?

MANY GRADES OF OIL ONLY NOMINAL.

Q. (By Mr. FARQUHAR, interrupting.) You speak of selling different grades of oil out of 1 tank. How do you construe the word grades? Is it a title or a condition?—A. It is a brand on the barrel.

Q. And that is all it was?—A. Yes.

Q. So you men were selling different names instead of different grades, with only 1 grade in the tank?—A. Yes. We called it a grade, but still it was only a name.

Q. (By Mr. PHILLIPS.) There are different grades of oil sold, are there not?—A. Yes; the Standard Oil Company, I believe, makes 3 grades altogether.

Q. (By Mr. JENKS.) There are 3 grades of refined oil. You have not known of any more?—A. No.

Q. And how many different grades do they pretend to have which they sell at different prices? I think you named 8.—A. Yes; I have seen a dozen grades sold at different stations.

Q. And you think they sell at as many as a dozen different prices at different stations from these 3 actual grades?—A. Well, there was just about one-half to one-fourth cent's difference in the price sometimes: Silver Light was always one-half cent more than Water White; Red Star was one-fourth cent more than Water White; but they all came out of the same tank.¹

Q. Would they sometimes be selling under as many as a dozen different names at one station?—A. They sold under 8 names at each station; but when we got to Columbus and Urbana we dropped Hyperion and the southern names, and put in the new names. There were about 8 grades at each station.

Q. Out of 3 real grades they sold about 8 nominal grades on an average?—A. Yes.

Q. (By Mr. PHILLIPS.) What are the 3 grades that the Standard Oil Company makes, to which you refer? Can you name them?—A. I think the correct names are Diamond White, Water White, and Eocene.

THE TEST OF DIFFERENT GRADES.

Q. Can you tell what the test of these different oils is?—A. The Diamond White is 150 degrees open cup and 120 closed cup. The State test is 120 degrees, and 120 degrees is what we test it ourselves. There is about 10 degrees difference in each one. The fire test of the State will run 120 degrees on each one. Of course, the cheaper the oil the lower the test; the better the oil the harder it is to ignite.¹

Q. How did you happen to leave your position at Springfield, Ohio?—A. Mr. Mathews came there and raised my salary and sent me as cashier to Columbus, Ohio.

Q. What salary did you then get?—A. I was getting \$35; he raised me to \$40 and sent me to Columbus.

COMPOUNDING OILS AT COLUMBUS, OHIO.

Q. What was your business at Columbus, cashier at the works?—A. While I was there I had charge of the works and all the shipments.¹ I took care of all the money, received orders, and sent out bills. We did considerable mixing in Columbus. When a person wanted a barrel of boiled linseed oil and we had none, we had an agitator heated up to 125 degrees and put in 3 gallons of Japan dryer; that made boiled linseed oil. When a person wanted miners' oil we would get 3 barrels of cottonseed oil and mix it with 2 barrels of miners' stock and make miners' oil out of it.¹

Q. Then in this Columbus establishment instead of selling merely refined petroleum, you also sold other kinds of oil?—A. That was the habit over all that district; the oil was shipped from there; all paraffin oil came from Cleveland in blank heads. If a person wanted rubbing oil for furniture, ozone, paraffin,

¹ See p. 494.

¹ See p. 495.

diamond paraffin, golden machinery, or a good straight machinery, we got it in blank heads; turned out whatever they wanted and charged prices accordingly.

Q. In connection with the sale of these different kinds of oil, do you mean to say you regularly manufactured linseed oil there or sometimes had the genuine boiled linseed oil?—A. No; we never had any of that.

Q. (By Mr. PHILLIPS.) Was the genuine linseed oil worth more per gallon than that which you manufactured?—A. In boiling and handling the oil a certain per cent is lost. We took a low oil with a little Japan dryer, but the dryer being thicker than the linseed oil, does not mix, so we put it in a range that held 5 barrels and heated it up to 125 degrees, when the dryer would come to the top and we would mix it; that would make it a dark color and it would go off for linseed oil all right.

Q. Was it as valuable as boiled linseed oil?—A. No.

Q. (By Mr. JENKS.) How much money was saved by this mixing process, do you suppose?—A. Any where from 5 to 6 cents per gallon.

Q. Besides boiled linseed oil, what others did you make in this same way?—A. To make the miners' lamp oil we took 8 barrels of cotton-seed oil and 2 barrels of miners' stock and mixed them.¹

Q. Was that for the purpose of saving on the cost?—A. Certainly; paraffin was worth 10 cents, extra golden machine 12 or 13 cents, and light rubbing oil was worth 14 cents. We just branded the oil to suit the customers, and gave them what they wanted.¹

Q. And gave substantially the same thing?—A. The same thing in every barrel.

Q. (By Mr. RATCHFORD.) I should like to get to the process of compounding the miners' oil. Do you say it was 8 barrels of linseed oil and 2 of other oil?—A. Three barrels of cotton-seed oil and two of miners' stock.

Q. What did the oil generally sell for after the mixing took place?—A. Miners' oil varies. Sometimes it is as low as 22 cents and goes up to 34 cents. The miners' stock, I think, costs about 6 or 6½ cents; the price of the cotton-seed oil depends, of course, on the market; the American Cottonseed Oil Company, of Cincinnati, regulates the market.

Q. What do you understand by miners' tar? Do you handle any paraffin wax?—A. We handle it only in pound cakes and 20-pound slabs, but we do not use it for that purpose at all—it would not do.

Q. (By Mr. JENKS.) In the position you held at Columbus as cashier you know, of course, about the details of the business, i. e., how this mixing was done; but did you yourself take part in it?—A. No; but every day I would have to go out in the warehouse and make a report for the time. Mr. Adam Paulus would come to me and say he wanted to mix up some miners' stock and would like a number of barrels; I would deduct them from my stock report each day so that the report showed what we sold and what we had left in stock; it showed every empty barrel left at the station at night.¹

Q. To whom did you make your report?—A. I made it to the general office in the Wheeler Building. A boy would come down and get it every day.

Q. Did I understand you to say that the mixer did that work as his regular business?—A. No; he mixed oils, but when he did not have that work to do he would take care of the machinery.

Q. Was it your business to furnish the different kinds of material he wanted?—A. He would order so many barrels and I would see that he got them. These barrels were dumped into the kettle and he sat there and stirred it up. I would stay there to see that he dumped it in. I would charge him up with so much oil, and give him credit for the empty barrels he had taken.

Q. After this oil had been mixed did it come into your hands again, being the different oils of the stock you had to sell?—A. Yes.

Q. (By Mr. FARQUHAR.) Have you had any experience outside of your work for the Standard Oil Company in compounding oils?—A. No.

Q. Do you know any of the other formulas of the compounders of oil in the United States?—A. Well, I have been around refineries, but I never noticed that they compounded at all.

Q. Are you aware there is such a business in refineries?—A. In my talk with other people I find they never compound as we did.

Q. But you don't know anything about compounding outside of what you saw in the works of the Standard Oil Company?—A. I do not.

METHODS OF MEETING COMPETITION AT COLUMBUS.

Q. (By Mr. JENKS.) Have you anything further to say with reference to your experience as cashier in Columbus?—A. We had our secret process there as at other places. We had our rebates at Columbus, which made oil about 1 cent a

¹ See p. 406.

gallon cheaper, on account of the Cleveland Refining Company being there as a competitor.¹ When they came there it was pretty hard work for the Standard Oil Company, so they hired Mr. E. W. Shoemaker to start the Shoemaker Oil Company. Mr. Shoemaker came up and the Standard Oil Company had painted on Charlie Carr's wagon in big letters, "Shoemaker Oil Company." We often got orders, the same as Down & Milliken, at Washington Court House, for carloads of oil; they had to buy cheaper, so the Standard cut the old prices at Washington Court House; that is, they cut prices and sent it to Shoemaker at reduced prices, and branded it Shoemaker Oil Company.

Q. That is, it was supposed that they bought from the rival of the Standard Oil Company when they were buying from the Shoemaker Oil Company?—A. Yes.

Q. (By Mr. PHILLIPS.) And was that used by the Standard Oil Company to supply both?—A. Yes; Mr. Mathews said that he stood their share of the loss, and if there was any loss the Standard Oil Company stood it on these cut prices. Mr. Shoemaker drew a straight salary and loaded his wagon at the Standard's warehouse. Mr. Clarence Tolan, who was his bookkeeper, boarded with me at Mrs. Dickson's, on North High street. He was bookkeeper and cashier at the Shoemaker Oil Company and I was cashier and bookkeeper down at the Standard Oil Company's works. We were together all the time, boarded together, and went together.

Q. Were both of you receiving pay from the Standard Oil Company?—A. Yes.

Q. Did you say that Shoemaker was paid a salary?—A. Yes.

Q. Do you know that for a fact?—A. Mr. Mathews swore to it as a fact before Mr. Monnett, in Columbus.

Q. (By Mr. PHILLIPS.) About what was the magnitude of the business while you were cashier there? What would your footings show each day in a month?—A. Well, lots of days it ran up to \$700 or \$800. I have known one wagon, that of Mose Gradwohl, to take in \$200 in 1 day.²

Q. Have you anything further with reference to the work at Columbus?—A. I do not think of anything more.

Q. (By Mr. PHILLIPS.) Do you know about how much the competitors of the Standard Oil Company sold in Columbus?—A. Clarence Trimble told me that we were about on an even basis. Mr. B. A. Mathews hired a boy to go and see how much oil they were shipping out each morning. He would go down to the station every day and watch the tank cars which they got, and watch their business, too.

Q. (By Mr. JENKS.) Did he report to you every day?—A. He would take account of the tank cars and give us the number and we would send the report to Columbus.

Q. (By Mr. PHILLIPS.) Were the competitors driven out of business in Columbus while you were there?—A. Well, they cut prices so that those people came and arranged with the Standard Oil Company to hold prices up to a certain point. Prices remained the same excepting what few rebates we had.¹

Q. Do you not know how much they were permitted to sell?—A. No, I do not.

Q. Or what proportion of the trade they obtained under that arrangement?—A. No, I do not. They had an arrangement; they went from one to the other; if the Standard Oil Company telephoned down there to raise prices, they would raise them.

Q. (By Mr. KENNEDY.) Did the other companies in Columbus also sell many different grades of oil out of the same tank?—A. They never handled but three grades that I knew of.

Q. Three?—A. Yes. They handled Penoline, Safety Light, and Electric Light.¹

Q. Do you mean they had 1 grade of oil in a tank and sold 3 different grades out of it?—A. No; they had 3 storage tanks; we had 10 at Columbus; we had our cotton seed, linseed, turpentine, and 2 water tanks; we had 10 tanks, and they had, I think, 4; 1 held 5,000 barrels and 1 held 10,000 barrels; and we had another one that held 1,000 barrels.

Q. Do you know of their having deceived the public in the same way the Standard Oil Company did?—A. Not that I know of.

AGENT'S SPECIAL COMPETITION REPORT.

Q. (By Mr. JENKS.) Were you in a position to find out? Were you in a position where you would have been likely to find out if they were deceiving the public the same way as the other people did?—A. We always made it a point to go around and see what they got; that was always our instructions, just the same as though it was our business. I probably have got some of the Columbus letters with me now. I have one here dated May 29, 1896 [reading]: "W. H. Clark, Urbana, Ohio. Dear Sir: Herewith inclosed please find competition list to be filled out by you the 1st of June. Please fill out carefully and return, and add

¹ See p. 426.

² Compare affidavit of Moses Gradwohl, p. 409.

to this list any parties you know of who are buying all or portions of their goods outside. Yours very truly, B. A. Mathews."

Here is another letter dated July 8, 1896 [reading]: "W. H. Clark, esq., Urbana, Ohio. Dear Sir: Inclosed please find competition sheet to be filled out very carefully and returned to me as soon as possible after you receive it. Please give full information with reference to parties on list, and where names do not appear of parties who are buying outside, please enter them, giving full information. Yours very truly, B. A. Mathews."

Q. Have you a copy of the competition sheet with you?—A. I think I have one; the competition got a little fast on us, and this was sent to me: "May 25, 1897. W. H. Clark, Newark, Ohio. Dear Sir: I forward to you to-day a supply of blanks same as sample herewith inclosed, which is to take the place of the little slip that has formerly been used for reporting daily competitive oil. Will you kindly fill out one of these blanks weekly, commencing with June 1, and whenever the month ends in the middle of the week, make out one on the last day of the month for the portion of the week not covered in the last week you report. Enter upon this report all competitive oil or gasoline that you have been able to locate during the week, and if during the week you have been unable to locate any competitive shipments, then write across the face of the blank 'Nothing to report' and mail it to this office. Be sure to mail it whether you have competitive receipts to report or not. If there is anything about this report that you do not understand, please confer with me at once, as it is very important that it should be made out promptly and forwarded regularly. Trusting that I will have your hearty cooperation, I am, yours very truly, B. A. Mathews." I have not one of these blanks.

Q. Have you not one of those competitive lists?—A. I have not, but I can get one.

Q. Were you ordered to fill up the competition blank regularly or not?—A. Yes; we filled them out; first on the blank was the producer, then name of the town, and the price he bought at.

Q. How did you find that out?

Q. (By Mr. PHILLIPS.) From whom he bought?—A. We would get around him and talk to him to see if we could get out of him what he paid for the oil.

Q. (By Mr. JENKS.) You spoke of having a boy for that?—A. Yes; it was his business to notice every tank car that came in for the competitors.

Q. Was that boy paid regularly by you to do that work?—A. He was regularly paid for that work.

Q. By you?—A. Yes; he drew \$15 a month; his name was Clarence Trimble.¹

Q. (By Mr. PHILLIPS.) After sending in these reports, what instructions did you get about meeting this competition?—A. Well, in some cases we were not ordered to do anything, but the next time we had any business transactions we were to attempt to get their trade; and even if it cost us a dollar or two we were to try to get hold of it.

Q. (By Mr. JENKS.) You say if it cost you a dollar or two. Do you mean that you were to cut prices that much?—A. Sometimes we would buy empty barrels, but we would cut that much sometimes. If we had to pay more than market prices for them, we would say that we would take them in at so much apiece. I do not mean barrels of oil, but empty barrels.

Q. That is, if they would take your oil instead of that of your competitors you would take the barrels at an exorbitant price?—A. Take them all; yes.¹

Q. Do you recollect any other methods you employed in order to crush competition?—A. There is nothing that I think of at Columbus.

Q. (Mr. PHILLIPS.) Do you know of any other instances of selling under assumed names excepting the ones you mentioned at Columbus?—A. Only at Columbus.

Q. (By Mr. JENKS.) How long were you at Columbus?—A. I went the 20th of March and staid until the 16th of December.

STANDARD OIL COMPANY'S METHODS AT URBANA, OHIO.

Q. Then what change did you make?—A. Then I was promoted to be manager of the Standard Oil Company at Urbana, Ohio.

Q. You say you were promoted. What increase of salary did you get?—A. They did not increase my salary at first, but paid my board until March; then they raised me \$15 a month.

Q. That is, you had had \$35, then \$40 and board, and then you were raised to \$55?—A. Yes.

Q. Will you tell us with reference to your experience at Urbana? As manager you really had full charge of all their business?—A. Full charge; yes.¹

¹ See p. 406.

Q. Did you receive instructions directly from Mr. Mathews?—A. I received instructions directly from Mr. Mathews; and when any business around there had to be seen to I was the one to look after it. Everything fell to me; but things ran along smoothly. I had no competition. Charlie Ludlow did not come out. He bothered us once in a while, but we did not pay any attention to him. Finally Mr. William Helmick, who had formerly been in the oil business there under his father, Mr. John Helmick, but who, after his father died and left him some money, bought a farm and went to farming, came there. When he saw he could not do anything farming he sold his farm and invested his money in the oil business for the Cleveland Refining Company.

Q. Do you know how large an investment he made?—A. I do not know the amount. I know the first shipment he got in was \$300 and some dollars, and I remember he told me his bill. Finally Mr. H. S. Hollingsworth, of Columbus, came over. He takes care of a good deal of the business for Mr. Mathews at present as well as then. He came over there, and he and I went out to Mr. Helmick's house and tried to scare him out of it. We told him we were going to cut prices and everything, and Mr. Helmick was kind of nervous. Finally Mr. Welsh, of Springfield, came up.

Q. Was Mr. Welsh another employee of the Standard Oil Company?—A. Yes; he was a cooper man, and worked at the cooper shop in Springfield. All three of us talked with Mr. Helmick about oil, and about selling us the oil at the price he paid for it. He refused to do that at first. Finally we worked a bluff on him about cutting the price, and did cut it a little in one or two places where he was selling. He had to dispose of his oil the best way he could.

Q. In these places where you cut did you cut below what he had been paying for the oil?—A. Yes.

Q. Then I suppose you threatened to cut still further?—A. Yes; to cut still further if he stayed in the business.

Q. How much did you say you would cut?—A. I think oil was selling at wholesale in Urbana for 8 cents, and I believe we cut to 6 cents, or about that. I know it went down about 1½ to 2 cents.

Q. And you made threats to cut it still further?—A. Yes.

Q. How low?—A. We told him we would go 1 cent a gallon further. Finally he quit the business and went to the poorhouse. His sister from Iowa came and took him out, and he is out there now.

Q. (By Mr. PHILLIPS.) Was that caused by the purchase of \$300 worth of oil?—A. He had most of the trade; he was a citizen there and the people liked him. He could have handled the trade there and made an honest living. When he came he put up a building. We would not take the building off his hands, and would not help him out any at all. We just closed in on him like any other person; and when you close in on them pretty hard, you know what happens.

Q. (By Mr. KENNEDY.) Did you not say you started up there and had no competition until he came?—A. Yes; we had no competition to speak of until he came in.

Q. (By Mr. JENKS.) And when he came, he put up this building and began buying oil, and you agreed, if he would quit, to take his oil off his hands?—A. We were willing to agree to do that, but he would not do that. We worked a bluff on him. His wife was on the stair steps in the hall and stayed there and cried. We had quite a time when we were there.

Q. You did not, then, take any oil off his hands?—A. I think we got about 4 or 5 barrels. We just painted those over and shipped them out in the name of the Standard Oil Company.

Q. But he must have disposed of the oil he had at some price?—A. He disposed of it all over town; wherever he could drop 5 barrels he dropped it.

Q. He must have sold his building for something?—A. No; he did not get anything out of his building. The council of Urbana does not allow over 1 barrel of oil or gasoline at any one place; more than that must be 200 feet from any building. He had to build his building away out of town, so that it was no good to him.

Q. So you think that, owing to your competition and threats, he practically lost all his money?—A. He lost it all.

Q. (By Mr. KENNEDY.) In other words, you think the Standard Oil Company drove that man to the poorhouse?—A. I think that is what caused it.¹

Q. (By Mr. FARQUHAR.) Had this man had any experience in buying oil before that?—A. His father had been buying oil for 20 years of the Standard Oil Company, and had their tanks there. He was in the business probably 20 years.

Q. Did this son have experience?—A. He worked for his father all the time and drove his wagon.

Q. Did they come in opposition to the Standard Oil Company?—A. They came

¹ See pp. 426-429.

there and the Standard Oil Company bought them out. Finally the old man died, leaving his money to his son who then started up.

Q. But he did not know his business?—A. He knew the oil business.

Q. (By Mr. KENNEDY.) Did you not say this man had failed as a farmer just previous to his going into the oil business?—A. Well, his wife did not like the farm. He did not make much money, and was not doing much on the farm. His wife did not like it and was in town all the time. He could not stand it, and so he sold his farm.

Q. (By Mr. PHILLIPS.) And put the money into the oil business?—A. And put it into the oil business.

Q. You spoke of his going to the poorhouse. How did he come to go to the poorhouse? On account of failing in health, or from not getting any employment?—A. You see Urbana is a kind of a little town; it has two strawboards there, and Barley, Kent & Co.

Q. (By Mr. JENKS.) What is their business?—A. They make furniture. There is not much work, so he did not get anything to do. That is all he could do.

Q. Was the man strong, so that he might have worked?—A. He could have worked. I do not suppose he was stout enough to do hard manual labor, but he could do work, like driving around and waiting on the trade.

Q. Probably he could not go into this furniture establishment, or any place like that, to get regular work?—A. No; it was too heavy for him.

Q. Have you anything further with reference to your experience as manager in Urbana?—A. No; I stayed there until fall, then I went to Newark, Ohio.

Q. (By Mr. PHILLIPS.) How much did the Standard Oil Company's trade amount to, in Urbana, a month?—A. We would run by the month, I suppose, about 40,000 or 50,000 gallons; our line went as far as Mechanicsburg on the east, West Liberty on the north, Tremont on the south, and St. Paris on the west, making quite a scope.

Q. (By Mr. KENNEDY.) Did you also sell several grades of oil out of the same tank in Urbana?—A. Yes.

Q. (By Mr. JENKS.) Were the general methods there the same as at other places?—A. Yes.

MANY DIFFERENT PRICES FOR OIL AT NEWARK, OHIO.

Q. Then you went from there to Newark?—A. Yes.

Q. Was that in the nature of a promotion also?—A. They promised me a raise when I went to Newark; they changed my salary to \$2.25 per day; that made more money than what I was getting, on account of the days.

Q. So you did get an increase in salary there?—A. Yes.

Q. What position did you take at Newark?—A. I was manager at Newark.¹

Q. Was your business the same generally as it was in Urbana?—A. Yes; but Newark was a larger station than Urbana.

Q. How much more business did you have to oversee there?—A. Our Newark business ran about 80,000 gallons per month.¹

Q. Can you tell us with reference to your experience there?—A. At Newark the business was much harder than it was at Urbana on account of the fact that we had from 20 to 25 prices. We sold J. P. Lamb & Co. gasoline at 7 cents; Mr. J. M. Brown, in the store beside them, we charged 9½ cents. We charged Mr. Rankin 6 cents for oil, and drove right down to Showman Brothers and charged them 7½ cents.¹ We then drove to Mr. Hagmeier and made him a ticket out the same as the others, but we always rebated him. I think I have his receipts here now. Here is one.

Q. Will you read it?—A. (Reading.) "February 28, '99, Mr. Clark, when agent of Standard Oil Co., has paid me a great many rebates on goods which were receipted for when given. Geo. J. Hagmeier."

Q. About how much of a rebate did you make Mr. Hagmeier?—A. One cent on gasoline and 2 cents on oil that he picked up.¹

Q. When you were selling to others at 7 cents you billed him at 7 with a rebate, so you really sold him at 5?—A. Yes.

Q. Did you make that to Mr. Hagmeier on direct instructions from the office?—A. Mr. Mathews himself was in the office in November; he told us in Newark; he told me to give it to him.

PRICES FIXED BY THE MANAGER AND NOT THE AGENT.

Q. How much discretion did you have with reference to making rebates and making special prices? You, of course, were under general orders, as you have just said, to get the trade and keep the trade.—A. Yes.

Q. Were you at liberty without instructions from Mr. Mathews to make a rebate of 2 cents a gallon wherever you thought it was necessary?—A. No; I would write

¹ Compare Mr. Mathews, p. 490.

him that some customer, or somebody, was buying outside oil, and then he would either come over or send Mr. Hollingsworth, his secretary. They would tell me to go and make the arrangement—authorize me to go and make the arrangement.

Q. You did not have authority to make any special price yourself without direct instructions in each separate case?—A. No; I could not change the price to anyone; I had to sell at the price they told me. If any customer was buying outside oil, I would write them to come over, and they would come over or tell me to make the arrangement.

Q. So all of this change in prices was always under special instructions for each particular case?—A. Yes; I always wrote those letters to Mr. Mathews personally; I did not write them to the office.

Q. Were your letters to Mr. Mathews always marked "personal"?—A. I would write to Mr. Mathews personally.

Q. That is, you did not dare to write to anybody but Mr. Mathews?—A. I would write Mr. Mathews personally; i. e., put his name on the letter so that nobody but him would open them.

Q. (By Mr. FARQUHAR.) Were those changes in rebates or prices made by your suggestion to Mr. Mathews?—A. If I lost a customer, if a customer went to buying outside, I would write to Mr. Mathews about it, and he would come over, or write to me to make that customer a certain price.

Q. Then it was your representation to Mr. Mathews that caused the change in price?—A. No; he always told me to go and make the price.

Q. How did you know what price to make if you did not write him?—A. I did not know what price to make and he would come there and tell me what to do; sometimes he would say: "Cut half a cent, or 1 cent, or 2 cents." I just reported to him on a slip of paper. I met the competition if the customer was buying somebody else's oil.

Q. (By Mr. JENKS.) It was on your report that Mr. Mathews made these cuts?—A. I sent in a report every week just like the one I read; he read those slips and wrote me a letter and asked if I could not get those people in line. Then, if the name went in a couple of times and I told him I could not get them in line, he would come over and authorize a cut.

Q. (By Mr. PHILLIPS.) He did not authorize you to make the cut?—A. No; I could not cut at all.

Q. (By Mr. FARQUHAR.) In other words, in your business as canvasser for trade, you could easily find a customer at a certain price or a certain rebate, and you suggested that to Mr. Mathews and then the cut was made?—A. No; I could not do that.

Q. I did not say you could. That is the reason you misconceived my question; I want to find out if a suggestion was made to Mr. Mathews. Would they have to be buying the outside oil?—A. As long as it was one of our customers buying our oil, I could not make any suggestion to him because I never paid any attention at all; but if any person bought outside oil and I would report any outside oil, then he would go to looking it up.

Q. In getting new customers, and in getting customers certain rates, how else could you? How could Mr. Mathews know anything at all about it without you informed him?—A. I sent him in a report every week.

Q. Yes; certainly. So that all these cuts and suggestions, there, were on the part of the Standard Oil Company?—A. Yes; Mr. Mathews made them himself.

Q. Did you have any positive orders from the Standard to make cuts—any suggestions?—A. No; I reported each week the customers that were buying outside oil, and he would wait about 1 week and write a special order to do the best I could. If I could not do anything, I would go ahead the next week and say, "I am not selling any oil." Then he would come over there himself and say, "you make them a cut of a cent a gallon and see if you can not get them to come in again." He might say half a cent or 2 cents, and whatever he says, goes; I could not change the price; I could not guarantee a man any price.

Q. As the agent of the Standard Oil Company you were just as anxious to get a customer as the Standard Oil Company was?—A. Certainly; I had nothing to do with the price.

Q. (By Mr. JENKS.) The only discretion you had was with reference to the fact that you could give the name of the oil you sold him; and if he asked for a high grade, you would sell him a higher grade out of the same barrel and for the same price?—A. Occasionally, if a man wanted a little better oil, or something, I could brand it Silver White, or Red Star, and give it to him out of the same tank.

Q. Did he get it at the price that had been fixed for that brand?—A. I would tell him I would give him some of this oil and a little better price on it, and he would not know. It was just the same as Capitol Cylinder and other oils we sold there in Newark.¹ We charged the Newark Ice and Cold Storage 82 cents for

¹ See pp. 502, 504, 505.

Capitol Cylinder, and went up to the Newark waterworks and charged them 31 cents. Those prices were made by Currier, a special man.

Q. Was Currier a special agent of the Standard Oil Company?—A. Yes.

Q. Also in the office at Columbus?—A. Yes.

Q. A man who came up to give you those instructions?—A. Yes; he came around and made those prices; that is, I did not have anything to do with it. He would come around and cut the prices where he thought it was necessary.

Q. And you just delivered the oil?—A. I just delivered the oil; and I would deliver it to them at the price he sold it to them for a year. If he sold it to them at a certain price and gave them a contract for another price for a year, I would look to see what the price was and charge them that price.

PROCEEDINGS AGAINST THE AGENT OF SCOFIELD, SCHURMER & TEAGLE, OF CLEVELAND.

Q. Did anything come up at Newark besides driving these competitors out?—A. Nothing except that Mr. Al. Donaldson started there for Scofield, Schurmer & Teagle, of Cleveland. After he had been in business awhile and seemed to be doing pretty well, I went down and bought his building while he was away. I had a man, Mr. Retburg, break a lock off, and we went in and threw his tanks and barrels out and loaded the building, the whole thing, on a dray, and hauled it off. When he came back he had no warehouse.¹

Q. Had he leased this building?—A. Yes.

Q. (By Mr. PHILLIPS.) Had his lease expired?—A. No; the lease was on yet, but I had the man sign a contract that no oil should go on that lot.

Q. Would he not have recourse on this man for the oil and the damage done him?—A. He just got scared and sold us his wagon, all the oil he had, the desk in his office, and everything. We got the whole shooting match.

Q. Who fixed the price? You say you went down there and bought it. Did you have the discretion to fix the price, or was it done under orders from Columbus?—A. I suppose the man wanted \$5; Mr. Mathews did not say just what he wanted to pay. He wanted to know what price I could buy it for. Finally Mr. Hollingsworth said if I would get him out he would give me 2 weeks' vacation on salary.

Q. So that you had discretion to get rid of a rival?—A. It cost \$2.50 and the Standard Oil Company paid for the building.

Q. Did Scofield, Schurmer & Teagle establish a new office?—A. No; they dropped it. His writing desk is now in the Standard Oil Company's office in Newark.

Q. How much did you say you paid for the building?—A. I paid \$2.50. It was just a shed warehouse. It was a poor thing, but it was worth more than that.

Q. (By Mr. KENNEDY.) Did you ever in any of these cities sell oil to any customers below the usual rate except for the purpose of driving out competitors?—A. No.

Q. Did you ever bestow favors on any individuals?—A. No.

Q. (By Mr. JENKS.) What inducement did you give the owner of this shed to sell it for \$2.50? One would not suppose that that was enough to induce a man to enter into any such business as that.—A. Well, I got to talking around him, and kept around him.

Q. Was he a special friend of yours?—A. Yes; we had a lot of repairing of oil tanks. The wholesale storage tanks got to leaking and I gave him all the work. The Standard Oil Company always paid for the work, and I gave him what work I could and helped him out.

Q. So that he did not merely get this consideration of \$2.50 for his shed, but also, practically, a promise of work from time to time. He was also a good friend of yours and he did it for friendship's sake more than anything else?—A. Yes; for friendship; but it was not what the building was worth; the building was worth a dozen times that.

Q. (By Mr. PHILLIPS.) Did he know you were going to take possession of this building the way you did, when he was out of the city?—A. Who, Donaldson? No; he did not know anything about it until he came back and found everything gone. Besides, he had Mr. Charles Sessor working for him. He stayed in the office and Mr. Sessor drove the wagon around town. Finally, Mr. Hollingsworth and I made arrangements to hire Mr. Sessor at \$10 a week, and put him around right on Al's trade. Mr. Sessor had worked for him, and knew his trade and where to go to. We told him that if he could not get the regular price at any time to take what he could get, and keep the cans full all around while he could.

Q. (By Mr. JENKS.) What pay did he get before? He got 75 cents a day to fol-

¹ See pp. 502, 503.

low the oil wagon on a bicycle. Then I hired Roy Jones at 75 cents to follow Al around and see where he stopped. Then the next day, Mr. E. G. Mathews, our canvassing agent, would go to those houses and explain to them how good the oil was and clean their lamps and fill them up, and have them send our wagon around there to let them try this oil at the reduced price.

Q. Did you have any instructions to pay this boy 75 cents per day to go around and follow up competitors?—A. Yes; and I had to bring the boy around to Mr. Hollingsworth, who had a talk with him before we hired him.¹

Q. Who went with you to take this building when you bought it?—A. I went down the street and got a crowd of fellows and brought them up.

Q. What did you pay them?—A. A dollar, I think, for the whole bunch.

Q. Cash or drinks?—A. Both, I think; I gave them a dollar and went with them.

Q. Did you get your vacation?—A. I have not got it yet; yes, I guess I have got it now.

Q. They said you were to get 2 weeks' vacation if you got rid of the competitor. Why did you not get your vacation; you got rid of him?—A. They said I was too busy. The man at Washington Court-House rode out on his bicycle and got hit by a train. We had to send Mr. Milliken down there until they could order a man from Zanesville. I did not have any extra man.

Q. They did not express any disapproval of your methods at all?—A. Oh, no; they were well pleased with it.

Q. Did they express positive approval?—A. I have a letter here from Mr. Mathews complimenting me on the way I got rid of him. This is a special punishment they award, that they have for their friends.

Q. (By Mr. KENNEDY.) I suggest that the witness state the substance of the letter, if he can not find it.

Q. (By Mr. JENKS.) If you can not find it, will you state what the letter said.—A. (Quoting:) "I wish to compliment you on the way you got him out of business." It was a very short letter—just a little short piece on the top of it.

Q. If you can hand me the letter afterwards, will you do so?—A. Yes, it came to me typewritten afterwards; it was just a short quotation.²

Q. Now, in reference to this business in Newark?—A. He complimented me on pipe fitting. I did some pipe fitting under Mr. Paulis's supervision. I got the compliments both at once. I was surprised.

Q. Have you any further instances in mind of driving out rivals or any other special methods employed at Newark?—A. No; we never used any methods except our cut.

Q. Except what?—A. Except having different prices for different people. We used that more in Newark than anything else.

Q. Do you recall how many grades of oil you were selling there—that is, nominal grades?—A. Three; that was all. We had 3 storage tanks, one 14,000-gallon tank, one 18,000, and one 4,500.

Q. You did not pretend to have more than 4 grades of oil?—A. No; we had 1 gasoline and 3 grades of oil.

Q. I understood you to say a little while ago that in most places where you were selling oil you had as many as 8 different grades?—A. We had three grades; that was all we had. We sold Diamond White, Prime White, O. S. T., Water White, Crystal Light, Silver Light, Eocene; and when we had a man who wanted oil from Cleveland we painted the barrels red and branded them, I believe. I know they sent us a stencil from Cleveland.

Q. They sent you a stencil from the Cleveland office?—A. And it was marked Standard Oil Company, Cleveland, and we had those barrels painted red. I forget what name we put on for him.

Q. And you filled those barrels out of the same tanks and put the Cleveland brand on and sold it with that brand?—A. Oh, yes; each of those brands. Some had the same brands and some different brands.

Q. (By Mr. PHILLIPS.) Did you sell the same brands at Newark as at the other places?—A. We dropped the Hyperion at Newark and put the Diamond White on the cheap list.

Q. (By Mr. JENKS.) Will you tell us again with reference to the amount of trade you had at Newark as compared with the amount at Urbana?—A. We had about a third more, I suppose. At Urbana they ran about 50,000 and at Newark it was 80,000.³

Q. (By Mr. PHILLIPS.) That is, 80,000 gallons per month?—A. Eighty thousand gallons.

Q. (By Mr. JENKS.) When you left Newark where did you go?—A. I went back to Urbana.

¹ See p. 505.

² See p. 502.

³ See p. 499.

Q. Was the change in the nature of a promotion this time?—A. No; Mr. Hurst, who had been agent at Newark, wanted his place back, and Mr. Mathews gave it to him.

Q. He had been manager there before, and you took his place?—A. I took his place. He went away somewhere, but he returned and wanted his place back. I got my place back at Urbana.

Q. You went back as manager at Urbana?—A. Yes; I went back as manager at Urbana.

Q. Were your wages cut down?—A. No; they remained the same.

Q. As you had at Newark?—A. Yes.

Q. Was there anything different in carrying on the business at Urbana the second time? Did you have any new experience?—A. No; not during the time I was there. I went back and staid 6 weeks.

Q. Only 6 weeks that time?—A. Only 6 weeks, and everything went along quiet.

Q. Then where did you go?—A. I went back to Newark again.

Q. To what position?—A. Manager of the Standard Oil Company.

Q. Had Mr. Hurst left again?—A. He went on the mail force, carrying mail.

Q. Working for the United States Government?—A. Yes.

Q. Were your wages the same the second time at Newark?—A. Yes, but they paid board for me for 6 weeks when I came back.

Q. So there was a little increase for a time?—A. Yes.

Q. How long did you stay this last time at Newark?—A. About 2 years.

Q. And up until last February?—A. Yes.

COMPANY'S METHODS ADOPTED BY OWNERS OF TANK WAGONS AT NEWARK.

Q. Did anything new happen during your last residence at Newark with reference to the methods of business? Are there any special instances that you have in mind?—A. Nothing, except that the tank wagons occasionally made a little kick, and we would give a little reduction and then cut it off again.

Q. Explain a little more in detail what you mean by that.—A. When one of the customers would kick, we would cut the price to him half a cent a gallon; in fact, we cut the price to all the wagons a cent a gallon. We sold them gasoline cheaper than we sold the stores. Oil sold at the same price.

Q. The tank wagons were not owned by the Standard Oil Company; you sold a little directly to the wagons?—A. We simply sold to them.

Q. And they would retail it out?—A. And get what they could for it.

Q. These tank wagons had how many grades?—A. They had 8 spaces.

Q. They would have that many grades of oil?—A. No; they had 2 spaces for oil and 1 for gasoline.

Q. Do you know whether they were in the habit of giving different names in the same way you had done when you ran the oil wagons?—A. My man there, Mr. King, was, you might say, the head of these fellows. More of them paid attention to whatever he said than to any one else. He was an employee of the Standard Oil Company for a year and a half or 2 years. Through him they got to selling any kind a person wanted. If you wanted 15-cent oil you could get it; if you wanted 10-cent oil you could get it.

Q. They adopted the methods they learned from the company?—A. Yes.

Q. I suppose that is a method any one might develop for himself?—A. Mr. King said that if he could work it for other people he could work it for himself.

HOW WITNESS CAME TO LEAVE EMPLOY OF STANDARD OIL COMPANY.¹

Q. Will you tell us how you came to leave the employ of the Standard Oil Company?—A. Well, I came in one evening when Mr. E. C. Lockwood was there.

Q. Who is Mr. E. C. Lockwood?—A. He is a kind of general man from Cleveland.

Q. Standard Oil Company manager?—A. Yes. He goes around and inspects the stations and property; he looks over everything about a station and makes a report on its condition, whether the yard is clean, etc.

Special inspector. Is that about it?—A. Yes.

Sent about?—A. He has 3 States that he travels over.

Is this blank form which you have here on which he makes his report, so far as you know, the general one he sends from each station?—A. Yes; that is the one sent from each station.

Q. Will you offer this in evidence here?—A. I will leave you the copy. We had one taken every 2 or 3 months at that station. When he came there to make the inspection, I came in at night and had worked a little hard and was tired,

¹ See p. 504.

and I suppose cross. Anyhow, he came in there all dressed up, and I was not in a very good humor. He began to tell me how to do things; how to do this and that thing in the yard.

Q. How to do what?—A. He wanted to tell me how to blue barrels, count staves, weigh oil, and all that sort of thing. I had done that for 7 years and I did not think he could tell me.

Q. Did you know who he was?—A. I did not know at all that he held a position, so I told him he could not. He said I might lose my position by it, and I told him I did not care about that. I gave him a good jawing and never thought all the time that he was a person connected with the oil company. I did not know who he was. In consequence I got a lay-off. I never got a discharge, and I never have gone back.

Q. How was that done? By Mr. Mathews?—A. Yes.

Q. Have you a letter?—A. I have the letter in my pocket.

Q. Will you be kind enough to read it?

Q. (By Mr. PHILLIPS.) Give the date of it, please?—A. (Reading inspection report.)

EXHIBIT 1.

INSPECTION REPORT.

Station —, Newark, Ohio.

Date, OCTOBER 3, 1896.

No. 1: Is date received written or stamped on each empty barrel? Old stock of Hurst's on hand not dated.

No. 2: Are shipping tags, also date, left on until barrel is used; and if no shipping tag, is shipper's address written on barrel? See above.

No. 3: Are oldest barrels worked up first? Demand has been such that all new and most of old stock has been used.

No. 4: Are all cripples worked up currently? Same cripples on hand as when Hurst left. Mr. Clark states that he has worked up cripples coming in while he has been here.

No. 5: Are light machine barrels steamed out as soon as received? Yes.

No. 6: Are barrels bunged properly?

No. 7: Are barrels properly filled?

No. 8: Are all bung staves removed when weak at the bungholes? } None filled or prepared by hand account yesterday. Busy shipping day and all barrels used.

No. 9: Are barrels painted good color? Paint dull account, I think, of paint, as Hurst had some trouble.

No. 10: Are barrels neatly stenciled? } None prepared. See above.

No. 11: Are barrels properly glued? }

No. 12: Are tank wagon or warehouse buckets and gauges on filling tanks correct? Verified by Mr. Cragin and Mr. Henderson.

No. 13: Are same buckets or measures on tank wagons or at warehouse used for both oil and gasoline? No.

No. 14: Are tank-wagon faucets in a leaky condition? No.

No. 15: Are the tank wagon and dray kept clean? Were as clean as weather past week would permit.

No. 16: Are the horses properly cared for? Had not been curried this a. m. Stables not cleaned.

No. 17: A. What is their average feed? 6 to 89 to oats. B. Cost of oats, 82 cents; corn, 35 cents; hay, \$9. C. Cost of new shoes, \$1; resetting, 50 cents. D. Have you been able to get any better prices on hay, feed, or shoeing? Price is 60 cents better on shoeing. E. What check is there that full quantity of feed purchased is received? City weight; Hurst has been paying \$1.50.

No. 18: Any leaky valves around plant? No.

No. 19: Any leaky joints or pipe around plant? No.

No. 20: Any leaky tanks around plant? No.

No. 21: Is glue trough and kettle and vicinity kept clean? Yes.

No. 22: Is sawdust on hand to dry up any oil that might leak or spill on the floor? Yes.

No. 23: Is ground kept dry around tank-car unloading place? Grounds were wet, due to a leaking connection on a car being unloaded. Had Mr. Clark throw dry dirt on ground and place a bucket under tank.

No. 24: Is ground kept dry around tank-wagon loading place? Yes.

No. 25: Are shovels kept over all sand barrels? Yes.

No. 26: Are gates and doors properly locked up when agent is absent? Yes.

No. 27: Is pump room in good condition? Yes.

No. 28: Are pumps well packed and in good clean condition? Yes.

No. 29: Any unfilled orders on hand that should have gone out? No.

- No. 80: Any deliveries on previous days that have not been reported? No.
 No. 81: Does tank wagon, dray, or any of the buildings or tanks need painting or repairs? No.
 No. 82: Is the warehouse, office, and yard kept in orderly and clean condition? Warehouse much cleaner than kept by Hurst. Yard and office clean.
 No. 83: What time did the agent get around in the morning? 6 a. m.
 No. 84: How much time does he take for dinner? 30 minutes.
 No. 85: What time does he leave at night? 5.30 to 9 p. m.
 No. 86: Are they keeping sample of each tank car received properly labeled and kept in the dark three months before dumping? Samples on hand not labeled. Instructed Mr. Clark that they should be.
 No. 87: Is oil inspected before tank car is dumped? Yes.
 No. 88: Is there any old lubricating oil or specialties on hand. If so, give us memo. showing filled dates on barrels. See inventory, a decrease over last inventory. Mr. Clark has sent out some of the old boarders.
 No. 89: Any barrels not properly gauged? Test at least ten barrels and give agent's gauge and correct gauge of each. None prepared or gauged. Account yesterday being shipping day.
 No. 40: What prices paying for coal? \$1.25, grade nut. Have you been able to get any better figures? Not on quantities purchased.
 No. 41: How many barrels of each grade prepared? None. How many filled of each grade? None.
 No. 42: Are weeds cut down in the yard? Yes.
 No. 43: Is agent sending in competition report? Yes.

General remarks.

Make a careful and personal inventory of all stock and material on hand and return attached to this report. See inventory.

H. S. HOLLINGSWORTH.

It is just a check, you know. I will leave that.

Q. We will put it in the testimony then and make it a part of the record, so you need not read it all over.—A. When he came there to make the check we got on the outs. I would not help him at all, and I kind o' threw things in his way. Every time I could I would do it, either the oil or the barrels or anything, so that he could not inspect it. Finally I got a letter from Mr. Mathews at Columbus.

EXHIBIT 2.

FEBRUARY 4, 1899.

W. H. CLARK, Esq., Newark, Ohio.

DEAR SIR: Owing to the difficulty in getting matters checked up at the Newark station, we have decided to discontinue your services for the present. Immediately upon receipt of this please turn over all papers, keys, and everything belonging to the company to the bearer, Mr. W. W. Hughes, who will take full charge of the station for the present.

I do not wish you to consider this as a discharge, for the reason that if everything is in proper condition after we have thoroughly checked up the station there will be no difficulty whatever in having you reinstated.

Yours, very truly,

B. A. MATHEWS.

So I am not discharged at all.

Q. How long was this after you had had the inspector there?—A. I think it came in about 2 or 3 days, just long enough for him to write after I had told him what I thought. He said he could not check up the account of the barrels while I was there.

Q. Have you had any further suggestions from the Standard Oil Company that you might be taken back into their employ again?—A. They have been talking around. My brother-in-law worked for them at the same time I did. He had charge of the office there, and they were down there to see him the other day and wanted to know what I would work for them for.

Who was that?—A. Fouts.¹

Who is he?—A. I think, Mr. B. A. Mathews's man.

Q. A man who works with Mr. Mathews?—A. Yes.

He wanted to know what you would work for?—A. I told him I would work for \$500 a day, with six months' pay in advance, and that I would work one day and quit.

Q. What is your objection to working for them now?—A. If the report which

¹ See p. 504.

you send in every month should contain an error of \$2, they just take it out of your pay. They never send for you, but just take it out of your pay. It might be a mistake of a clerk on some bill, or something, or an error in figuring up the accounts of the tank wagons.

Q. If any mistake is made by one of their agents they simply deduct?—A. Or any of them, of the men under me, if any one of them makes a mistake, it all comes out of my wages.¹

Q. Will you put 1 or 2 of these reports and letters in evidence here?—A. Yes. So you see it don't help me so much after all. If there was any mistake made by any of the men they always took it out of me.

TESTIMONY AGAINST STANDARD OIL COMPANY IN OHIO.

Q. (By Mr. KENNEDY.) Did you recently give testimony in Ohio against the Standard Oil Company, showing up its operations so far as you know them?—A. Yes.

Q. That occurred after you left the employ of the company?—A. After I had been laid off.

Q. When was that?—A. I do not know. It was not very long after that. I do not remember the exact date at all. It was not very long afterwards.

Q. You told it freely there just as you tell it here, did you?—A. I could not tell anything else. They asked me the questions, and what could I tell them?

Q. What I would like to know is this: If you had continued in the employ of the Standard Oil Company would you have been apt to give the same kind of testimony?—A. Not in the humor I was toward them just then.

Q. Would this Commission be apt to get testimony similar to this of yours from managers of the Standard Oil Company in other parts of Ohio?—A. Ask any person there, and if they would come out and tell you the truth they would tell you just the same as I do.

Q. Would Mr. Mathews have testified the same?

Q. (By Mr. JENKS.) Mr. Mathews, for example, would he give similar testimony?—A. Mr. Mathews did not know anything when they had him on the stand before Mr. Monnett. I saw by the papers that he did not know anything.

Q. Would you not have been apt to have been in the same position, if they had asked you, provided you had not been discharged by the Standard Oil Company?—A. Well, if I was a Sunday school teacher like him, I do not think I would have said that I did not know, if I did know.

METHODS OF STANDARD OIL COMPANY'S COMPETITORS.

Q. (By Mr. FARQUHAR.) While you were agent for the Standard Oil Company, in those various towns, did any opposition company ever sell below your rate to get a foundation?—A. Why, no; Mr. Ludlow and those gentlemen sold at a cent higher than we did. We always kept below. We were the low people.

Q. Did you regard it as in the line of competition when another company was selling at a cent or a cent and a half a gallon more? Did you call that opposition?—A. They always sold higher. They could not furnish it as cheap as the Standard Oil Company. The Standard Oil Company always sells cheaper than other people can make the oil, and ship it cheaper into the town.

Q. (By Mr. PHILLIPS.) Do they get lower freights?

Q. (By Mr. JENKS.) Better freight facilities?—A. Freight as well. I have a letter here with reference to freights.

Q. (By Mr. FARQUHAR.) You speak of opposition companies coming in. I want to know whether these opposition companies sold at the same rate as the Standard Oil Company, or above or below?—A. Well, it would vary; sometimes they would sell at the same price, sometimes it would be a quarter of a cent higher, and sometimes a quarter of a cent lower, but the average was always higher than the Standard Oil.

Q. What amount of earnings could they get to-day if they had to get customers to pay more to an independent company than they would to the Standard Oil?—A. Lots of them said they had no love for the Standard Oil Company; they treated them all too bad.

Q. In selling oil from the tank or from the store is there any friendship in it at all? Is it not a simple commercial transaction of buying a good oil for a low price?—A. I talked to lots and lots of them. Lots of stores feel that they would be willing to pay more for the other oil than they would for the Standard Oil.

Q. Is there enough of that class of buyers to make a difference in buying and selling oil so that an opposition company can make a living and fight? Do you think any company can sustain itself on that kind of sentiment?—A. The most

of those people have been handling Pennsylvania oil. Of course that makes a difference, while our oil at Urbana and at Columbus came from Lima, from the Solar Refining Company, and had the sulphur in it.

Q. (By Mr. JENKS.) Do you think the oil of your rivals was better than your own?—A. Yes; it was Pennsylvania oil.

Q. (By Mr. FARQUHAR.) Does the high standard of the oil explain the difference in price? For instance, was Scofield's oil of a higher standard than yours?—A. No; Scofield's was not.

Q. Whose was?—A. Charles Ludlow's and the Independent, of Mansfield.

Q. How could you take away their customers if you had a lower standard of oil?—A. Why, we would give it to them so cheap that they really had to take it. If they did not buy it, we would get wagons on the street and sell it so cheap that they could not stand the competition.

PENNSYLVANIA OIL COMPARED WITH OHIO OIL.

Q. (By Mr. PHILLIPS.) Is it not a fact that the Pennsylvania oil, the crude oil, is worth considerably more than the Ohio?—A. The Pennsylvania oil will run 80 cents a barrel more than the North Lima. What is the North Lima worth?

Q. I do not know.—A. Is not North Lima worth 78 to-day?

Q. I do not remember the last quotation?—A. Is not Pennsylvania about 105?

Q. 118.—A. I know it always runs that way. We heard the North Lima got down to 52 cents a barrel during the summer.

Q. Is it not a fact that it is very difficult to deodorize the Ohio oil? Is it not mixed with sulphur and arsenic and very difficult to get a good illuminating oil out of it?—A. Yes; the only thing is to get the sulphur out of it. There is a German who has invented a way of brushing the sulphur out with some kind of a brush, and has patented the arrangement; but, of course, it is awfully expensive. The Standard has bought the patent. It is just like churning milk; it will take the sulphur out, but it makes it awfully expensive to handle.

Q. Do you think any customer will buy what is called Lima oil and Pennsylvania oil at the same price? Will he not prefer the Pennsylvania oil to what is denominated Lima oil?—A. Pennsylvania oil would be the best oil; there is more life to it; the Pennsylvania oil is what we get the paraffine out of, while the Ohio oil has sulphur.

Q. (By Mr. FARQUHAR.) From your experience, will you explain how many customers out of 10 would buy the cheapest oil?—A. If they knew it, the whole bunch of them would buy it.

Q. It is your own experience as a seller of oil that the object of the general run of the customers is to get the cheapest and save a cent or half a cent?—A. I have seen customers that would not buy it if you sold it to them 2 cents cheaper.

METHODS OF MAKING LAMP TESTS OF OIL.¹

Q. I mean the general run of customers. Do customers generally think as much about the quality as the price?—A. Oh, yes; they do. We oftentimes make a lamp test just the same as Mr. Mathews's man. If a man kicks on that Ohio oil and has got the Pennsylvania, we go in and make a lamp test. We turn our Ohio oil low and his Pennsylvania oil high. If we turn the Ohio oil high it would give out more smell of sulphur, but we do not do that. It is just a little trick of ours in turning the wick up. We can fool any person on their oil that does not know. You can take any person and beat them on their oil.

Q. (By Mr. JENKS.) Were you regularly instructed by Mr. Mathews to make your tests in such a way as to beat your customers?—A. Yes, we have 2 lamps for such purposes at each station.

Q. (By Representative LIVINGSTON.) How were your orders given to you to do that—to make those tests?—A. He told us verbally, came and explained it to us.

Q. You got no letters; nothing in writing at all?—A. He never told us anything in writing; he always came and told us just how to do it.

Q. Can not you find something in writing on that line in some way or other?—A. I do not know; I may have something.

Q. Do you think if we put a man on the stand here that he will not contradict you?—A. They can not do it and tell the truth.

Q. Do you know they will do so, and prosecute you for a fraud?—A. Let them do it.

Q. Have you no way of substantiating what you have said?—A. I will tell you this, that the Standard Oil Company does lots of things that they do not let go down on paper in writing. Lots of times they will make a trip that costs them \$2 or \$3 before they will write a letter.

Q. You are sure you have nothing in writing?

¹ See p. 500.

Q. (By Mr. PHILLIPS.) Ask him if he can not support this by other testimony?
 Q. (By Representative LIVINGSTON.) I want to know if you can not do it over their signatures?—A. I have not anything here, I have no letters on that subject at all; I did not think about that.

Q. (By Mr. PHILLIPS.) Are there any other persons that have this knowledge that would be willing to testify to these facts?—A. D. J. Hull, at Urbana, has seen it tested often. W. Hughes, of Newark; H. S. Hollingsworth, and E. G. Mathews, of Columbus; W. O. Reed, of Marietta.¹ In fact, any of the agents; any of the high men.

Q. (By Mr. JENKS.) Are those men all in the employ of the Standard Oil Company now?—A. Yes.

Q. Do you know of any one who is not in the employ of the Standard Oil Company who has had the same experience you have as to instructions for testing oil?—A. I do not know of any, except those that worked around with me.

Q. Do you not think of anybody who is not in the employ of the Standard Oil Company?—A. No; they are all head men and they are all holding their places.

BUSINESS WITH THE RAILROADS.

Q. (By Mr. KENNEDY.) Have you handled lubricating oils?—A. Yes.

Q. Do you know anything about the furnishing of railroads with lubricating oil and the prices charged them?—A. We furnished the railroads lots of refined oil, but I do not know the prices charged. We always made out their bills, so many gallons, and then sent the bill to Columbus, and they put the price on it.

Q. Do you not know anything about the price of lubricating oil?—A. No; the agents never know any thing about it, except the head men at Columbus.

Q. (By Mr. JENKS.) What railroads did you sell oil to in this way?—A. The Baltimore and Ohio Railroad Company.

Q. That is the only railroad company you ever sold oil to?—A. Yes.

Q. And you never knew what price they paid?—A. We billed it to the Baltimore and Ohio Railroad Company, Baltimore, Md.

Q. Where did you deliver the oil to them?—A. To the roundhouse at Newark.

Q. (By Mr. PHILLIPS.) About how much per month did you deliver to the Baltimore and Ohio Railroad?—A. In the summer time about 60 to 80 barrels a month, and in the winter time as high as 150.

Q. What quality of oil was this?—A. It was Water White.

Q. Did you also sell them lubricating oil?—A. No; it was refined.

Q. Where did they buy their lubricating oil?—A. They bought it of the Atlantic Refining Company of Pittsburg.

Q. Is that also the Standard Oil Company?—A. I do not know; I do not think it is; I will not say about that.

Q. You simply sold them refined oil?—A. We simply sold them refined oil, but I do not know about the Atlantic Refining Company. I remember their traveling men used to come to Newark to see us. I always used to bring them up to the station. They talked there so that I do not know; but that is one reason why I thought so. I am not positive.

Q. (By Representative BELL.) I want to ask about the rebates. Did you not speak a little while ago about having some rebates from the railroads?—A. I said I was not allowed to pay freight to the railroads, or have anything to do with that—with the handling of the cars—at all, myself. Here is a letter sent to Mr. Mathews.

EXHIBIT 3.

URBANA, OHIO, 2, 21, 1896.

STANDARD OIL COMPANY,
 Columbus, Ohio.

DEAR SIR: I wish you people would write the New York, Pennsylvania and Ohio Railroad in regard to the way they handle our U T L cars. I have done my best to get rid of them properly as I never hold a car 24 hours. I ordered them to switch out an empty yesterday and it is not done yet and will not probably be switched out till to-morrow. Please write.

Yours, very truly,
 Indorsed as follows:

W. H. CLARK.

W. H. C.:

That is all right. Our people have some sort of an arrangement with the Erie people in regard to tank cars by which they take care of cars.

Yours, etc.,
 2, 24. B. A. M.

¹ See p. 500.

Q. (By Representative BELL.) You do not know anything about their freight arrangements with the railroads?—A. No; I do not know anything about that. They said they had a private arrangement.

Q. That is the letter you referred to a little while ago?—A. Yes.

Q. (By Mr. JENKS.) Is this last part in pencil, signed by Mr. Mathews himself?—A. Yes.

Q. (By Mr. KENNEDY.) Is that the way they do business? Do you send them a letter and they send you back the original indorsed that way?—A. Yes; they do that lots of times, and lots of times write across the end of the letter.

Q. They take the letter and turn it over this way [indicating] and write across the corner some little note—their business, anything they want to have delivered?—A. And send it back to me; some little short note; it is nothing; never kept in the file.

Q. (By Mr. PHILLIPS.) Do you know anything about the pipe-line system of Ohio, whether there have been any opposition pipe lines handling crude oil?—A. I do not know. The pipe line runs from where we used to live by Beverly to Lowell; from Lowell it runs on down and follows the river to Marietta and on to Parkersburg. I knew their line when I boarded there with Mrs. Jordan. Charles Jordan was the agent of the Louisville and Ohio on the west side.

Q. Have you no knowledge of the pipe lines, of the Standard's competition along that line?—A. Not much; I know they would use oil out of a certain place and pump it into the Buckeye pipe line. A certain well is pumping so much, or the Argan refinery, or some refinery, has ordered so much crude oil. He would tell me; I did not hear it; he would just tell me what they said.

Q. (By Mr. PHILLIPS.) Has any member of the commission any other questions to ask the witness?

WAGES PAID BY THE STANDARD OIL COMPANY.

Q. (By Mr. KENNEDY.) I would like to ask him again in regard to his compensation. Do you say that you did not consider your compensation liberal or fair?—A. I worked for \$15 a month and paid \$12 a month board for 6 months; then I got raised to \$25, and then went to Springfield for \$35, and got my breakfast and supper and slept there and got my dinner wherever I was. I had to work from 4 or 5 o'clock in the morning until 9 or 10 or 11 o'clock at night.¹ Would you think that was good wages or not?

Q. When you got \$15 a month, was not that as a boy—you were a boy?—A. I was 19 years old and went into the warehouse and painted barrels and did all the work there was to do there.

Q. Will you state what the wages of the Standard Oil Company are as compared with the wages of other refineries in Ohio? Are they about the same?—A. It is pretty hard to tell about these fellows—the head fellows; they get pretty big money, but the fellows I used to pay at the Standard Oil Company's station and the warehouse never got any more money than they could get any place else.

Q. Do you mean the Standard Oil Company people?—A. Yes.

Q. How about the employees of the independent companies? Did you not know something about their wages?—A. I do not know anything; I do not know what they pay; I never paid any attention to that; I never asked them at all.

Q. (By Mr. PHILLIPS.) About what wages did you pay to persons under you?—A. When I worked in Newark and Urbana, I think I got men for 75 cents a day; I think that is what I paid them. I worked Lee P. Adair, at Beverly, in the yard there, for 60 cents a day; I got Fred Augenstein for 60 cents a day and then for 75.

Q. What did you say was the nature of their employment?—A. They drove hoops on barrels, filled barrels, took care of the team, drove the dray, or anything there was for them to do.

Q. Is that about the same wages as other people pay for similar kinds of work in those places?—A. No; the boys could have got more money in other places, but they wanted to work up.

Q. Did they expect to be promoted by working for the Standard Oil Company more cheaply than they would for some other person?—A. When they hired them they talked to them and promised to promote them as fast as possible. Lee Adair worked 4 or 5 months and got a raise of 15 cents a day; then he worked there over a year and did not get any more money out of it, and quit. I got a boy from Lowell, Fred Augenstein, who worked for a year and did not get any more wages, and quit.

Q. What were the hours that these men worked per day?—A. They got to work about 5 o'clock and worked until dark. Lots of times in the summer, when the gasoline trade was heavy, we had to work every day until after dark. I have

¹ See p. 484.

seen some days when we could get it out at 2 o'clock, but generally we would have to work late to get it out.

Q. You would average 10 or 12 hours a day?—We would average 12 all the time.¹

Q. (By Mr. KENNEDY.) Was your promotion pretty rapid?—A. I was there 6 years and I got \$2.50. I do not know whether you would consider that rapid or not.

Q. (By Mr. FARQUHAR.) Did the men that you have spoken about have steady employment?—A. Yes; they worked steadily; steady work for the company all the while.

Q. All seasons?—A. Yes; they worked pretty steady the year round.

Q. (By Mr. PHILLIPS.) Has any member of the commission any further questions to ask the witness?

Q. (By Mr. KENNEDY.) Will you suggest the names of any men in Ohio doing work similar to that which you did who might be brought before the commission to corroborate your testimony?—A. I do not know of any of them who can not do it; they would all tell you just the same; they can not tell you anything different.

Q. (By Mr. PHILLIPS.) Who, for instance? You have named quite a number.—A. W. W. Hughes, I named; H. A. Day, Newark, Ohio.

Q. (By Mr. JENKS.) What is his position?—A. He has a tank-wagon branch at Newark. James King, Newark, Ohio, Standard Oil Company, is the man that used to paint the red barrels.

Q. (By Representative LIVINGSTON.) Have they numbers to their private residences? You can not reach them in that way.—A. Newark is only a small town and you can reach them in that way. W. H. Donaldson, Newark, and Frank Hurst.

Q. Who is Mr. King?—A. He is the man who used to work for the Standard Oil Company and used to paint the barrels; he was agent for 7 years of the Standard Oil.

Q. (By Mr. RATCHFORD.) You have made a very full statement as to the discriminating policy of the Standard Oil Company, both in the matter of cutting prices and in the matter of selling goods under false names, and also in the matter of unequal prices for the same goods to consumers. Do you believe from the consumer's standpoint that this policy is beneficial or not; is it advantageous to the consumer or not?—A. We did not sell to the consumer.

UNEQUAL PRICES TO DEALERS.

Q. You did not sell to the consumer?—A. We wholesaled; we sold to the trade; we did not sell to the houses or any individual.

Q. Not to private houses; you delivered to the stores?—A. Yes; we delivered it to the stores.

Q. (By Mr. PHILLIPS.) Did you deliver it to the stores yourself?

Q. (By Representative LIVINGSTON.) Did that enable the consumer to buy oil cheaper?

DEALERS' PRICES UNIFORM.

Q. (By Mr. RATCHFORD.) If it reached the retailer by inequality of price, did it necessarily reach the consumer in the same way?—A. No; most of the stores sell at the same price.

Q. Even though they buy at different prices?—A. You see there is often stores that buy different grades and sell at the same price.

Q. Then oftentimes the same articles sell to the consumer for a like price?—A. No; I said the grades. Some stores will buy cheap oil and charge a high price, and some will buy the best oil at a high price and sell at the same price they do.

Q. Did I not understand you to say a little while ago that you sold and parceled it out to consumers from the tank wagons cheaper?—A. Yes; we sold them gasoline 1 cent a gallon cheaper than we sold the stores, under a contract until the 31st day of December. We gave them a contract for last year.

EFFECT OF STANDARD OIL COMPANY'S METHODS ON CONSUMERS.

Q. According to your testimony, then, has not the Standard Oil Company been discriminating in prices very largely?

Q. (By Representative BELL.) Cutting the opposition?

Q. (By Mr. RATCHFORD.) Do you believe that that is an advantage to the consumer or a disadvantage?—A. They generally made it up even when we were

¹ See p. 494.

selling oil at 7 cents. We would have a fight, and after the fight we would get it higher than we had it before.

Q. That is not answering the question.

Q. (By Representative LIVINGSTON.) I do not think he understood it.—A. Of course it is a benefit to the consumer right then. That was certainly true when they took it to the house at 6 cents where the stores had to pay 7. That was a benefit to the consumer.

Q. Yes?—A. When we retailed it around to the houses at 6 cents they had to pay 7.

Q. (By Representative LIVINGSTON.) When they drove their competitors out of the market, was it any better for the consumer?—A. No; it went back to the old price.

Q. (By Mr. FARQUHAR.) Did they go back to the old price?—A. They always said when crude advanced half a cent or a cent, raise oil a cent.

Q. Was it more usual to go back to the old price than to increase?—A. Well, I suppose it would be more likely from time to time to go back to the old price; but after they had that fight at Newark, and sold at 6 cents, oil went up to 13 and 14 cents on the street. During that fight some people sold as low as 4 cents.

Q. Who did?—A. J. P. Lamb. It was all over the windows and grocery wagons around town, "Water White Oil, 4 cents."

PRICES AT COMPETITIVE AND NONCOMPETITIVE POINTS.

Q. (By Mr. JENKS.) Do the regular prices in towns where there is no competition range higher than in towns where there is competition?—A. Last summer we had no competition in Newark, and gasoline retailed, or wholesaled, for 7½ cents. In Columbus they had competition, and gasoline sold for 5½ cents; there was 2 cents difference between Columbus and Newark.¹

Q. Can you give any other instances of the same character?—A. No two stations have the same price. All stations have different prices.

Q. Generally speaking?—A. If I would quit working at Marietta and go to Zanesville, they would have different prices at that place.

Q. (By Mr. PHILLIPS.) What has made that difference—competition?—A. They always said it was the freight rate; that it cost more to handle it. It always seemed to me that where there was no competition they were charging different prices. At Newark last summer oil was a cent a gallon higher than at Columbus and gasoline about 2 cents higher; but at Marietta it was 2 cents cheaper than it was at Newark. That was before they had that trouble at Newark. Newark is generally 1 cent higher on oil and 2 cents higher on gasoline. My folks live at Marietta, and it was 2 cents cheaper than it was at Newark.

Q. (By Mr. PHILLIPS.) Has any member of the commission further questions to ask the witness? Have you any brief statement to make that has not been covered by the questions that have already been asked you?

Q. (By Representative LIVINGSTON.) Do you know of any conduct of this company similar to that which you have related, but which is more public in character?—A. Sir?

Q. Do you know of something of a more public character of which these people have been guilty concerning discriminations such as you have mentioned?—A. I can think of nothing.

Q. That can be supported by evidence of other parties?—A. I do not know of any at present.

Q. Did you ever see a lawsuit in a court-house?—A. I was never in a court-house, except once when I took a deed in.

Q. Did you hear them testify?—A. No; that was the only time I was in the court-house.

Q. What court was that?—A. Oh, there was no court going on; I just took a deed up to the court-house.

Q. Has the Standard Oil Company been prosecuted by anybody, that you know of, in any cases either in a justice's court or a circuit court?—A. I do not know; I am not posted on that. I was in Urbana when they were fighting there before the council. We were just in before the council, but never had any suit, or anything.

Q. You do not know of any court records that you could find?—A. No.

Q. Has there not been any litigation concerning this question of methods you have been talking about?—A. I do not know. If you have the papers of Mr. Monnett, they mention everything I have said here.

¹ See Mr. Monnett, p. 317.

Q. (By Mr. RATCHFORD.) We have that case.—A. Those papers include everything I have said.
Testimony closed.

AFFIDAVIT.

STATE OF OHIO, *County of Licking, ss:*

I swear that the statements made by me of my own knowledge in the foregoing report of my testimony before the Industrial Commission are true, and that all other statements I believe to be true.

W. H. CLARK.

Sworn and subscribed before me this 15th day of September, 1899.

[SEAL.]

PHIL. B. SMYTHE,
Notary Public.

WASHINGTON, D. C., *June 9, 1899.*

TESTIMONY OF HON. THEODORE F. DAVIS, OF MARIETTA, OHIO.

The commission met at 10.50 a. m., June 9, 1899, Vice-Chairman Phillips presiding. Hon. Theodore F. Davis, of Marietta, Ohio, testified.

Q. (By Mr. JENKS.) Will you be kind enough to state your full name and address to the commission?—A. Theodore F. Davis, Marietta, Ohio.

LOCATION AND NATURE OF BUSINESS OF WITNESS.

Q. How long have you been engaged in the oil business?—A. I have had producing interests in the vicinity of Marietta for 20-odd years.

Q. And as a refiner how much experience have you had?—A. I have had a large interest in a small refining plant at Marietta for about 6 or 7 years.

Q. Is your refinery running at the present time?—A. It is not.

Q. Will you tell us, in the first place, with reference to your experience as a producer; where the oil fields are that you have an interest in, and what your experience has been in disposing of your oil?—A. I first became interested in what is known as the Macksburg field, about 25 miles from Marietta, as a producer; and upon the basis of that production we established a refining plant, hoping to transport, manufacture, and market our own product. We continued the business for about 2 years, but were finally compelled to give it up. It was not a success.¹

WHY THE REFINING BUSINESS FAILED.

Q. In what way did the failure come about?—A. We were not able to market our product at a margin sufficient to pay us for handling. We were confined to one grade of oil that was better calculated for particular markets which we were not able to reach. We were not able to compound any other grades.

Q. Will you explain in detail about that?—A. The product of some oil fields will make good lubricating oils, that are profitable; you can market them; they are rich in paraffin. Paraffin oil is largely used for lubricants; this particular grade of oil was more rich in that product, and therefore the trade was confined largely to the railroads; they were the large consumers, but we were unable to reach them, because of their connections; that is, we were able to reach them, but not to market our product. All or part of the properties of our competitors were sold to the managers of the railroad.

Q. Was your principal competitor the Argan Refining Company? Was the competition simply local?—A. The Southwestern officials, the managers of the railroad of which I spoke, became owners of a large block of the Argan stock. It made no difference what we would propose in our quotations, we were not able to sell them goods at any price, though our goods were just as good as theirs. We lost a valuable customer.

Q. Had you been selling this product to the Baltimore and Ohio Southwestern Railroad?—A. We had sold some to it, but more particularly to other roads leading out of Marietta, i. e., the Cleveland and Marietta and Zanesville and Ohio.

Q. Was the Standard Oil Company at that time connected with this competing company, the Argan?—A. Not that we know of.

¹ Compare Mr. Archbold, p. 543.

Q. You say that you were deprived of the Baltimore and Ohio Southwestern, one of your most valuable customers, on account of some of the managers becoming stockholders in the Argan Company; but how did you lose your other customers?—A. The other customers were located along the lines of these railroads and their several branches. We lost not only the railroad company itself as a customer, but their handling the product of this one concern enabled the merchants and dealers along the line to get oil at rates that we were not able to compete with.

Q. So that was really the reason of the stoppage of your refinery?—A. That was one of the reasons.

EXPERIENCE IN REGARD TO TRANSPORTATION.

Q. Did you have reason to think they were getting advantage on freight rates?—A. We had no direct evidence of it, but we supposed it; they were acting very strangely; our information was only circumstantial; we had no means of knowing. We believed that we manufactured as cheaply as they did, and our freight rates being equal we ought to have controlled some of that trade, but we were unable to do it.

Q. What was your experience with reference to the transportation of the crude oil to your refinery, etc.?—A. We had our own lines from the wells at Macksburg to the railroad; from there we shipped it in tank cars to the works. I became interested in the Corning field, in Perry County.

PRODUCT OF MACKSBURG OIL FIELD COMPARED WITH THAT OF OTHER FIELDS.

Q. So far as your experience as a producer in the Maxburg field is concerned, did you have difficulties there—trouble with refining?—A. Yes.

Q. (By Mr. PHILLIPS.) Is the Macksburg field product what is commonly known as "white-sand oil"?—A. Yes; the crude is the same as white-sand oil, and commands a similar price in the market.

Q. It is not the Lima field oil?—A. Oh, no.

Q. (By Mr. JENKS.) What were you going to say about the Corning field?—A. The Corning field was developed later; some of the people who owned the Maxburg field opened up the Corning field. Corning is about 40 miles northwest from Marietta, along 2 or 3 lines of railroad reaching Marietta. We undertook to market that oil or get some of our product to our works. We had some wells there.

Q. (By Mr. PHILLIPS.) What kind of oil was that—was it the same as obtained from the Berea or the same as the Pennsylvania?—A. That is a little different grade of oil, or at least there are some products in which it is not as rich as the Macksburg; there is just a little difference. They make a difference of 17 cents a barrel on the price. It is now being marketed for 17 cents less than white-sand oil.

Q. But it is white-sand oil nevertheless?—A. Yes; we finally succeeded in getting a test of 2 or 3 tank cars, and we decided that in many respects it was just as valuable as white-sand oil, but we could not get it to our works by the railway for less than 15 cents a barrel more than we could get the white-sand oil for from the pipe-line company. Then we undertook to gather it up from the fields and take it through their pipe lines.

CHARGES FOR PIPING OIL.

Q. Through what pipe line?—A. The Buckeye Pipe Line; we bought that oil from them delivered to our works through their pipes.

Q. Did they pump the Lima oil through the same pipes?—A. No, the Corning oil; that is quite a long way south; Lima is 75 miles, at least, or 100 miles away.

Q. (By Mr. JENKS.) Do you mean that the pipe-line company buys this Corning oil at 17 cents a barrel less than they would pay for the higher grade of oil that you have in the other field?—A. Yes.

Q. And was this same oil then carried to your refinery?—A. Yes, but instead of charging us 20 cents a barrel for the pipage they charged us 35 cents.

Q. Will you explain the significance of that?—A. It would be 17 cents a barrel less to the producers at their wells. We discovered that the oils in many ways were just as good or better than the oils people were paying \$1.18 for at the well, with 30-cent pipage. We could make a better product from that; but if we had to pay 17 cents a barrel more it would bring it down to where it was more profitable, or just as profitable, to ignore that and take our own product and sell it to

Q. And when they sold it to the refineries, they claimed that it was as high a quality as any that could be gotten?—A. Yes.

Q. And when they sold it to the refineries, they claimed that it was as high a quality as any that could be gotten?—A. Yes.

AMOUNT OF OIL PRODUCTION.

Q. How does the amount of this white-sand oil produced in Ohio compare with the amount of the Lima oil?—A. I am not familiar with that; the pipe-line people make a monthly statement of the oil they produce and the amount in the different fields, and I know only in a general way about it. I suggest that that is a matter which you can get directly from their statistics. They furnish their purchasers or the dealers with a printed statement, as many of you gentlemen know, I presume, which is sent out about this time of the month.

Q. (By Mr. PHILLIPS.) Is not the Lima oil production much the larger?—A. Oh, yes; the production of the Lima fields, according to my recollection, is about 60,000 barrels a day.

Q. (By Mr. JENKS.) Then the high quality of oil from the Corning and Mackburg fields is relatively a small part of the production of oil in Ohio?—A. Yes; I should think our field produced about 10,000 barrels per day, or in that neighborhood.

Q. You spoke of the advantage which your competitors had as producers on account of the pipe-line connections. Will you make this point a little clearer?—A. As producers we were not able to get our own products to our plant without being subjected to all the extra charges which I have already mentioned.

Q. Extra charges of the pipe line?—A. Yes.

RAILROAD CHARGES FOR SHIPPING OIL.

Q. How about charges on the railroad?—A. We were not able to get rates on the railroad at all satisfactory; they would make it no less to us than the higher rate of pipage.

Q. Had you any reason to think there was any special discrimination of rates being made in the transportation of crude oil?—A. We were compelled to get our oil in tank cars from two lines of road. One was the Toledo and Ohio Central, which had a branch running to Marietta. I made application for rates by wire, but I think it was at least thirty days before I got them to give me a rate at all; and when they did, I found it would cost me about 1 cent a barrel more than to ship by the pipe line; i. e., 85 or 86 cents a barrel.

Q. Did you infer from the delay that the railroads were more or less in the control of your competitors in the field?—A. Yes; it seemed so to us. We put our own loading racks and our own lines to the tanks, and paid the same transportation rate as we would have paid if we had bought it direct.

Q. Do you know whether these special appliances required of you in the way of loading racks were also required of the Standard Oil Company?—A. No, I do not.

Q. (By Mr. PHILLIPS.) Were you ever engaged in litigation in regard to freight charges with the Standard Oil Company?—A. No.

Q. Was there any litigation in regard to freight rates in your mother of the company with which you are familiar?—A. Mr. George Rice and Mr. Mackburg and I, and as I remember it, recovered finally from some of the losses which we sustained. But they afterwards became a part of the Standard Oil Company, and I was not engaged in the business at that time with any of the companies which were then in the case. I saw what was published in the Standard Oil Company's report, and I saw what was published in the Standard Oil Company's report, and I saw what was published in the Standard Oil Company's report.

Q. Did you know that the Standard Oil Company at that time?—A. No.

STANDARD OIL COMPANY'S REPORT.

Q. Did you know that the Standard Oil Company at that time?—A. No.

Standard Oil Company; one, perhaps, will be the South Pennsylvania Oil Company, another the Ohio Oil Company, another the Carter Oil Company, and the United States Oil Company, etc.

Q. Are all these companies connected with the Standard Oil Company?—A. Yes; they are all believed to be. I have no positive information as to that, but it is the common supposition that they are.

Q. But you know as a matter of fact that the Standard Oil Company is connected with a large number of producing companies and has organized a large number?—A. I have no positive information, but it is currently believed by all the oil people about Marietta that it is.

Q. (By Mr. JENKS.) Does the purchase of these oil fields by the Standard Oil Company, or the companies associated with them, simply mean that they have plenty of capital and can pay higher prices than their competitors?—A. Yes.

Q. Have you any reason for believing that there is anything unfair in their methods of dealing in this respect?—A. No; I have not. I have seen large properties sold to companies which we believed to be connected with them; they have always paid very fair prices; in fact, almost exorbitant ones in some cases.

Q. Is it simply a question of having a large capital at their disposal, with a willingness to pay well for the property they want to get control of?—A. Yes.

CHARGES OF PIPE-LINE COMPANIES, ETC. (RESUMED).

Q. Let us go back again for a moment to the question of transportation and the charges that are made by the pipe-line companies. Did you pay by the barrel?—A. Yes.

Q. About how much does the barrel contain?—A. Forty-two gallons is the Standard Oil Company's quantity; that amount is delivered or supposed to be delivered for a barrel of crude oil; formerly it was 41, but it has been 42 for a number of years. They have their own experts for gauging the tanks and make out their own gauge tables. Where a producer requests it they will furnish a duplicate, showing the capacity of each tank for each inch in height or depth. The producer can have a representative there when the tank is gauged. The producers soon got used to the system and paid no attention to it. The amount is reported to the pipe-line company and credited on their books, and you can sell your oil whenever you please, 42 gallons for the barrel. I believe, however, they take up $2\frac{1}{2}$ per cent for wastage by evaporation in addition to that.¹

Q. Why is that done?—A. It is claimed by these people that that is about the fair average of the shrinkage or contraction by the leakage and evaporation.

Q. Then there is a waste when oil is handled by barrels or placed in tanks?—A. It is never handled in barrels, but always in tanks and pipe lines.

Q. So this wastage, they claim, exists in the pipe lines themselves?—A. Yes.

Q. If you buy a thousand barrels of oil, will they deliver about $2\frac{1}{2}$ per cent less than that because of this wastage? Is that the idea?—A. No; they will deliver to your credit so many barrels of oil and have the wastage of $2\frac{1}{2}$ per cent estimated or computed from the gauges.

Q. That is, when they are buying oil from you?—A. Yes; when they are buying from us.

Q. Is that practically the universal custom in the case of all pipe lines?—A. We have not had, for a number of years, any pipe line in the country but the Standard.

Q. They buy from you and pay you a certain amount, less $2\frac{1}{2}$ per cent which they claim as wastage?—A. Yes.

Q. (By Mr. PHILLIPS.) Is it a fact that the Standard Oil Company have a large amount of sediment or surplus?—A. Yes.

Q. Do you suppose that is accumulated from this $2\frac{1}{2}$ per cent?—A. Of course I have no definite information as to that. It is supposed that we buy a part of it and that they also charge or assess for insurance on fire losses. It occasionally happens that a tank of oil is burned up.

Q. Is that assessment made on the producer in the particular division or locality?

Q. (By Mr. JENKS.) How is the assessment calculated?—A. By reducing the credit balance. If you have 1,000 barrels, and 1 per cent would take up the total loss, they charge it up.

Q. (By Mr. PHILLIPS.) Have they any legal authority to make an assessment?—A. I think it is unusual; I do not know whether or not it would stand in court; I have never known of anyone objecting to it.

Q. Have you ever known of any person bringing a suit to recover?—A. No; they object, of course, but I have never known of anyone making a claim for it.

Q. The fact is, then, that this is generally quite a small amount on each product, and that they do not feel justified in going to law in regard to it, but there is no law that could assess?—A. No.

Q. But they do do it, nevertheless, generally?—A. Yes; I understand so.

THE NECESSARY CAPACITY OF A REFINERY.

Q. (By Mr. JENES.) How large a refinery did you have? What was the capacity?—A. Well, about 8,000 barrels a week was our capacity; of course we could increase it at any time if the trade demanded it.

Q. Is a refinery of that size, properly built and equipped, able to refine oil as advantageously as one considerably larger?—A. Well, it would be confined to 1 or 2 branches of the refining business—that is, the manufacture of illuminating and lubricating oil. But if one had a gasoline plant connected with the refinery it would add very materially to the profits.

Q. That is to say, in connection with every refinery there are a certain number of by-products which can be used to very great advantage as soon as your plant is large enough so that you can afford it?—A. Yes.

Q. Do you have to have special facilities for that use?—A. Yes.

Q. What do you do with these by-products that you have?—A. We sell part of them to Scofield, Schurmer & Teagle, of Cleveland—paraffins and benzinnes. We have a good market for our surplus there, but never at a profit. We would just about get rid of it without carrying it in stock. We never were able—at least, we never seemed to be able—to get any profits out of by-products.

Q. Can you give any definite idea at all as to how much more profitable your establishment would have been had it been large enough for you to make the best use of the paraffin and other side products which you were compelled to dispose of substantially at cost?—A. I have never made any estimate of that. It would be a mere approximation if I should, not having gone into it. I should have to make some little calculation, which I think would be foolish to attempt, because it would only be an approximation. It might differ quite a little from the real facts, if they were determined.

Q. If you had had double or treble the amount of capital in your plant, with additional facilities for making use of the by-products, do you suppose that, selling your illuminating and lubricating oils at the same prices as before, the added profits from by-products would have enabled you to pay dividends on the capital and keep your establishment running, whereas the experience you did have compelled you to close down?—A. Yes; I think so. I think if such a profit had been secured the business could have been continued successfully.

STANDARD OIL COMPANY'S MONOPOLY OF BY-PRODUCTS.

Q. (By Mr. PHILLIPS.) Is it, or is it not, a fact that the Standard Oil Company has practically a monopoly of all these by-products, so that if your business had been increased you could not have found a market for any of them?—A. The by-products would have gone up to consumers, of course. We should have no occasion to sell by-products if we could manufacture them and put them on the markets. If we were selling crude by-products, with our regular product, to a customer, and we introduced a special arrangement for using these by-products in their crude state, we could not make any profit from their immediate sale, and of course we should lose that customer.

Q. If you had facilities for manufacturing a very large amount of lubricating oil, does not the Standard Oil Company so monopolize that trade with the railroads that it would be practically impossible to market in competition with them?—A. The railroads are large consumers of low-grade lubricating oils, and unless you can get some connection with the railroad companies that consume them in large quantities, it is almost impossible to get around to the small dealer and market at a profit. The Standard companies practically have got such control that you must either get some railroad in with you or sell your by-products to some of their companies, to be compounded into their grades and marketed.

Q. It is not contended by what we call the independent or outside refiners that the Standard Oil Company has practically a monopoly of the lubricating business, especially among the prominent railroads?—A. Yes.

Q. Would any big corporations, independent of the Standard Oil Company, be able to turn out 100,000 or 200,000 in manufacturing lubricating oil?—A. I think it would be possible to get a market for it. I think it would be possible to get a market for it. That is my judgment.

Q. (By Mr. JAMES.) If I understand what you say in that paragraph, it is this: That a very large establishment that has put in the money and is making the best use of the by-products has a decided advantage in the market, but that, owing to the fact that the Standard Oil Company has special relations with the railroads and with the producers of these by-products, it is nevertheless a hazardous investment to make, owing to the difficulty in marketing?—A. We look upon it in that way and have not made such an investment in our concern.

Q. But the advantage in the manufacture itself, you think, undoubtedly exists?—A. Yes; I think so.

THE COMPOUNDING OF OILS.

Q. Can you give us some idea with reference to the way in which the different grades of oils are compounded?—A. I do not know whether I can make myself understood about that. Most refineries have a department of that kind. They have a person who becomes expert in compounding mineral oils with animal oils, and in the filtration and extraction of oils from the paraffin. There is a very great difference in these different grades of oil in the markets. One consumer, in many cases, may pay 5 or 6 times as much for a particular grade of oil as some other consumer. For instance, 15 cents a gallon would be a fair price for some consumers; and for some grades of oil they get 75 or 80 cents, owing to the particular machinery that is used.

Q. If I understand you, then, the manufacture of lubricating oils is very largely a matter of compounding?—A. Yes.

Q. And that is an art in which there is a chance for experience and the development of skill?—A. Yes.

Q. But nevertheless the art of judging accurately the quality of lubricating oils is a somewhat difficult thing?—A. Yes.

VARIATIONS IN THE PRICE OF LUBRICATING OIL.

Q. So that if a person is disposed to get 2 prices, or 3 or 4 prices, for the same quality of oil from different consumers he might be able to do it?—A. Yes.

Q. Have you any reason for believing that any of your competitors were in the habit of getting different prices for the same grade of lubricating oil?—A. Yes; we have become satisfied of it by coming in competition with them. The grades of oil we were manufacturing in the same town would often be selling at 22 and 23 cents a gallon, while they would be selling to the very same people with whom we came in contact for 70 and 80 cents—in a small way, of course.

Q. Who were those competitors?—A. The principal one was the Argan Refining Company.

Q. What was the source of your information on this matter?—A. We were located in the same place and our plants were close together. Our men intermingled, i. e., they would work at one place for a few weeks and then change about, so that we became somewhat familiar with what our competitors were doing, as they seemed to be willing to get information about us.

Q. Your information, then, on this difference in prices came from men working for you who formerly worked for the Argan?—A. Yes, or vice versa.

METHODS ADOPTED BY COMPETITORS TO SECURE INFORMATION.

Q. You intimated just now that your competitors sometimes secured information with reference to your methods of doing business in ways that were ordinarily not considered normal. What were some of the methods employed?—A. On one occasion we had an office boy who became shipping clerk, and attended to shipments of oil by river and by rail. That young fellow was approached by an agent of the Standard Oil Company, who offered to pay him for a report day after day, giving the names of the persons we were shipping to, the points shipped to, and the invoice price of the product.

Q. What was the result of that offer?—A. Well, the young man was very much surprised, but was loyal to us. He came and gave us all the information that we asked for. We advised him to go further and get further information, and he did so. I guess they suspected we were getting confidential information from him, so far as we know, unless it was done without his knowledge. Sometimes in the evening, after we closed up, the shipping clerk would come in there. They had confidential office or home addresses and would come to induce him, for a consideration of a part of their confidential business, or something of that kind, to give them that information.

Q. Did that general case you think they failed to get the information they wanted on account of the secrecy of your business?—A. I think so.
Q. Do you know any other case in which they did get information along this line?—A. I did not have any positive information, but we believed that every barrel of oil shipped from our works either by steamboat or by rail was in some way reported to our competitors. That was only a matter of belief and conjecture, but the circumstances pointed strongly in that direction.

UNDERBIDDING OF COMPETITORS.

Q. What were the circumstances that pointed in that direction?—A. Why, when we would make a shipment of oil and send invoices, their traveling men would frequently come in contact with that particular shipment; the people that we shipped to would write us saying that they had a quotation at a lower price, and in many cases we would have to meet that price or lose the customer. We would have to make a deduction on the invoice, or make an allowance on the next shipment, or something of that kind. Of course, it created a great deal of dissatisfaction. We would have to keep a man on the lookout all the time, traveling from one little town to another to see the small dealers.

Q. That is, then, I infer, practically a universal custom with those people; wherever you had a customer they would follow you up?—A. Yes.

Q. (By Mr. PHILLIPS.) As a rule, did they sell lower than you offered to sell?—A. They offered it, and we ultimately would lose a customer unless we reduced the price.

Q. (By Mr. JENKS.) What was the effect of this operation? Did it reduce the price of oil to the consumer?—A. I think not.

Q. Why not?—A. The dealer would not change his price; he would continue to sell the oil and if he bought it at the same price offered by the Standard he would have advantage of the difference in price. The dealer would get the advantage of the difference in price.

Q. Do you think, then, that the price of oil was lower to the dealers and that they made better profits than they would have made save for this action of the Standard Oil Company?—A. Yes.

Q. (By Mr. PHILLIPS.) Was that only in particular localities?—A. Yes; in localities where we were seeking a market. It may have been so in other localities, of course, but I have no information on that.

GENERAL EFFECT OF THE COMPETITION.

Q. (By Mr. JENKS.) What do you think has been the ultimate effect of this competition which you said finally compelled you to go out of business? Have you any reason to believe that prices have increased?—A. Generally, I think they have been restored to a more uniform condition; in many localities they would get the same increased price.

Q. So that the general average of prices is probably higher?—A. Yes.

Q. This cutting prices was ordinarily to satisfy customers at particular places?—A. Yes.

Q. And was not a general cutting?—A. No.

COMPOUNDING OF OILS (RESUMED).

Q. To go back to the question of mixing oils. Did you say that nearly all refiners have a special department for that work and a special mixer?—A. Yes.

Q. And that a good many different brands are made in practically every refinery?—A. Yes.

Q. In all this to satisfy, so far as possible, the taste and desires of different customers?—A. Yes.

Q. And you were in the habit of making special brands for special customers?—A. Yes.

Q. And you were in the habit of taking oil, but we did in illuminating oil. Some of the best kerosene was used on oil that was manufactured by other refiners, and for the purpose of getting out under our brand. We had a very large quantity of kerosene manufactured by many companies.

Q. And you were in the habit of taking oil that was sometimes used by your competitors?—A. Yes.

Q. Have you any specific instance in mind of an attempt of that kind to attempt to make your customers believe that your oil was not up to the standard?—A. Yes; I think of one particular case, that of the Cleveland and Marietta Railroad. They were customers of ours and we branded all of our oil under the brand that we were shipping it at. We supplied them with lubricating as well as illuminating oil. In one case we were informed by the purchasing agent that their inspector had discovered 5 or 6 gallons of water in some of the barrels of the last shipment we had made. We at once took the matter up and investigated it, and found that every barrel we had shipped out—at least every barrel of that particular invoice—was accounted for by having our brand on it. The other barrels, which it was claimed had water in them, had no brands at all. We had no information as to where they came from, but some one undertook to deprive us of that customer by sending a shipment of spurious oil and then trying to make the particular officials think it was our product.

Q. Did you say there were 4 barrels that had water in them?—A. Yes; I think there were 4 or 5 barrels.

Q. Did you think that somebody stole 4 barrels of your oil and put this spurious oil in the place of it?—A. I do not know; I know ours had all been counted up and distributed along the line, and it was difficult to go to each point and to each agent that distributed it and find the barrel with the shipping mark. The 4 or 5 barrels of spurious oil had no marks to show where they came from. It may have been ours, but I do not see how it could have been unless somebody opened the barrels and put the water in.

Q. So there must have been some fraud in that special case?—A. There was no doubt of it in our minds; we investigated it very carefully, and it resulted in establishing our reputation with that particular road, so that as long as we continued in the business we had their entire trade; the way it happened it turned out fortunate for us after all.

Q. What would have been the effect had you not been able to establish your case?—A. It would have ruined us.

Q. You would have lost that trade?—A. Yes.

THE COST OF PRODUCING OIL.

Q. How does the cost of producing compare now with what it was a few years ago?—A. It is less. Fuel is somewhat less, owing to the locality, of course. Coal has been cheaper for 3 or 4 years than it was 10 years ago; and where natural gas is used the uniform price, I think, throughout the country is 7 cents for each barrel of crude oil. Some of the chemicals that are used in the manufacture of oil are quite a little less. Sulphuric acid was 2½ cents, and is now about 1 cent a pound; but that is not a very material part of the cost.

Q. So that on the whole you think the cost of refining oil has decreased a little of late?—A. Yes.

Q. Do you have any difficulty in getting the material which you have to use at good prices?—A. No; not at all. In the case of the last we bought we had a contract by the year with the Standard Oil Company. We bought our sulphuric acid and other chemicals from them.

Q. Is it generally true that refiners of oil, who are competitors of the Standard Oil Company, have to buy material, for example, sulphuric acid, from them?—A. Yes; generally.

Q. Do you not think they might be put at something of a disadvantage in that way?—A. Yes; possibly. Although the last we bought from the Standard Oil Company was cheaper than people could get it elsewhere.

Q. (By Mr. FARQUHAR.) Is it not generally the case that sulphuric acid and other materials used in refining oil can be purchased from the Standard Oil Company cheaper than in any other market?—A. Yes; I think that is right.

COMPOUNDING OF OILS REQUIRES KNOWLEDGE AND SKILL.

Q. Is the compounding of oil a scientific operation or simply a haphazard one?—A. Well, there is a great deal that is haphazard; it is now becoming more a custom to go into it carefully and scientifically; but from my observation of refiners generally there is as much haphazard work in the compounding of oils as in any other business in manufacturing.

Q. If you were engaged in the compounding of lubricants would it not be your custom to send to the scientific schools for a full analysis before marketing the product?—A. It is sometimes required, but we do not always do it, because it costs an expense that all want to avoid, if possible.

Q. Is it not generally a fact that many refineries have mixers or compounders now? Are mixing and compounding considered scientific attainments?—A. Yes.

Q. Is not the compounding of lubricants and illuminants taught in every scientific school in the country?—A. Yes; and in a great many colleges.

Q. Is it taught at Cornell University, for instance?—A. Yes; and at the Ohio State University at Columbus.

RAILROADS PREVENT FAIR COMPETITION.

Q. In your business with the railroad companies, how close were the prices of the Argan or other competing companies to your own?—A. Well, our experience soon led us to understand that any price we might make to the railroad companies that they had control of would cut no figure; we had no means of knowing what they got; for instance, if they were getting 12½ cents a gallon and we offered it for 6 cents, we could not get that. We knew they were selling at 12½ cents to other people; of course, we do not know just what controlled it, but we were not able to get the trade.

Q. (By Mr. JENKS.) Did you, as a matter of fact, make the price lower to the railroad than to other customers?—A. For a few times, just to satisfy ourselves that that was the condition of things; after that we paid no further attention to that particular trade.

Q. (By Mr. FARQUHAR.) What official of the Baltimore and Ohio Southwestern Railroad controlled the purchase of lubricants?—A. They had a purchasing agent, who was not always the same party, but it seemed that a higher authority controlled their sending out requisitions for the oils they needed. A complete change was brought about in their methods of doing business, and soon after it was known that the officers of the road controlled considerable stock in the Argan Refining Company.

Q. Were the parties interested in the railroad also interested in the Argan?—A. They finally acquired, as we believe, at least 50 per cent of the stock of the Argan Refinery.

Q. The oils, of course, were called standard?—A. Yes.

Q. Do you claim that the Argan was better or poorer oil?—A. It was intended to be substantially the same grade.

Q. Was it left to the purchasing agent to make a decision himself?—A. Oh, yes.

Q. Then do you wish to impress upon the commission the idea that preference was given to the Argan Refinery because the railroad officials were interested in it?—A. Yes; that is my belief.

Q. Have you no knowledge?—A. None whatever, except the circumstance which led us to that belief, the general condition of things, and the fact that we were not favored with a part of their business.

Q. Can you tell the commission, from your own knowledge, whether the Standard Oil Company offered better terms than you did to the railroads?—A. No.

Q. (By Mr. PHILLIPS.) Did you say that you offered to sell at a much lower rate, and that they refused to purchase your oil?—A. Yes.

Q. Is that the reason why you think there was unfair competition?—A. That is it exactly.

Q. Do you believe it or know it?—A. We believe.

Q. Because they would not purchase your oil, of equal quality at a much lower price than they were paying others?—A. The influence did not stop at that particular point; but the fact that it was known along the entire mileage of that railroad and its branches that they were getting their illuminating and lubricating oils from this particular concern we believe influenced the dealers along the line, because they could get it in small quantities and without very much trouble. The same people being interested in the railroad and the Argan Refinery made, we believe, quite a difference in our trade along that line; we may be mistaken about it, but it so appeared to us at the time.

Q. (By Mr. FARQUHAR.) Do you not usually find that it is a pretty common thing to hold a customer where you have competition of that kind?—A. Yes; and especially when the matter is in the hands of a purchasing agent.

Q. Do you have any faith in the old saying that "The purchasing agent is worth an inch of gold"?—A. I do not know. They laughed at the statement, and we did not try to influence our trade in that way. We made a reputation for value for what we value was; and so far as I know, we made no special effort to get the business of any company that dealt with us.

THE STANDARD OIL COMPANY AND THE PRICE OF OIL.

Q. (By Mr. PHILLIPS.) It has been claimed that there has been a great decrease in the price of refined oil in the last 20 years, or since the Standard Oil Company began manufacturing oil. Now, is it or is it not a fact that that decrease is obtained by using quotations from New York, chiefly an export oil? Is it or is it not a fact that benzine, which is now higher in price than refined oil, was, in the early history of the refining business, dumped into the creek, and that the tar was not even used as fuel?—A. Yes.

Q. Are not the by-products as valuable now, in many instances, or even more valuable than the refined oil itself?—A. Yes.

Q. And by-products that were formerly considered useless?—A. That is true, and when that condition prevailed there were great fluctuations in the value of the crude oil. As I remember, oil was at one time down to 37 and 40 cents a barrel, and at another time, when they were manufacturing just one grade of oil, it sold as high as 50 or 50 cents a gallon. There were great fluctuations as to the price of refined and crude oil. That may account for a part of this decreased price.

Q. (By Mr. FARQUHAR.) Do you not think that the fluctuations in the price of oil in 1873 were really due to overproduction, or do you think they were caused by monopoly?—A. No; I think the cause was overproduction and the facilities for handling this crude oil.

Q. It was not a question of monopoly?—A. We knew nothing of monopoly at that time.

Q. It was just a question of overproduction, when everybody was trying to sell and get the market?—A. Yes; that, I think, influenced the price very considerably.

THE PROFITS OF THE STANDARD OIL COMPANY.

Q. (By Mr. PHILLIPS.) Do you believe that the Standard has, in a great many instances during the last 10 or 20 years, made more profit per barrel for every barrel of crude oil handled and manufactured into refined oil than they have paid for the crude oil itself? Is it right to infer, as some do, that they make more profit to-day on every barrel of oil that is manufactured than they pay for producing it?—A. I hardly think that they do, but they do make, as is shown by their statements, a very considerable amount out of their transportation of the oil through the pipe lines; they are very profitable.

Q. Take them together?—A. Oftentimes the entire profit on a barrel of oil will be made on the transportation of it instead of the manufacture.

Q. (By Mr. JENES.) Have the rates for piping decreased?—A. That I do not know about. The Standard system has only been established at Marietta about 10 years, and I knew nothing of what may have occurred before that.

Q. Has there been any change in the charges for piping in your remembrance?—A. Only at particular periods when there has been a contest over the control of a particular field, or something of that kind. I think they are paying 10 cents a barrel more for crude oil at Scioto to-day than they are at Marietta or Pittsburg. The quotations show 10 cents a barrel more.

Q. Is the price of crude oil at Marietta the same it has been for some years?—A. Oh, it has fluctuated some in the last 5 or 6 years, but not so very much.

COST OF PRODUCING CRUDE OIL NOW AND FORMERLY.

Q. What is the cost of producing crude oil now compared with what it was 5 or 10 years ago?—A. It has increased very much. The material, i. e., casing, tubing, and machinery, that goes into the production of oil, has increased in some instances, I should think, 50 per cent.

Q. (By Mr. PHILLIPS.) Since when?—A. In the last 3 or 4 months.

Q. Prior to that was it cheaper than it had ever been before?—A. Oh, yes, very much cheaper. All materials going into the production of oil in the way of casing, tubing, pumps, engines, boilers, and machines were very much reduced.

Q. (By Mr. JENES.) The price of these materials has gone up, and there has been some increase in the price of crude oil?—A. No, no.

Q. Do you know whether the Standard Oil Company itself is interested in the production of these supplies or not?—A. No, I have no information whatever as to the general business of people who are doing these things. I have no way of knowing, except that their business relations indicate that they are not connected with the Standard Oil Company. I have no knowledge of the price of oil to-day.

Q. (By Mr. JAMES.) Do you mean that there are parties interested in the Standard who are also interested in the tubing works, etc.?—A. Yes.

Q. But the Standard, as the Standard, has nothing to do with it?—A. No; I suppose not.

Q. (By Mr. JAMES.) Did you say that your chief competitor in the refining business was the Argan Company?—A. Yes.

Q. Your chief competitor, then, was the Argan and not the Standard?—A. The Standard had a very large plant at Parkersburg that covered part of the same territory that we both covered.

Q. But so far as you knew you were hampered as much by the Argan as you were by the Standard?—A. Yes.

RELATION OF THE STANDARD TO THE ARGAN REFINING COMPANY.

Q. Was the Argan owned by the Standard at that time?—A. No.

Q. But it has since been bought by the Standard?—A. Yes.

Q. What has been the history of the Argan since then?—A. Why, the Argan Refining Company was leased sometime within the year, I should say, by one of the branches of the Standard Oil Company—the Southern Refining Company, I think—on a basis of 6 per cent on \$300,000 for ten years, or, in other words, \$1,000 a month for ten years. They had employed quite a number of people, traveling men and office men, and just recently they left Ohio and went into West Virginia. That was about the time, I think, that Attorney-General Monnett commenced quo warranto proceedings, claiming that they were a part of the Standard Trust. They immediately moved their business office to Parkersburg, which is about 12 miles from Marietta on the Virginia side of the river. Since then it has been understood that the people who owned the stock of the Argan Refining Company had capitalized it and sold out their entire interest to the same people that leased it; so that they have in some way discounted the 10-year lease by cash payments, and the Argan Refining Company has now practically abandoned its office at Parkersburg.

Q. Is it understood that the purchasers of this stock are the managers of the Standard Oil Company to some extent?—A. That is the supposition. I think if you have access to the testimony, taken by Mr. Monnett at Marietta, of Mr. Cram, who was the manager of the Argan Refining Company at the time this lease was made, you will find that he testifies as to just what was done in this leasing process. Since that time it is generally believed that the stock has been purchased by the same parties who made the lease. Perhaps you will not find that in this testimony.

NO SUGGESTIONS AS TO LEGISLATION.

Q. (By Mr. PHILLIPS.) Have you any suggestions to make in regard to legislation regarding trusts and combinations? Do you think it is a question that can be dealt with properly by law?—A. I have not given it the close attention that other gentlemen have, but I realize that it is one of the most difficult things to deal with as control by law. I have no suggestions on that line. I do not know how remedial legislation is possible; vested rights are acquired by innocent holders in different corporations and they are thrown together, so that I can not see how you can possibly separate them. There may be some way of doing it.

Q. Are you at all familiar with the pipe-line business in Pennsylvania and Ohio, and especially in regard to the opposition the Standard has made to independent pipe lines?—A. No; I never came in contact with that except in a very indirect way.

Q. You are not, then, familiar with the early history of the Standard in Pennsylvania?—A. No; I am not.

Q. And their methods there in regard to pipe lines, purchasing refineries, etc.?—A. No; I have no information in that direction.

Q. (By Mr. MONNETT.) To whom do you sell your product now?—A. The

Q. (By Mr. MONNETT.) The oil produced in West Virginia I sell to the Buckeye Pipe Line, and the oil produced in Ohio to the Mackburg division of the Buckeye Pipe Line.

Q. Do you have Standard Oil lines?—A. They are in the same office and the same management, but the check which is given by one of their agents is

Q. (By Mr. MONNETT.) Are both owned by the Standard?—A. Both are in the

Q. (By Mr. MONNETT.) Do they pay you the market price for it?—A. Yes.

REGULATION OF THE MARKET PRICE OF OIL.

Q. (By Mr. FARQUHAR.) How is the market price regulated?—A. When you have oil to sell you go to the agent, who, before he gives you a price, wires to Pittsburg, where the books are kept, to see what your credit balance is; that is, the number of barrels of oil credited to your account and the particular grade. When he gets that information he will give you the price; that is, the price is posted. You may or may not accept his offer.

Q. What influence have the independent producers of this country on the price of crude oil?—A. They have influence only in special cases, and I do not recollect any of those in particular. I do not think they have any influence over it at all in our part of the country.

Q. None at all?—A. Not at all.

Q. (By Mr. PHILLIPS.) Is the price of oil there fixed by the board of exchange or by the Standard Oil Company?—A. By the Standard Oil Company.

Q. Both crude and refined?—A. They do not fix the price of refined, but they do the crude.

Q. They make the quotations in New York, do they not?—A. I think they do.

Q. Do they make the quotations in all the oil fields for the crude?—A. Oh, yes; wherever they have the purchasing agent.

Q. And is it wired to the agents what the price shall be each day or week, subject to change at any time by them?—A. Yes; the holder of credit balances on their ledgers may be a producer in Indiana, Ohio, West Virginia, or Pennsylvania and may sell to any of their agencies. It does not make any difference what one. I have often been in the office when producers from Indiana would come in and ask for their credit balances and get their checks just the same as men who produce oil within a mile of where the business was transacted.

Q. (By Mr. FARQUHAR.) Is it the New York branch or the Pittsburg branch that rules the market?—A. It is the Oil City market; that is the one.

Q. Of the Standard?—A. That controls the price of crude oil. Occasionally it is sold at quotations given by brokers when there is a little fluctuation. I have known it to be so for a few days, within two years, I think. When I would go in to sell some of my crude oil they would say: "If you will allow us to put this on the exchange to-day, you may have the benefit to-morrow of the average exchange price instead of taking the specific or grade price at the time." I frequently would get a cent, a cent and a half, or 2 cents a barrel more by putting it on the exchange. At other times the exchange was lower than the Standard market.

THE POSITION OF INDEPENDENT REFINERS.

Q. Is it your opinion that the independent refiners of this country are making money?—A. I do not know outside of the firm I am interested in myself.

Q. Scofield, Schurmer & Teagle, of Cleveland?—A. Apparently they are.

Q. Do they own oil wells?—A. I really do not know.

Q. They are refiners proper of the oil and the by-products?—A. That is what I understand.

Q. Is it not quite a wealthy firm?—A. Yes.

Q. Has it not always been an independent firm?—A. That has been the supposition.

Q. Do not large profits naturally accrue to a firm like that?—A. Yes.

Q. Because a good many refiners have gone out of business, is it right to say that the Standard Oil Company drove them out or bought them out—gave them a good price to get out?—A. Why, take, for instance, our own concern right there under our eyes. I could have—

Q. (Interrupting.) Could you not have sold out in pretty good shape if you had desired?—A. I was never approached on that. I would be very glad to, but I think I could have put up a refining plant as good as the one that was practically sold for \$300,000 for about \$75,000.

Q. (By Mr. JEWINS.) That is the Argan?—A. That is the Argan.

Q. (By Mr. FARQUHAR.) Of course, that includes good will and everything else that goes into an establishment of that kind. But, from your own experience, do you know whether it is customary for the Standard, when they find a good, strong refining plant, to crush it out or buy it up at a pretty good figure?—A. They have not done that in a great many instances. They did not buy out Mr. Rice's plant.

Q. (By Mr. PHILLIPS.) Is it, or is it not, a fact that the Standard bought a large number of refining plants at a good price, and wrecked them?—A. Yes.

Q. (By Mr. FARQUHAR.) Is it not sometimes a good business proposition to dismantle plants when you have been getting good transportation facilities and getting the same quantity of oil and other products and attach to another pipe line, and let them go, leaving nothing but the bare wells?—A. Yes.

Q. As a business proposition, any man will do that?—A. Yes.

Q. (By Mr. KENNEDY.) What is the market price of crude oil to-day?—A. The last quotation I saw was \$1.15 at the wells.

Q. A barrel?

Q. (By Mr. PHILLIPS.) White sand oil?—A. The white sand oil.

COST OF PRODUCTION (RESUMED).

Q. (By Mr. KENNEDY.) Can you state to the commission what the cost of production is?—A. That varies a great deal; that is one of the uncertain quantities. I have spent a good deal of money in sinking wells with no return, but occasionally have been fortunate enough to get a well that was very cheaply produced and that gave a very satisfactory return. It is impossible to tell just what the cost is.

Q. In regard to the wells that are productive, can you say what the cost per barrel for the crude product is?—A. That varies as to the field.

Q. What is it in your field?—A. The nearest wells to Marietta are only about 400 feet deep and are very productive, while the Berea sand wells, in the Macksburg field, vary from 1,000 to 2,300 feet; therefore you can see that there is quite a little difference in the cost of wells in different fields. You have to use a great deal more casing in some instances than others—3 or 4 strings of casing frequently. In our fields you use but one, because of the surface drilling.

Q. (By Mr. PHILLIPS.) The cost of drilling is about \$5,000 or \$6,000 to the well in different localities?—A. Yes.

Q. And some are more uncertain than others?—A. Yes.

Q. (By Mr. KENNEDY.) What is your own individual production?—A. My own individual production?

Q. Yes.—A. That varies considerably. It is now about 100 barrels a day.

Q. You have been in the business a good many years?—A. Yes; I have several times thought I was in the business, but when I came to settle it up I found I was not—I was behind.

Q. Is it not possible for you to compete now, if the Standard Oil Company does fix the price of the product?—A. Yes, it is, where I get sufficient production to pay the expense of operating.

Q. (By Mr. FARQUHAR.) In a general way, do you think the exportation of petroleum over the whole world has been a great benefit to this country?—A. Yes; I do.

Q. Do you think it has been one of the great factors in holding the balance of trade in favor of the United States?—A. Statistics show that, of course; there is no question about it in my mind.

Q. (By Senator MALLOY.) Did you not state, some time back, that the managers of the railroad at Marietta, being interested in the Standard Oil Company, influenced the dealers along the line of that road?—A. The managers of the railroad company, being interested in the Argon Refining Company, made it appear to the ordinary village merchant that they were controlling that particular trade. In many cases they control the output of the coal mines that supply fuel for operating the road, and the managers and operators do their purchasing from the companies that are doing the work. In that way they secure indirectly control of the railroad company or the merchant.

Q. Do you mean the railroad employees?—A. The coal producers, the coal operators.

Q. Purchase of the dealers?—A. They were, in one instance, supplying the railroad company with their fuel and operating mines producing the coal, and of course they supplied them, or some one connected with them; not only the coal, but also the supplies that went into producing the coal.

Q. When I wanted to get at, or understand, was the influence which you referred to, in controlling these dealers to their detriment?—A. That was one. Whenever they had control, or were connected with the producing of coal or other things that were associated with the management of the road, they seemed to be able to control it.

Q. Do you say they had no direct influence?—A. Not that we could put our hands on, or only indirect it; the circumstance impressed upon us the fact that they had it.

Q. Did you find it to be a fact that your business was being conducted in a way that was different from various causes?—A. Yes; we conducted our business in that influence.

Q. To that influence?—A. Yes.

Q. (By Mr. KENNEDY.) A former witness before the commission said that he believed a new system of rebates to railroad companies had grown up. It is this: They furnish lubricating oil to the railroad companies, who pay them a great deal more for it than it is worth in the market. Do you know anything on that subject?—A. No; I do not; I have no information on that subject further than I have related.

WAGES PAID IN THE PRODUCTION OF CRUDE OIL.

Q. How do wages in the oil business compare with wages in other industries?—A. What branch of the oil business; the drilling?

Q. Yes; the drilling.—A. I think the wages for drilling have been fairly kept up. An expert driller commands from \$4 to \$5 a day for his services in our fields. The tool dressers get about \$3 to \$3.50 a day; I believe that is about the range in our country.

Q. How about the pumpers?—A. That of course depends upon the amount and the number of wells they have to care for. Their wages run from \$40 to \$70 a month in our field. Big builders, i. e., the people who put up the derricks, are getting fairly good prices. The contractors, the men who do the drilling and furnish the machinery, are getting from 60 to 80 cents a foot for drilling.

Q. The Standard has very little to do with fixing the wages in the fields?—A. Yes; so far as the drillers are concerned, except when they may be interested in drilling wells, as they sometimes are. I know of one piece they bought which only had one well on it at the time. Now I think they have 20 on that property. Of course they were interested in the drilling of those wells, which is usually done by contract.

Q. Is there any form of organization among the workingmen in the oil fields in your country?—A. Not that I know of.

HOW OIL LAND IS HELD.

Q. (By Mr. FARQUHAR.) Is it generally the custom to lease oil lands or purchase them outright?—A. The custom with whom?

Q. With the operators who sink wells?—A. In a great many instances they lease on a royalty interest to the lessee, but they frequently buy. If they can make a satisfactory price they will buy the fee and the royalty interest as well.

Q. The rule is to lease, is it not?—A. Yes; generally.

Q. (By Mr. PHILLIPS.) Do they pay the rental until such a time as they care to drill upon the lands?—A. Yes; if it is producing, they buy the right to continue operating and are at the entire expense of producing the oil and pay a royalty of one-eighth; one-eighth is the custom all through that country.

Q. (By Mr. FARQUHAR.) What is the usual time of oil leases?—A. From 10 days up to 20 years.

Q. Twenty years?—A. Most of them, or as long as oil is found in paying quantities.

Q. (By Mr. PHILLIPS.) Do you mean by 10 days simply the time to begin operations?—A. Yes; that is it.

Q. Then the lease holds as long as oil or gas is produced in paying quantities?—A. Yes.

Q. Have you anything to state yourself that we have omitted that will be of benefit to the commission?—A. No; I do not think of anything.

MOST BUSINESS MEN FOLLOW LIKE CUSTOMS.

Q. (By Mr. HATCHFORD.) Do you know of any business method practiced by any of these refining companies that would not be practiced by others if they had the same power?—A. I have given that subject a great deal of careful consideration, and I have never discovered it yet.

Q. You have never discovered any?—A. No.

Q. It is my opinion that these rival companies, battling against each other, are bound to their common interest to gain control of the market and to make such a monopoly; yes.

the effect of such action in the end on the consumer?—A. It affects different consumers differently, I believe. When you get far away from the oil centers, and give one or two companies the opportunity to increase the price, it is my experience that they are going to do it, and do it right straight through.

AFFIDAVIT.

STATE OF OHIO, County of Washington :

I swear or affirm that the statements made by me of my own knowledge in the foregoing report of my testimony before the Industrial Commission are true, and that all other statements I believe to be true.

THRO. F. DAVIS.

Sworn and subscribed before me this 18th day of September, 1899.

[SEAL.]

HENRY G. BOHL,
Notary Public in and for Washington County, Ohio.

WASHINGTON, D. C., June 9, 1899.

TESTIMONY OF MR. THEODORE B. WESTGATE

Refiner of oil.

The commission met at 10.50 a. m., Vice-Chairman Phillips presiding. At 12.30 p. m. Mr. Theodore B. Westgate, oil refiner, of Titusville, Pa., appeared and testified.

Q. (By Mr. JENKS.) Will you give us your full name and address?—A. Theodore B. Westgate, Titusville, Pa.

Q. You are a refiner of oil?—A. I am.

Q. How long have you been engaged in the business?—A. About 18 years.

Q. Are you also interested in the production of crude oil?—A. To a small extent.

Q. In what way?—A. I am producing a little.

Q. As an independent producer?—A. Yes. It is so little, however, that it is hardly worth mentioning.

Q. Do you have your own refinery at Titusville?—A. Yes.

Q. Are you associated with any of the independent producing companies?—A. Yes; I am.

INDEPENDENT OIL COMPANIES—EFFECT ON PRICES.

Q. What ones?—A. The Producers and Refiners' Oil Company, Limited, of which I am one of the managers. That is a transportation company. I am also a director in the Pure Oil Company, which is a marketing company.

Q. We have had some testimony here before with reference to the Pure Oil Company and its competition with the Standard Oil Company in New York City, Philadelphia, and perhaps other places. Can you give us any information with reference to the effect on prices of the competition of the Pure Oil Company?—A. When we opened up an agency in New York City the prices immediately dropped. We did not drop them, but the Standard Oil people did, and without any corresponding decline in crude oil. I can not tell you the exact figures, for I have not my papers here. I can give it to you later, if you wish. There was quite a material drop. [Supplied August 19, 1899. "On March 20, 1896, the day the Pure Oil Company commenced selling Water White oil in New York City, our price and the Standard's was 94 cents. On March 26 the price was cut by the Standard to 88 cents. This price was gradually dropped, until on April 4 it was 75 cents and 74 cents."]

Q. (By Mr. JENKS.) So much so as to take away the profit?—A. Yes; entirely. The Standard oil was by the Pure Oil Company in New York City.

Q. Do the Standard companies sell at a loss?—A. Yes; it is still sold at a loss there.

Q. (By Mr. JENKS.) Do you recall any other places besides New York City where the Standard Oil Company went in as a competitor and followed prices down until it was sold at a loss?—A. Philadelphia, Pa.

DIFFERENT GRADES OF OIL MANUFACTURED.

Q. Will you tell us regarding the different qualities of oil that you refine and the difference in prices of those various qualities?—A. Taking the prices to-day as a basis?

Q. Yes.—A. Do you wish me to state the qualities—that is, the brands—as I put them out?

Q. Yes; if you will.—A. My highest grade of oil now is Sunlight, double refined. That is worth at the refinery to-day, in bulk, 4½ cents per gallon. My next lower grade is Headlight oil, which is one-fourth of a cent less per gallon. These grades of oil are water-white oil. My next grade of oil is Diamond Safety, which is one-fourth of a cent per gallon less than the last grade. My next grade is Silver Star, which is not water white but prime white. The first three named are water white, 150 fire test; the Silver Star is prime white, 150 fire test. I make 120 water-white oil, which is worth 4 cents a gallon. Export oil to-day is worth 3.90 at the refinery.

}. Are these all the different grades you make?—A. Yes.

}. And there is a difference in price between them?—A. Yes.

METHOD OF BRANDING.

Q. In branding these oils do you vary the brands at all to suit the whims of the individual customer when the oils are of the same grade?—A. Yes; I do; but I do not sell my Sunlight, double refined—my high-grade oil—under the brand of Diamond Safety; neither do I sell my Diamond Safety oil under the brand of Sunlight. A customer in northern New York may want his special brand put on my Sunlight, double-refined oil, and may call it Arc Parlor or Silver Star. Another man in Massachusetts may call it Starlight. There are 80 or 40 different brands that can be placed upon the same grade of oil with all due credit and due justice to the refiner as well as to the purchaser and consumer.

Q. In that way you vary the brand to suit the wish of your individual customer, although you do not put a brand that would imply a high-grade oil upon what is really a low grade?—A. No; I bill it out under the name of Sunlight. I do not take the brand on the barrel. It goes in my invoice as Sunlight, double refined.

Q. But you let him sell it under whatever name he chooses?—A. Under whatever he chooses; under the name of the Standard Oil, if he chooses. I have no names used by the Standard. In northern New York my Sunlight, double refined, put in yellow barrels and branded, American Oil Works, Limited, Sunlight, double refined, 150 water-white oil, was giving such entire satisfaction that they immediately began to copy the brand.

Q. You say "they"?—A. I mean the Standard Oil Company. They put their name on the outside of the circle. I do not think I lost any customers by that. It only went to show that I was giving a high grade of goods; and anything that is worth imitating is certainly a good article; it was not injurious to me.¹

Q. (By Mr. PHILLIPS.) Was their quality as good as your own that was upon the market?—A. That I do not know. I received empty barrels of theirs from Potsdam which my customers had picked up, and which went to prove what my salesmen had testified to and written me.

METHODS OF STANDARD OIL COMPANY IN MEETING COMPETITION.

Q. Can you give us any further information with reference to the methods of competing employed by the Standard Oil Company which you may have gathered in your business?—A. Sometimes the competition is very agreeable and runs along smoothly, and then all of a sudden there will be an outbreak, not in all localities, but in some particular locality. Whether that is occasioned by my refinery putting in too large a per cent of refined oil, I do not know. I wish you would bear in mind that I have no understanding with the Standard Oil Company as to how much oil I shall put in any district. They, however, keep a very accurate record of every barrel that the independent refiners put into each city, town, and hamlet. Their traveling men have to report each night concerning the customers in every town, whether or not they are their customers, whether they buy oil, and if not, why not, and whether or not there is any independent oil there. They keep closely in touch with the business. That is one reason why they are such a success, because they know what we are doing. I have found severe competition at times, so severe, indeed, that I have been obliged to sell oil under cost to certain customers. That is, after a customer has proved to me that he is an established customer, it is certainly to my advantage to endeavor to protect him just as long

¹ Compare Mr. Archbold, p. 545.

as I can. We are very cautious, however, about that, because we have so many times finally lost customers whom we have protected for 6 months or a year. They turn us down, and the Standard makes some arrangement for the handling of their oil. I have in mind such a case at Peekskill, N. Y., which took place within the last year. We had such a case as that at Albany some 8 years ago. I am thankful to say those cases are not in the majority, because we endeavor to our customers so that at times of pressure they will stand next to the Standard.

Q. I have been told that my company has two agencies, one in Auburn, N. Y., and one in Syracuse, N. Y. The prevailing price for 150 water-white oil in Syracuse during the past winter and early fall was 7½ cents per gallon. The prevailing price for the same grade of oil in Auburn, 25 miles south, was about 2 cents less per gallon. If you would ask me the reason, of course I could not tell you. It is simply theoretical. I have demonstrated this, however, to my satisfaction, if not to yours, that if I sell a limited amount of oil, very limited, say a tenth of the consumption in Syracuse, there are nine chances in ten that the prices will not be cut. But it is different if I attempt to get one-third or one-half of the trade, as I did have in Auburn. I wish to state, however, that the people who owned the distributing concern in Auburn had received this cut before I took hold of the business. It is not my policy to go in and get too much trade in any one locality. It is to my interest to distribute my business, and I find it better not to attempt to compete in that way. With some customers, where I am not marketing by the tank-wagon system, as I do in country towns and other places, I have a very heavy competition at times, what might be called an unjust, illegal competition.

Q. Is it your general policy not to attempt to drive the Standard out of any of its markets, but rather to get into some markets and secure only a small per cent of the trade, but not enough so that they will think it worth while to cut prices against you, and in that way to make your profits?—A. That has been my method during the last 5 or 10 years.

Q. (By Senator MALLORY.) What were you going to say was the reason for the difference in price between Syracuse and Auburn?—A. The reason, which, perhaps, I did not make plain, was that I was selling a larger percentage of the consumption of oil in Auburn than I was in Syracuse.

Q. If you pass a certain limit then they cut?—A. What that limit is I do not know. I have established it in my own mind. Were I to go into Albany to-day and establish a tank-wagon system, there is no doubt that for the first few weeks there would be a cut in prices; but if with the first advance of the market I maintained a sort of half-normal condition and desired simply to put out enough oil to pay running expenses and make a small profit, the probabilities are that prices would be maintained at an advance in time.

A CUT IN PRICE EASILY PRECIPITATED.

Q. Has that been your experience to such an extent that you can put it down as a rule to be governed by in your business?—A. No; there are no rules in the oil business. I wish to state, however, that sometimes even 1 barrel of oil will precipitate a cut by the Standard Oil Company. A friend of mine shipped simply 1 barrel of independent oil with an independent brand on it to Salisbury, Md., (I believe it was Salisbury). He sent it there as a present. A friend had told him that they were getting very poor oil there. The oil arrived, and the party to whom it was shipped, being a consumer and not a retailer, and having just bought a barrel of oil and put it on tap, in order to get rid of the barrel of oil presented him sold it to a darky, who put it on his wagon.

Q. (By Mr. JENKS.) You mean the oil of good quality?—A. Yes; the good quality; the independent oil. The darky put it on his wagon and went to peddling it through the town with the brand on the barrel. The Standard Oil Company at once began to investigate. Then they shipped in a carload of the best oil, the citizens said, that ever arrived in Salisbury, and made a heavy cut on the price of the oil; but, of course, there was no fight. The oil was not sent there to compete with the Standard Oil Company, but they are very alert; they will know unquestionably to-morrow morning what all my shipments were to-day. They know in New York City where that oil is billed to. They may not get it at the Titusville freight office, but if not there, they get it at the junction points, either Buffalo or one of the others. We know that because our customers have been apprised of the fact by some Standard traveling agent who has approached

agent and said, "We understand there is a car of oil on the way from Buffalo to Shortsville." The customer does not know it is on the way. His agent has not ordered it, but he has not yet received the invoice. So you see our business is entirely given away by some one. I can not say positively it is the railroad companies. It is not the men in my office, because all the men in my own office are members of the firm.¹

EXAMPLES OF COMPETITION.

Q. Can you give one or two specimen cases of the competition that you have in mind?—A. You understand, now, that this is simply my side, or rather my customers' side of this business. I have not evidence here, nor in my possession, that the Standard Oil Company, or their agent, said this. I believe, however, that he did say it. This letter is from Shortsville, N. Y.; it is from one of my customers, Thomas & Harrington [reading]:

[Office of Thomas & Harrington, dealers in fine groceries, dry goods, boots, and shoes 2080.]

SHORTSVILLE, N. Y., March 25, 1899.

T. B. WESTGATE, Esq.

DEAR SIR: We take this opportunity of writing you to explain the situation in the oil business. Mr. Cady is here, and we have told him just how things are. One of the merchants here wrote a letter to Buffalo in answer to an inquiry from the Standard people asking why there was not more Standard oil sold here. His letter was sent to New York, and they telegraphed to Buffalo to send a man to Shortsville at once. Their agent came and went to Mr. Hall, whom we supply with oil, and tried to get him to take some in the carload, but he refused, saying he could buy of us, and the agent made the following reply: "We have tried to treat Thomas & Harrington right, and have offered them oil less than they can buy elsewhere, but they still refuse; now we are going to force them to buy of us." The next day they cut the oil to 7 cents. We have held the price up to 10 cents, but our trade is leaving us and we must meet them. Now, under the circumstances, what is the very lowest price you can put in a carload of diamond oil for? Answer at once.

Yours, respectfully,

THOMAS & HARRINGTON.

The oil supplied to Mr. Hall was American Refinery oil—my oil.

Q. (By Mr. FARQUHAR.) Did you furnish them the oil at a rate so that they could compete with the Standard Oil Company?—A. Yes; I furnished them oil so they would not lose money, but there was no profit in it.

Q. (By Mr. KENNEDY.) No profit for you?—A. I can not tell you what price I got for it. I think it was one-fourth. We figured that we could give him from one-fourth to three-eighths of a cent per gallon on our oil. We are doing a fair business there—all that the Standard Oil Company will let us do—and customers find that we can not cut prices from half a cent to a cent a gallon and be able to stand it without a loss. The fact that we can run on such small margins is due to the magnitude—the great volume—of the business.

Q. (By Mr. JENKS.) If, under the pressure of competition, you make a cut of three-eighths of a cent a gallon, are you taking all your profit away?—A. Yes.

Q. And your ordinary margin?—A. I wish you to understand this, however. We will say that the price of crude oil is 8 cents per gallon, and refining is one-half a cent per gallon. You would say, then, not being acquainted with the business, that if I sold water-white oil at 4 cents per gallon I would be making one-half a cent per gallon profit. You must take into consideration that there is a waste of from 5 to 7 per cent in refining; there are products, such as tar, that to-day is worth about 2½ cents per gallon. Tar has been as low as three-fourths of a cent per gallon. In figuring the prices of the high-grade goods, therefore, we must not forget that there are low-grade goods of very inferior value, selling at even less than the price of crude oil. Benzine a year ago was less than crude oil; to-day it is worth more than water-white oil, being the most valuable product we have; that is, in the illuminating oil business—not in the lubricating oil business. You see, then, that we have to take all of these things into account. In Buffalo, N. Y., we have a customer by the name of W. S. Crandall. He is simply a retail peddler of oil, perhaps worth a few hundred dollars. He has been my customer for 5 years. He wrote me on April 7 the following: "The Standard Oil Company has put another retail peddler on the road. There was already 1 here, and this makes 2 retail peddlers they have here now drumming the trade. They have had 1 here for a year. He came April 1, 1898; about 2 weeks ago he approached

¹ Compare Mr. Emery, p. 414.

my man and wanted to hire him, and offered him considerable more than I would pay him and a bonus of \$100 if he would go to work for him. He would give him a bond, with a contract to keep him employed for 10 years; but he could make no impression on him, for he would not leave me. Now they have hired another man, and both the retailers and the man that wholesales are telling the people that they have a car of American oil on the road that will soon arrive, and that they will be prepared to furnish the same oil at less than we are selling it." I should have said, previously to this, that the Standard has repeatedly tried hard to get this man away from me. Of course that is all right; there is no harm in that. If they can give him good goods in a general way on a margin of profit, that is straight business. Ten days after receiving this letter, May 26, I received another letter from Mr. Crandall, which I do not need to read, but he stated in that that a carload of oil—our oil—had been received by the Standard agents in Fulton and wanted to know if we had shipped it to them, and told me about what the qualities of the 2 grades of oil were. I immediately reported that we had not shipped a car of oil to Fulton to the Standard Oil Company or anyone else but himself. I asked him to get the date of the inspection on the gallon end of the barrel, and that would give me a way of finding out to whom I shipped that identical car of oil. He did that on May 26, and wrote me that he looked at the barrels and found that they were inspected by my inspector on April 2. The only carload of oil that I shipped out on April 2 in barrels was to the Merchants' Refining Company in Buffalo. I shipped it in a Western New York and Pennsylvania box car. This oil arrived in Fulton in a New York Central car, so that it was transferred in Buffalo. Now, I am not prepared to say, gentlemen, that that identical oil in those barrels was my oil. They might have taken my oil out and put their own in at Buffalo, but in all probability they would not do that, because it is expensive business. It probably was my oil. I know very little of the Merchants' Refining Company. They are a small company, and I understand that they buy Standard Oil goods. I did not know that at the time I sold this carload of oil to them; but that is the method they adopted to get the American Oil Works oil in there to compete with my man. They could not do it with their own goods. We certainly had one man in Fulton, N. Y., who had the spirit of our forefathers.

Q. What has been the effect?—A. He says in another letter that the other man now follows his man around and endeavors to get the trade either by fair means or otherwise. They offer to cut the price from 1 cent to 4 cents a gallon, and to give them what they claim is the same oil my customer is dealing out to the people of Fulton.

Q. Do you think their intention is to drive your man out, if possible, by selling your oil cheaper than he can sell it, and then afterwards put in their own?—A. And drive him out of the business?

Q. Yes.—A. In this particular case his consumption is so small that it is not myself that I care so much about as I do about him. Besides, it would establish a precedent which would keep him or other men from undertaking the same line of business in other places. The canceling of 6 or 8 cars a year that this man might handle would have very little effect on my business, it simply affects him.

COMPETITION ON THE PACIFIC COAST.

Now, these letters that I have read and this evidence I have given is hearsay, and in a court of justice might not be admissible. I have, however, a letter from Portland, Oreg., which I will give in evidence, which is to my mind evidence of the most flagrant violation of honest competition that I have met with. That is on paper. They are very cautious usually about what they do in the way of making threats. This letter is, as you see, from the Standard Oil Company, Portland agency, George C. Flanders, special agent, Portland, Oreg. This letter is written to a firm in South Bend, Wash. I perhaps had better state now that I have been shipping oil in barrels from Titusville to a Mr. Copenspire, in South Bend, and that he had been selling a few carloads of oil in South Bend. It seems that the Eichnor Brothers, of South Bend, had written a letter to the Standard Oil Company at Portland, Oreg., describing the condition of the oil business there, in reply to which the Standard Oil Company, over the signature of Mr. George C. Flanders, special agent, wrote as follows (reading):

PORTLAND, OREG., *March 28, 1894.*

EICHNOR BROS., *South Bend, Wash.*

GENTLEMEN: Your favor of the 24th instant, giving us information regarding Sun Light oil duly received and contents carefully noted. It seems that the consumers of coal oil in South Bend have a curious idea as to what kind of an oil

¹ See Mr. Archbold, p. 550.

constitutes a first-class burning oil. We will state for your information that never a drop of oil has reached South Bend of better quality than what we have always shipped into that territory. They can name it "Sun Light," "Moon Light," or "Star Light;" it makes no difference. You can rest assured that if another carload of "Sun Light" oil arrives at your place it will be sold very cheap. We do not propose to allow another carload to come into that territory, unless it comes and is put on the market at one-half its actual cost. You can convey this idea to the young man who imported the carload of "Sun Light" oil. Thanking you kindly for this information, as well as past favors, we remain,

Yours, truly,

STANDARD OIL COMPANY.
By GEO. C. FLANDERS.¹

Q. (By Mr. JENKS.) Have you any other information to give with reference to their methods of competing?—A. I think of one method of meeting this which one of my customers in the East tried some 7 or 8 years ago. He was a German. He had good Bismarck blood in him, I judge, from what I will recite to you. I had sold him a number of carloads of oil, and the Standard agent of Jersey City came to him and said, "We must sell you the oil that you are jobbing here in Hoboken." He said, "No; I prefer to buy independent oil." The agent said, "We will name you a low price, and we will fix a marketing price so that you will make a good thing out of it." He said, "No; I prefer to run as I am running." The Standard agent then said, "If you continue in this, we will so cut the price here that we will drive you out of business." He said, "You mean to make me lose all the money that I have made?" The agent replied, "Yes." He said, "If you will do that, do you know what I would do to you?" And continued, "I would go over to your warehouses and I would blow them up with dynamite; that is what I would do." He told me that in less than 3 days the Standard Oil agent was over to see him and a price was fixed; but he still continued to handle oil from my refinery.²

Q. That is, by an agreement between the Standard Oil Company's agent and himself?—A. Yes.

Q. Is your source of information the man himself?—A. Yes; his own mouth.

Q. Have you finished with this special point?—A. Yes.

Q. (By Mr. FARQUHAR.) I would suggest that the name of this man be given.—A. Charles Frey.

Q. (By Mr. JENKS.) Was it at Hoboken or Jersey City?—A. He was at Hoboken, and the Standard Oil agent was from Jersey City.

Q. Does this cover substantially what you have to say with reference to methods of competition, aside from the question of freight rates, that might come up?—A. I think what I have stated is sufficient.

Q. (By Mr. JENKS.) You have had other experiences of somewhat similar nature, I suppose, but these are typical ones?—A. Yes.

PURCHASING AND DISMANTLING INDEPENDENT REFINERIES.

Q. Do you know whether the Standard Oil Company, for the purpose of getting control of prices in certain sections of the country, has bought up competing oil refineries and then dismantled them?—A. Yes; it has.

Q. What special instance have you in mind?—A. Two large refineries in Titusville were bought up in the year 1895 by the Standard Oil Company, not simply to get the refineries, but to get the stock which they held in the United States Pipe Line and the Producers and Refiners' Oil Company, Limited. They wished to assume or get control of these pipe lines; they did not care a snap for the refineries. They made that statement. They made a proposition to all of us to buy out all of the refineries if we would put our pipe-line stock in; and 3 of the largest refineries sold, 2 in Titusville, the Union Refining Company and the International Oil Company, Limited, and S. Y. Ramage, of Reno.³ You may ask, perhaps, if that did not lessen our own independent competition, those being drawn off and the refineries dismantled. The Standard dismantled them, and the iron was mostly sold for junk. It did, certainly, give us that much more field—that which these special independents had been working in; but it did not give their patronage to the United States Pipe Line and the Producers and Refiners' Oil Company, Limited, who needed it; it took it away. At that time we were having a very crucial test in the refining business and pipe-lining. It did not give us the patronage which we, as pipe-line men, desired and needed. It costs comparatively little more to run 100,000 barrels of oil a month through a crude pipe line than it does 75,000 or 60,000. It is always best to run full volume, and it took away not only their patronage, but their influence in our independent enterprises.

¹ See Mr. Archbold, p. 552.

² See Mr. Archbold, p. 550.

³ See Mr. Emery, p. 656, bottom.

(I Mr. PHILLIPS.) Were they buying crude oil through those independent lines and also shipping refined?—A. They were.

Those refining companies?—A. They were 8 of our largest refineries.

(By Mr. JENKS.) So, as a matter of fact, the business of the independents was seriously damaged by these 8 refineries selling out to the Standard Oil Company?—A. Yes; it was.

Q. Have you any information with reference to the prices that were paid for those refineries?—A. I have not.

Q. What were the offers that were made to you? Were they what you would consider high under ordinary circumstances?—A. The offer did not come to me in person from the Standard Oil Company, but through those who did sell and who had been in direct communication with the Standard people in New York. The price was not high; it was simply a constructive price—a cost price.

Q. That was all there was of it?—A. That was all I was offered for my plant.

Q. Have you any knowledge with reference to transactions on the part of the Standard Oil Company at any other time in the way of buying up refineries and dismantling them to get rid of competition?—A. I know from hearsay, before my oil days, that such things were done to quite an extent. I have no personal, direct knowledge.

Q. Your own knowledge is practically limited to this experience in Titusville?—

A. Yes.

EFFECT OF THE STANDARD OIL COMPANY ON PRICES.

Q. Some other witnesses have spoken with reference to prices and the effect of the Standard Oil Company on prices. This chart, representing prices of crude and refined petroleum, shows the way the prices of petroleum have fallen. Will you tell us what, in your judgment, are the chief reasons for the decline in price of refined oil, as compared with the price of crude oil, since 1870?—A. In the early days of refining, the by-products—what we term by-products, such as benzine from which gasoline is made and tar—were entirely worthless. They were either run into the creek at night or run into holes dug in the ground and burned. Their value then as a fuel was not realized, and refiners were buying coal and wood to refine oil with, when they were running into the creek what they might have used for fuel. I might say that the percentage that we now take out in these products—I do not know what they took, but it was practically about the same—is something like 20 per cent of the crude product. About one-fifth of the crude oil product was entirely wasted, which to-day, in 1899, is worth a high price; for instance, benzine is worth more to-day than water-white oil, as I have already stated, and tar is worth nearly as much as crude oil. These prices fluctuate; tar has been worth 4 cents a gallon during the past 8 years, but it has been down as low as three-fourths of a cent a gallon.

Q. So that in this way about 20 per cent of the crude oil, which formerly was an absolute loss, is now saved and made as valuable, on the average, perhaps, as the refined oil itself?—A. Yes. Then, too, the cost of refining has lessened very much. Approximately, oil can be refined for one-half cent per gallon—I refer now to illuminating oil and gasoline—whereas I am told that in the early days it cost about 2½ cents a gallon.¹ The quotations² which have been placed before you were based upon refined oil at the seaboard in 1898; that is to say, oil in barrels. In 1898 refined-oil barrels were worth, in Titusville, 88 cents apiece. In the early days barrels were worth from \$2 to \$3, which makes a difference of from 2 to 4 cents per gallon in the value of a barrel, which would knock off considerable of this advance in price, as he has arranged his schedule.

Q. As a matter of fact, when we find oil quoted by the barrel, the value of the barrel is included in the quotation?—A. Yes. The schedule is right, no doubt; but if the logic the witness uses is right, why should the Standard make the price of refined oil in 1895, when crude oil was \$1.35 a barrel, 4.9 cents per gallon, and in 1898, when crude oil was only 90 cents a barrel, 5.7 cents per gallon? You see, there is a difference there of 80 points. If they are cheapening, if they are tending to lower the price, his table is all right, but I do not see the logic in the point that he makes. These prices are simply on export oil. Suppose we take last year's average price. Refined oil was 5.7 cents per gallon; if for some reason the Standard Oil Company sees in foreign countries a necessity for cutting the price on export oil 1 cent a gallon, making it 4.7 cents per gallon, they would simply have to advance the prices on home products 1 cent a gallon on the balance of the products to make up for that deficiency, and therefore you can not determine prices in the oil business generally upon the prices of export oil alone.³ If his logic is true, he is giving all the benefit to the foreigner, because these prices he

¹ See chart of prices in Introduction.

² See Mr. Lee, p. 278; Mr. Rice, p. 736.

³ See testimony of Mr. F. B. Thurber, p. 4.

⁴ See Mr. Lockwood, p. p. 394, 398; Mr. Archbold, p. 599; Mr. Emery, p. 616.

uses for the chart basis are on export oil; there is very little export oil used in the United States, supposedly. If his logic is true, he is helping the man over on the other side, and you and I have to pay higher prices for water-white, lubricants, and gasoline. Do you see the point I make?

PRICE OF EXPORT OIL NOT A CRITERION OF PRICES IN THIS COUNTRY.

Q. Do you mean that he uses figures which simply represent one quality usually sent abroad, and that the table therefore does not represent the average price of refined oil to the consumers or the wholesale dealers in this country?—A. Yes; this is export oil and represents about 44 per cent. About 44 per cent of the crude product is export oil.

Q. Your general conclusion, then, is that the figures cited in this table, or represented on the chart, are untrustworthy for the purpose of drawing any conclusion as to the general level of prices to the consumer or to the wholesale dealer in this country?—A. That is certainly my conclusion. I believe, however, that the Standard Oil Company is employing the very best brains engaged in the manufacture of oil. They have certainly brought forward a great many inventions in the refining of crude petroleum. I certainly believe that. A man can not help but see that they are improving every day. They are doing a great deal to bring out the very best there is in crude oil and make the most of it. That is their business. They probably do more than any man or any firm. Probably Mr. Van Sickle, who was an independent refiner in the sixties and seventies, brought forth more original ideas at that time that are still being used than any one refiner. He was a very practical man.

Q. You would be inclined to think, then, that on the whole this decline in prices that has come through improvements in methods of production is due, in part, to the work of the Standard Oil Company and in part to the inventions of the independent refiners, and that the honors might fairly be distributed between the two?—A. You must not forget that with this decline in the prices of refined oil there has been a very heavy decline in crude oil; wells are bored and handled so much more cheaply. Originally 1 man with 1 pump, boiler, and engine would pump 1 well; to-day little wells doing a half or quarter of a barrel are harnessed up to 1 big drive power, with 20 and 30 and even 40 other wells. So you see the expense of operating is so greatly reduced that the cost of producing has become nominal compared with what it was 10 or 20 or 30 years ago.

Q. At the same time, in accordance with this table, the price of crude oil has not declined materially since 1879. In that year it was selling at 88 cents a barrel. Was it not \$1.05 in 1895?—A. What is it now?

Q. So the price of crude oil, on the whole, seems not to have declined very much since 1879 and 1880, and of course the price of refined has also declined very much less since 1880 than it did between 1870 and 1880, according to this chart. Would it be right, then, in your judgment, for us to infer that the chief improvements in the methods of production were made between 1870 and 1880 rather than since 1880—improvements in the methods of refining?—A. Between what years?

Q. Between 1870 and 1880, I will say, instead of since 1880?—A. That would be simply speculative.

Q. It was during those years that the chief difference was made in the cost of the refined product. (No response.)

Q. (By Mr. PHILLIPS.) Have the Standard Oil people any superior methods of refining that are not known to the independents?—A. If they have, we do not know it. Of course, if we did know it we would use the same; they do not give out their information, certainly not.

Q. Do you believe you can get out the whole value and make as good oil as they, both in by-products and refined material?—A. I believe the independents put out as good goods in every way as the Standard Oil Company does, certainly.

FREIGHT RATES AND TRANSPORTATION.

Q. And as economically in proportion to the amount they put out?—A. I believe we do; yes.

Q. (By Mr. JENKS.) The question of freight rates and the apparent advantage of the Standard Oil Company in that respect has come up a number of times. Have you any information that you can give us concerning the freight rates that you secure, and the influence of the Standard Oil Company upon the railroads, or the special advantages they get in the way of freight rates?—A. With reference to oil rates, I have no reason to state that we are paying any higher rates per hundred than the Standard Oil Company is. They are not shipping anything from Titusville, but there are other given points, such as Olean and Buffalo. Buffalo would take a little higher rate, however; but I know that they are underbilling

their cars. Since the establishment of the Interstate Commerce Commission the railroads, I think, have been very careful about giving rebates on oil, or perhaps on any other traffic; they may do it; I know of nothing of the kind.

UNDERBILLING OF CARS.

But I have seen freight receipts in New York from one of my former customers wherein a car of 7,000 to 7,200 gallons was billed from Olean at 24,000 pounds. Now, that car weighs, according to the basis on which we have to figure, 6.4 pounds per gallon—from 44,800 pounds to 46,080 pounds. I give you the weight of 7,000-gallon tank cars of oil. Were I to bill that car or those cars I would have to bill it as I have stated, at actual weight—44,800 or 46,080 pounds. They also prepay their freight. Perhaps I should not say that, for I do not know it; but my customers, who have received oil from them, state that the Standard prepays all freight on oil, and I believe they do. Now you see what a difference it makes when this oil is billed at 24,000 pounds. They may be paying the same freight rate per hundred, but you see what a disadvantage I am working under if I have to bill 44,800 pounds where they can bill it at 24,000 pounds and get it through. I have seen 3 of these freight receipts, and my opinion is that every car that goes out of Olean, or any other of their refineries, is billed on this same basis; and I believe that is where they are getting the remarkable leverage: and I believe, also, if I were paying on the same basis they are, or they were put on the same I am, we would not have to make such cuts or else go out of the town.

Q. Why not bill at still less than that?—A. Twenty-four thousand is the minimum capacity, the minimum car weight, in billing oil.

Q. Then you believe it to be true that the general custom that is followed is to bill every car at the minimum weight, although the car itself may be very much larger and heavier?—A. Yes; at the minimum weight. I know one other incident. It is just hearsay, but the case of these receipts only confirms what I am about to say. A certain party in New York bought a few tank cars of crude oil from the Standard Oil Company, which were shipped from Olean. The cars arrived and the freight bills were presented for collection, because they were buying it f. o. b.; they bought it f. o. b. Olean; it was certificate oil put into tank cars; it was not refined; the freight bills were presented to the buyer, who noticed, to his surprise, that the cars were billed at 24,000 pounds; and the cars held from 6,000 to 6,600 gallons, which would be 38,400 pounds on a 6,000-gallon tank.

Q. (By Mr. PHILLIPS.) Of difference?—A. No; that is what I would have to pay; they were billed at 24,000 pounds, whereas they actually weighed 38,000 pounds and more. A few days later this buyer got a corrected bill from the railroad company billing them at actual weight with the regular rate, which he paid, of course. I do not believe these were errors. The 3 cars I speak of in central New York were not billed at the same time; they were billed at different times, and those things could not be errors. Every railroad has or should have what we call a tank-car book, giving the number and initial of all the tank cars in the United States and Canada, with the gallonage and the weight, figured at 6.4 pounds per gallon.

Q. (By Mr. RATCHFORD.) 6.4 per gallon?—A. Yes, per gallon; 6.4 pounds per gallon. Therefore, I say these things can not be errors on the part of the billing clerk. It only confirms my belief. It is my belief, of course, that they are getting their goods put through, when in tank cars, at 24,000 pounds, while I am paying on the same car for practically 50 or 100 per cent more than the weight for which they are paying.

Q. (By Mr. JENES.) Do you recall the dates of these receipts? How long ago was this? You say you have seen separate receipts; have you any idea about when that oil was shipped?—A. It was about 3 years ago.

Q. So you think that, within 4 years at any rate, you have located 3 specific cases in which the Standard Oil Company has had its oil underbilled, i. e., at 24,000 pounds, where a fair billing would have been at least 44,000 pounds, and probably more?—A. Yes.¹

RAILROADS DO NOT CARE TO HANDLE INDEPENDENT OIL.

Q. Have you other information with reference to freight rates in connection with the oil business?—A. In reading these 3 letters I wish to show to the commission that for some reason independent oil is not a commodity that the railroads are desirous of handling. This one is from the commercial freight agent of

¹ See Mr. Archbold, pp. 550, 551; Mr. Rice, p. 731; Mr. Page.

the New York, Chicago and St. Louis Railroad Company; he is in Pittsburg. He writes (reading):

PITTSBURG, PA., *April 12, 1898.*

Subject: Rates on oil. Titusville to Vermont points.

Mr. T. B. WESTGATE,
Manager American Oil Works,
Titusville, Pa.

DEAR SIR: Referring to conversation the writer had with you a short time ago in regard to rates on oil from Titusville to points in Vermont—

I regret exceedingly that at the present time we can not name satisfactory rates on oil from Titusville to Vermont points.

We hope, however, to be able to do so in the near future and will advise you just as soon as possible.

Yours, truly,

W. H. RICHARDS,
Commercial Agent.
HOWES.

Here is a letter from the New York Central Fast Freight Line, F. L. Pomeroy, general manager, Buffalo. He is the general manager of the Red Line, White Line, Blue Line, Canada Southern Line, and Midland Line (reading):

BUFFALO, N. Y., *December 5, 1898.*

MESSRS. AMERICAN OIL WORKS, LIMITED.
Titusville, Pa.

GENTLEMEN: I have your favor of the 25th instant asking for rates on oil in tank cars and barrels from Titusville to Montreal, province of Quebec, and in reply would say that oil is not a commodity that we are permitted to handle by our fast-freight lines; therefore I have no authority to make or discuss rates on this commodity, but would refer you to Mr. S. Goodman, assistant traffic manager, New York Central and Hudson River Railroad, New York City.

Thanking you for the business which you are giving us of other kinds, which is fully appreciated, I am,

Yours, truly,

F. L. POMEROY,
General Manager.

FREIGHT RATES ACCORDING TO THE RED-LINE TARIFF BOOK.

I wish to offer in evidence a Red Line tariff book.¹ The Red Line is one of the lines of which Mr. Pomeroy is general manager. I take it that these lines are a sort of a wheel within a wheel for some purposes. I am now billing oil at Titusville to certain points via the Red Line. This, as you men who are acquainted with the railroads understand, gives in alphabetical order the names of towns in Pennsylvania, New York, and the Eastern States and their freight rates; that is, it gives what rate it takes; for instance, Abbingtion, Mass., takes a Boston rate. Referring to the sheet that this D. A. V. M. Line provides me with, I find the Boston rate on oil in carloads is 23½ cents per hundred; in less than carloads, local, it is 33 cents a hundred. I am prohibited shipping carloads to certain points named in this; that is, carloads of oil. Other classified freight goes through and oil in local lots goes to some points; but to points on the New York, New Haven and Hartford (e. g., the first one I read, Abbingtion, Mass.), I could not ship oil unless I paid 33 cents. I would have to pay an arbitrary price. This occurred, I should say, about 3 years ago, when the New York, New Haven and Hartford came into certain hands.² We suppose it is controlled by the Standard Oil Company. Our territory is being narrowed each year by the roads which are in some way made servants, in my opinion, of the Standard Oil Company.

Q. If I understand you, this Red-Line rate book that you have shows that you can ship ordinary kinds of freight at Boston rates to all these local points.—A. Yes.

Q. When you yourself attempt to get rates do they simply say they will not quote you any rate at all for carload lots of your product?—A. I enjoy freight rates to some of these points. There are exceptions; for instance, (reading): "Agents take special notice: Petroleum oils to points via Syracuse, on the Ogdensburg and Lake Champlain Division of the Central Vermont Railroad and points beyond, can not be taken at rates named in this tariff. Shipments of

¹ East-bound Red Line Tariff, No. 40, March, 1899.

² See paragraph 1 of Vice-President Hall's affidavit in footnote to the testimony of Mr. Page.

petroleum oil destined to points on the New York, New Haven and Hartford Railroad (New Haven and Old Colony systems) can not be taken at rates named in this tariff. Such shipments will be subject to arbitrary rates from the various junction points of the Boston and Albany Railroad." Now to points like Malone, which, on other freight, take a Boston rate, on oil of 23½ cents a hundred, I am compelled to pay 26½ cents per hundred. As I go beyond Malone to Rouse Point, I am obliged to pay 33 cents per hundred.

Q. Although through freight, ordinary freight, will be sent for 23½ cents?—A. Fifth-class freight is 20 cents per hundred. Oil is listed a little higher than fifth-class. I can ship anything to most any of these points specified unless it is designated here as arbitrary.

Q. (By Mr. PHILLIPS.) Why, in your opinion, did they make that difference—prohibit shipping to some points and allow Boston rates to others?—A. To keep us out of that territory.

Q. Would the difference be so great as to consume your profits largely?—A. It, in some instances, prevents us from selling in those localities and causes the consumer to pay a higher price for his goods, because the Standard probably will sell a little bit under us, getting the benefit of the high freight rate which I have to pay from Titusville and which they do not have to pay from, say, a New York point north or a distributing point somewhere, such as Albany. I wish to show in connection with these, which I term exorbitant freight rates, that this Red-Line traffic book quotes a Boston rate to Adirondack Junction, on the St. Lawrence and Adirondack Railway, which is within 9 miles of Montreal. Now, if I could ship oil there, as I should, on the Boston rate, which is 23½ cents, I could make a good, fair profit; but I hold in my hand a telegram from Samuel Goodman—I believe he is the assistant traffic manager of the New York Central—in reply to a telegram, which reads as follows:

"5, 6, 1899. To American Oil Works: There are no through rates on oil, Titusville to Montreal, or for other points you name. Tariff from Buffalo to Montreal, Adirondack Junction, or Beauharnois is 35 cents per 100 pounds via Utica, M. and M., St. L. and A. C. P., or I. Grand Trunk.

"S. GOODMAN."

He says that he quotes me a 35-cent per hundred rate from Buffalo to Adirondack Junction. That was the point named in the Red-Line traffic book, to which I should get through from Titusville on 23½ cents a hundred, if taking a Boston rate, which is named here; but instead he quotes me 35 cents a hundred from Buffalo there. Added to that, my 8 cents per hundred from Titusville to Buffalo makes a 43½-cent rate per hundred from Titusville to Adirondack Junction. I figured that out in miles and in ton rates. I will give the distance from Buffalo to Utica as 201 miles and from Utica to Adirondack Junction as 223 miles, making a total of 424 miles; the freight at 25 cents per hundred on oil would be \$7 per ton, which would be \$0.0165 per ton per mile. Now, the New York Central's average receipt per ton per mile on oil in 1890 was \$0.0073; in 1889, \$0.00712; in 1888, \$0.00753. The estimated cost of handling oil in 1890 was \$0.00549 per mile; in 1888, \$0.00557; the rate he has quoted me is nearly 3 times the average receipt per ton per mile as given in their schedule in 1890, 1889, and 1888. This computation is on page 100 of a pamphlet containing a case in the circuit court of the United States for the western district of Pennsylvania, which I can give you. This was the testimony that I referred to that was brought before the Interstate Commerce Commission in 1888 in Titusville. The State of Vermont is the State where I have had the most trouble in marketing goods, and I wish to read a letter here from a division freight agent; he is a soliciting freight agent for the Lake Shore and Michigan Southern Railway Company (reading):

CLEVELAND, OHIO, *April 2, 1895.*

The AMERICAN OIL WORKS,
Titusville, Pa.

GENTLEMEN: Referring to our conversation of some time since relating to car-load rates to Vermont points, I have looked into this matter very carefully and find that the following rates are the best at the present time.

Burlington, Vt., 44½ cents per 100 pounds, via Rutland.

St. Albans, Vt., 50½ cents per 100 pounds, via Rutland.

Richford, Vt., 54½ cents per 100 pounds, via Malone.

St. Johnsbury, Vt., 36½ cents per 100 pounds, via Bellows Falls.

Newport, Vt., 88½ cents per 100 pounds, via Bellows Falls.

The less than carload rate to St. Johnsbury, Vt., and Newport, Vt., is 33 cents per 100 pounds.

Note the attached letter we have from Mr. Chittenden, of the Central Vermont Railway.

Yours, truly.

W. F. ANDREWS,
Soliciting Agent.

Return the letter.

I wish to state here that St. Johnsbury and Newport, Vt., are booked in this Red Line traffic book as taking Boston rates. They should therefore give me a rate of 23½ cents per hundred on oil to those points. This is not the Red Line, however, but the Red Line prorates with the Lake Shore. I think all work together for good except in the oil business. He does not name that to me; he has not named it. Maybe he knows that the less than carload rate in the Red Line book is 33 cents a hundred, but for some reason or other he can not name me rates on carload lots into those points excepting as I have given them to you. You see that debar us. Such outlandish rates debar a manufacturer from going into territory where they want a good grade of oil, a light oil. Vermont is a good oil State; that is, for selling oil; and it curtails the business.

Q. (By Mr. JENKS.) You think that the Standard Oil Company simply comes into that territory from other shipping points where the rates are very much more favorable?—A. It must be. They certainly are not paying such rates. They do not countenance any such thing as that.

FREIGHT RATES TO THE PACIFIC COAST.

While speaking of freight rates I wish to mention that a few years ago we enjoyed to the Western coast—Western terminals—a freight rate on oil in carloads of 78½ cents per 100 pounds.

Q. You mean to the Pacific coast?—A. Yes; the Pacific coast; what they call terminal points on the Pacific coast. After the establishment of the Standard's refinery at Whiting, near Chicago, the freight rates from Titusville, Oil City, Warren, and Pittsburg to those points on the Pacific coast were abrogated, and they would not give us a through rate, but we must bill to Chicago at 17½ cents per 100 pounds, and then from Chicago west we added 78½ cents per 100 pounds.

Q. So that before the establishment of this refinery you had a rate to the Pacific coast, at terminal points, of 78½ cents, and afterwards your total rate through was 96 cents?—A. Yes; that was after the refinery was built near Chicago, at Whiting, Ind.¹ I have a letter in my hand from Charles T. Hallowell, general freight agent, Green Line system.

(Letter referred to is as follows:)

OIL CITY, PA., April 12, 1899.

AMERICAN OIL WORKS, Titusville, Pa.

DEAR SIRS: On request of Mr. Westgate we made application to Delaware and Hudson for rates to points on that line north of Whitehall, and have only just received Mr. Wadsworth's letter quoting the following rates per hundred from Whitehall, which must be added to our Boston rate of 23½ cents from Titusville:

	Tank cars.	Barrels.
	Cents.	Cents.
Chubb's Dock, New York.....	5	4
Dresden.....	5	4
Putnam.....	6	5
Wrights.....	8	7
Delano.....	9	8
Addison Junction.....	9	8
Crownpoint.....	10	8
Port Henry.....	10	8
Westport.....	11	9
Wadhams Mills ²	11	9
Whallenburg.....	11	9
Essex.....	11	9
Willsboro.....	12	10
Port Kent.....	12	10
Plattsburg.....	12	10
Beekmantown.....	12	10
Sciota.....	14	12
West Chazy.....	13	10
Chazy.....	14	12
Coopersville.....	14	12
Rouse Point.....	14	12
Moers Junction.....	14	12

¹ See Mr. Monnett, p. 309; Mr. Rice, p. 731; Mr. Page.

² Station without agent, freight prepaid.

We have again written Mr. Wadsworth, calling his attention to the fact that the rates quoted are about $2\frac{1}{2}$ cents per ton per mile, which is in excess of what other lines would charge for a similar distance, and will advise you if he makes any further concessions.

For points on the branch from Saratoga to Northcreek our Boston rate will apply, as shown in group 3 of oil circular No. 22.

Yours, truly,

CHAS. T. HALLOWELL,
General Agent.

We have also called Mr. Wadsworth's attention to the fact that we asked for rates from Schenectady and not Whitehall.

I received a letter written April 19, 1899, from Mr. Hallowell, in which he says that Mr. Wadsworth, the general freight agent, Delaware and Hudson, will not make any concession, so that if we ship oil to those points we must pay the enormous rate of $2\frac{1}{2}$ cents per ton per mile above Whitehall, which, as a railroad man signifies, is an enormous rate, and far beyond what any other road would charge. (The letter of April 19, 1899, above referred to, is as follows:)

OIL CITY, PA., April 19, 1899.

AMERICAN OIL WORKS, Titusville, Pa.

GENTLEMEN: As advised you in our letter of the 12th instant, we again wrote the Delaware and Hudson people in regard to rates you had asked for on that road, and now have letter from Mr. Paul Wadsworth, G. F. A., April 17, advising that he can make no better rate than that already named you for points north of Whitehall, and also states that our oil circular rate of $23\frac{1}{2}$ cents per 100 pounds from Titusville can not apply to points between Saratoga and Northcreek, and those points will take the following arbitrary per 100 pounds additional:

	Tank cars.	Barrels.
	Cents.	Cents.
Greenfield, N. Y.	6	5
Kings	6	5
South Corinth	7	6
Hadley	9	8
Corinth	8	7
Stonycreek	12	11
Thurman	13	12
The Glen	15	14
Riverside	16	15
Northcreek	18	17

We regret that we have not been able to make better terms with them, but it would appear that it will not be possible to do any better.

Yours, truly,

CHAS. T. HALLOWELL, *General Agent.*

Q. Do you mean that you are charged 14 cents per hundred more for oil to Whitehall, or to one of these local points you have mentioned, than, in accordance with this Red Line traffic book, is charged for ordinary freight?—A. No; it takes an arbitrary rate.

Q. You simply think the charge is excessive?—A. The charge is excessive; and, in fact, we are daily being narrowed down by the railroads. I can not get to New Haven, or Providence, R. I., with oil on a Boston rate, according to this Red Line traffic book. This Red Line traffic book on all other goods takes a Boston rate to Providence and New Haven. What is the cause for it?

CHARACTER OF OIL AS FREIGHT.

Oil is a good freight to handle. Mr. Motheral, who is a confidential man of the Green Line in Oil City, gave statistics in 1888, before the Interstate Commerce Commission, relating to the loss and risk in handling oil by freight, which I will read from page 189 of the pamphlet of testimony taken in cases 153, 154, and 163 before the Interstate Commerce Commission:¹

¹ Interstate Commerce Commission.

The Independent Refiners' Association, of Titusville, Pa., and the Independent Refiners' Association, of Oil City, Pa., v. The Western New York and Pennsylvania Railroad Company, the New York, Lake Erie and Western Railroad Company, the Delaware and Hudson Canal Company, the Fitchburg Railroad Company and the Boston and Maine Railroad Company, No. 153. Also the same complainants v. others, cases 154 and 163, testimony.

"Q. What is your opinion, from your own experience of the business, relative to the risk of fire from the transportation of oil by the two different methods, by tanks and barrels; which is the greatest?

"A. It is greater in tanks.

"Q. How much? What relative portion would you say?

"A. From 1882 to 1887, 5 years, the loss on oil in barrels was twenty-seven one thousandths of 1 per cent; the loss in tanks was forty-three one thousandths.¹

"Q. That is the result of actual experience?

"A. That is a statement made up from our office a year or so ago. I looked it up again to-day."

So you see the loss in transportation of oil is almost infinitesimal, and my opinion is that, if we could keep about upon the same basis—not my refinery alone, but all refineries and all shippers of oil—as the Standard Oil Company, we should not be having this terrible experience that we have had at times. We could get prices, because they would not have the means to cut us.

Q. (By Senator MALLORY.) Can you indicate what basis that is?—A. I referred to that a few moments ago when I stated that they were underbilling. I have evidence where they have underbilled—i. e., oil that would weigh 44,000 pounds was billed at 24,000 pounds.

Q. (By Mr. KENNEDY.) What did you say the wastage is in piping oil? Did you state that?—A. I did not say.

Q. Just the wastage of tanks?—A. You mean this railroad?

Q. Yes.—A. These figures that I gave concerning the transportation of oil in tank cars are given by Mr. Motherall, probably one of the best-posted traffic men in the country, because the Green Line, up to that time, undoubtedly handled more oil freight than any one road.

Q. Have you any figures there in regard to wastage in pipe lines?—A. No. From what I have read and from what my experience has taught me, the railroads do not cater for the independent oil trade. Until within the last 2 years we had very few railroad men soliciting oil trade; we have very few now; a few local lines solicit; but I do not remember of a New York Central, a Vermont Central, a New York, New Haven and Hartford, or a Boston and Albany man asking me for freight, and I ship in the neighborhood of from 12,000 to 14,000 barrels a month, going in directions that would be over their lines. During the construction of the United States Pipe Line, when we had a few tons of iron to haul to Athens and various points, and it was published in the papers that tanks were to be erected and that pipe was to be laid, there were traveling freight agents after us every day to get the shipment of those goods over their line—Lehigh, Erie, and other ways. We could ship iron, but the oil—we must not handle it. That is probably the password that goes over.

In connection with that Montreal business, I wish to state that we enjoyed, up to last fall, I think it was in October, a 23 cents per hundred rate from Buffalo to Montreal, P. Q.

Q. (By Mr. JENKS.) Had you been shipping oil to Montreal regularly for some time?—A. We had.

Q. For how long?—A. Four years and over.

Q. At what rate did you say from Buffalo to Montreal?—A. It was 21½ at one time, but it was advanced to 23.

CANADIAN REFINERIES PURCHASED BY STANDARD—ADVANCE IN FREIGHT RATES.

Q. For most of the time it was 23 cents from Buffalo to Montreal?—A. Yes; but at the time the Standard Oil Company came into possession, either by purchase or lease, of all the refineries in Canada, at P. trolia and the other oil points, the freight rates from Buffalo to Canadian points immediately advanced; the rate from Buffalo to Montreal advanced from 23 cents a hundred to 35 cents per 100 pounds. I got caught on that. I was not very sharp. They did not notify me of the advance. I sold a man a car based on the 23-cent rate, and it cost me 35. I was out the 12 cents per hundred.²

Q. (By Mr. PHILLIPS.) Did that 12 cents materially affect your prices?—A. Twelve cents a hundred is nearly 40 cents a barrel. If I can make 10 or 15 cents a barrel on oil I am doing a good business. It practically cuts me out. I can not sell oil in Montreal under these conditions. That is why I wired Mr. Goodman to get to Montreal via New York Central, via Utica and Malone, and this Adirondack division, but they did not want the trade.

Q. So you are practically shut off at this time?—A. Yes.

Q. Since the Standard made the purchase of the oil fields and oil refineries in Canada?—A. Yes.

¹ See Mr. Rice, pp. 718, 717.

² See Mr. Gall, p. 683.

Q. (By Mr. JENKS.) What are the railroads that made these Canadian rates?—A. The Grand Trunk running from Buffalo to Montreal and the Michigan Central¹ prorating with the Canadian Pacific from Buffalo to Montreal.

Q. Then, when you were asking for freight rates around this other way over the New York Central, you were merely looking for another way to get to these same places?—A. I did not know but I could find the bars down and slip some oil in; but they put them up.

Q. Then you asked for rates to Adirondack Junction?—A. Yes; that is the one I gave in evidence.

Q. That is some distance this side of Montreal?—A. Yes; 9 miles.

Q. But it was for the purpose of letting you into that Montreal market?—A. That was the idea.

Q. Were you going beyond the New York Central line in asking for rates to Adirondack Junction?—A. I was not; I could pay a switching charge of 9 miles and get it in.

Q. Do these increased freight rates through Canada still continue? How long is it since the rate was put up from 23 to 35 cents?—A. I believe it was in October last.

Q. And the rates are still held?—A. I understand that the independent oil men in Montreal brought the matter up before the parliament, and that the railroads were either compelled or advised to withdraw that tariff; and, according to the paper which I saw, a Montreal paper, the railroads had withdrawn the tariff—that is, they had withdrawn the printed tariff, but the rate still remains the same, if I wish to ship a car of oil in there. I think they have some very strong evidence in the matter; but I am not posted. I am not prepared to give it to you.²

Q. (By Senator MALLORY.) You have not attempted to ship any in there recently?—A. Yes; I have a party up there and I have tried to sell, but he could not buy because the rate was too high.

What we shippers would like is this, that oil be classified. To some places we pay more than fifth class, and occasionally a little less than fifth class. If I were asked what class oil should be in, I should say it should be sixth class; but if we had a fifth-class rate on oil our Boston rate would be 20 cents per hundred, and we are paying 23½ per hundred. We at one time enjoyed a rate of 78 cents per barrel to Boston, which would be 19½ cents per 100 pounds; but as the web grows tighter the rates go up, and our territory is made smaller.

Q. Is there more risk in the transportation of oil than ordinary merchandise?—A. Mr. Motherall stated that the loss of oil in barrels in shipping was twenty-seven thousandths of 1 per cent.

Q. (By Mr. JENKS.) Is it not to be concluded, then, from your testimony, that there is not much more risk connected with the shipping of oil than ordinary merchandise?—A. There certainly is some more risk.

Q. (By Senator MALLORY.) Does that include loss by fire?—A. Yes.

Q. But not leakage?—A. No; I think the commission should insist upon this commodity being classified. It certainly is of magnitude enough to be classified, and you can see from the evidence I have given that there must be a "nigger in the fence" if we can not get to certain points in a certain tariff book. We can get to certain points and not to others, and in one case can get no rate whatever.

Q. (By Mr. JENKS.) Your objection is not so much against high rates as against rates that are not at all uniform to places that seem to be similarly located?—A. That is true.

Q. And you also believe that the Standard Oil Company has its goods underbilled, constituting practically a direct discrimination against you?—A. That is true.

LITIGATION CONCERNING FREIGHT RATES.

Q. (By Mr. PHILLIPS.) Have you had any litigation with the Standard Oil Company, or any case before the Interstate Commerce Commission, with regard to freight rates, or discrimination in freight rates?—A. Yes, we have. We, the Independent Refiners' Association at Titusville and Oil City, in 1888 had a hearing before the Interstate Commerce Commission.³

We were awarded the claims that we demanded, or asked for. The claims were these: That we should have the same rate per barrel on oil shipped in a package as the Standard Oil Company—i. e., that they were paying on a barrel of oil shipped in tank cars, or that they should quote us a rate per barrel, instead of giving us a rate per 100 pounds. After many days or weeks of session the commission decided

¹ As to the Michigan contract, see Mr. Gall, pp. 675, 676.

² See Mr. Gall, pp. 675-677, 680, 683-685; Mr. Archbold, pp. 572, 573; Mr. Page.

³ See cases cited, p. 677; see also Mr. Archbold, p. 551, bottom.

in our favor, and awarded us in their best belief, what we asked for. Our awards amounted to something like \$88,000. We have been all this time, 11 years, trying to collect this, and we have a case coming up soon in the circuit court of the United States, Western Pennsylvania district, in Pittsburg, bearing on this, which has been decided in our favor two or three times by various courts.

Q. (By Senator MALLORY.) What road was that?—A. They were the Western New York and Pennsylvania Railroad Company, the New York, Lake Erie and Western Railroad Company, the Delaware and Hudson Canal Company, the Fitchburg Railroad Company, the Boston and Maine Railroad Company, and the Lehigh Valley Railroad Company.

Q. Were these companies responsible in the case you speak of?—A. They were; yes.

Q. What is the status of that case to-day?—A. The status of that case is a dormant one. They decided we should have this reparation, and also that oil should be shipped per barrels—that is, instead of charging us 400 pounds, as they do now per barrel, it should be taken at 320 pounds, actual weight of the oil, because the tank cars (the Standard Oil Company have their individual cars, and we have a few) are shipped full and come back empty, and also that the empty barrels should be shipped back with no charge, because if the oil was shipped in barrels the cars could be used to load freight back, whereas the tank cars come back empty. But they did not comply with the order given.

Q. The case, as I understand, has been appealed to the circuit court?—A. Yes.

Q. Has it made any progress in the circuit court since it was appealed?—A. No, it has not.

Q. Is that what you mean by lying dormant?—A. Yes, lying dormant; it comes up this fall.

Q. (By Mr. PHILLIPS.) What court was it tried in before it was appealed to the Interstate Commerce Commission, if any?—A. I have not looked up whether it was a civil action or not.

Q. (By Mr. JENKS.) Do you expect a final decision in the case this fall?—A. We do; yes.

Q. (By Senator MALLORY.) Can you state in a general way the territory in which you deal?—A. Yes; my territory is quite well defined. It is mostly in the State of New York. I sell some in Vermont and New Hampshire, and occasionally a car scattered through different States; but that is simply a catch order.

Q. Do you ship to foreign countries at all?—A. Oh, yes; nearly 50 per cent of our product goes to foreign countries.

Q. Do you deal with the South at all?—A. Not at the present time. The rates are high South.

Q. Do you deal with Cuba at all?—A. No.

NUMBER OF INDEPENDENT COMPANIES IN PENNSYLVANIA.

Q. (By Mr. KENNEDY.) How many independent refining companies are there in Pennsylvania?—A. I should say 12 or 15.

Q. Are you connected with only one or several of them?—A. Simply one.

Q. Have not the independent companies some sort of a combination to protect their interests as against the Standard Oil Company?—A. The only association we have ever had was that of the independent refiners of Titusville and of Oil City at the time of this suit, or this hearing. We have common interests in the United States Pipe Line, the Producers and Refiners' Pipe Line, and the Pure Oil Company.

Q. That is the only kind of a combination you have?—A. Yes.

THE PIPE-LINE SYSTEM.

Q. (By Mr. PHILLIPS.) Have you any specific knowledge about pipe-line systems, the history of them in Pennsylvania, and the independent pipe lines prior to the organization of the United States Pipe Line and the Producers and Refiners' Pipe Line?—A. I have some knowledge, but I think nothing that would be of any special benefit. I could tell you about the time since we organized the Producers and Refiners' Line, of which I am a director. We have had considerable trouble with the Standard Oil Company, who have bought up the production on our line, which caused us to lay lines more remote, but I suppose that is in the course of business. They paid high prices, however, for these properties, and it was a good thing for the individual producer that we were in there, because he sold out his property at a very high price. That has been done to quite an extent.

Q. Prior to the organization of the Producers and Refiners' Pipe Line Company were you getting your oil through the Standard lines?—A. We were buying oil from the Standard.

Q. What pipage did you pay them?—A. Twenty cents per barrel.

Q. What are you paying now for getting oil delivered at your refineries?—A. We are paying the market price, 15 cents per barrel pipage.

Q. Do you get at this lower rate as good oil as you did when getting it from the Standard Oil Company?—A. The majority of the oil is better. We get poor oil from 1 district, near Oil City; each refiner has to take his portion; that is very inferior oil, black oil.

Q. Does that go through the Producers and Refiners' Pipe Line?—A. Yes, it does; about 4,000 barrels a month comes through that line.

Q. Is it mixed with other oils?—A. No; it is delivered separate.

Q. What kind of oil did you get through the Standard pipe lines before you owned this line?—A. We got oil which was not of as high a grade, not as rich in illuminants as we are getting from the Producers and Refiners' Line.

Q. And paid practically 5 cents a barrel more for piping than now?—A. Yes.

Q. And the oil was not of as good quality?—A. No; it was not.

Q. (By Mr. KENNEDY.) Can you state what percentage of the oil of Pennsylvania is refined by the independent companies?—A. I have not the actual figures or data at my command, but I should say about one-tenth.

Q. The Standard Oil Company refines all the rest of it, 90 per cent of it?—A. I believe they must have refined it or shipped it abroad.

Q. And the business is profitable, I suppose, to all these independent companies, is it not?—A. It has been at times.

COMPETITION WITH THE STANDARD IN FOREIGN COUNTRIES.

Q. (By Mr. PHILLIPS.) Will you state to the commission what method the Standard Oil Company took to circumvent your markets abroad, after the laying of the United States Pipe Line for shipping refined oil through to New York as well as crude?—A. The prices in our foreign markets, in Germany and Holland, were cut very low, so that we were obliged to sell export oil to the one buyer (we have had but the one buyer, Philip Poth) very low; in fact, at ruinous prices. It was only by the strictest economy that a number of refineries were kept out of the hands of the sheriff during the crucial time that we had in 1893 and 1894.

Q. Did Poth handle your oil for a considerable length of time?—A. He handled it for a number of years, and until a short time after the Standard Oil Company purchased these other large refineries that I spoke of a short time ago. Then I understand that the Standard officials approached him and told him that we were on our last legs and that he had better get his money out of his stuff while he could. They paid him big money for his plant, and it was turned over to the Standard Oil Company entirely; his two sons-in-law were retained in the business. He had promised by all that was true and good to stand by the independent companies. We had sold him refined oil away below the cost of crude oil; but he got frightened when the Standard approached him in this way, and as I say he sold out. The shock was so great that he died within 2 weeks; we then established the Pure Oil Company—that is, we refiners and producers—and have been marketing our own goods in Germany.¹

Q. Did they also rent or buy the tankage abroad, so it was very difficult for you to dispose of all your oil?—A. They did some of that; yes.

Q. Were you compelled to build tankage and establish stations before marketing oil in Germany?—A. We were compelled to do so.

Q. Has your business there been a profitable one?—A. Our returns have been very satisfactory in Germany.

Q. What were your profits while Mr. Poth was acting as your agent?—A. There was very little in the refining business, just in marketing abroad. We sold him oil f. o. b. New York.

Q. You did not have any profits he made, if he made any, in Germany?—A. Certainly not; prices have been good there.

Q. But you sold a good many cut cargoes, did you not?—A. Yes.

Q. That is, below cost?—A. Below cost, some.

Q. Have you sold any cut cargoes since to your agencies abroad, in the Pure Oil Company?—A. No.

Q. They are quite uniform, are they?—A. Quite uniform; yes.

¹ Compare Mr. Lee, pp. 273, 274; Mr. Emery, p. 617.

RELATION BETWEEN STANDARD OIL COMPANY AND THE INDEPENDENT COMPANIES.¹

Q. A former witness stated before this commission that if the Standard Oil Company were to offer the independent companies a price far beyond the value of their plants they would still refuse to sell out. Is that the feeling of the independent companies of Pennsylvania? Would they not sell for more than the value of their plants if offered that by the Standard Oil Company?—A. Now, if you will define that I will answer you directly; do you mean \$10 more?

Q. There was no specific sum named; it was said they would not sell to the Standard even if offered more than the value of their plants.—A. If they were all like him they would not.

Q. Have the Standard people made any attempt to purchase stock or circumvent these independent pipe-line companies in any way in order to get control of them?—A. Yes; from the suits that have been in progress with John J. Carter and the Producers' Oil Company, Limited, it would seem that is what they are trying to do.

Q. Do you remember the capital stock of that company and how much they purchased?—A. The capital stock is \$600,000. Mr. Carter originally owned \$3,000 worth of stock; he purchased about \$300,000 worth more. We believe it was for the Standard Oil Company. I can not testify that it was, but from all outward appearances it looked that way.

Q. Did they attempt to get control of this independent company after purchasing this stock?—A. They did. Having the majority of the stock, they expected to elect the managers of the company. But the company, being organized in Pennsylvania under the special act of 1874, called the copartnership law or act, Mr. Carter would have to be voted in by a majority in number and interest in the Producers' Oil Company before he could vote that stock, and our people declined to vote him in. He has been in litigation with the company for the past 3 years or more, trying to get in. The courts have finally decided—the supreme court—that he was in error, and that the company must buy his stock at the appraised value. The appraiser was appointed, and that appraising has been taking place for the past 5 or 6 months. They are arriving at values, as the company are obliged to buy the stock that Mr. Carter owns. He has been voted into a portion of it, I believe.

Q. Have they bought stock in any other company?—A. If I remember correctly, they have secured something like \$400,000 in the United States Pipe Line.

Q. How much of that stock has been sold, and what is the capital?—A. I believe the capital is \$2,000,000, and, if I remember rightly, the stock that is out is about \$1,200,000.

Q. Did they attempt to get anyone on the board of managers in the United States Company?—A. They have 1 director in the United States Company; yes.

Q. Have they recently been purchasing stock in that company?—A. Not to my knowledge.

Q. (By Mr. KENNEDY.) That would be a legitimate way of getting control of those companies, would it not?—A. Yes; that is one way, but perhaps you or I do not care to go where we are not wanted; that is the only way I look at it; you do not desire to go into a company if you are not wanted there.

Q. If they get control of these companies, do you have any idea they will run them at a profit to the stockholders?—A. If they would run it, they would run at a profit; that is the way they run.

TRANSPORTATION SYSTEM THE CAUSE OF EXISTING EVILS.

Q. (By Mr. PHILLIPS.) Have you any statement you desire to make that we have not covered by asking questions?—A. This question of the aggregation of capital is, of course, a large one for a small man to handle, but I do not fight the Standard Oil Company. It is not my business to fight them. I do not believe the Standard Oil Company, with their millions, could or would drive me out of business, if I had the same advantages (and that every American citizen should have) that they have on the transportation lines. If they do not have that advantage over me, it makes no difference how large the company is; if they are run on right lines, it matters little.

Q. (By Mr. JENKS.) If I understand you, then, the evils that come from the Standard Oil Company would be done away with if the interstate commerce act could be enforced in both spirit and letter?—A. That is what I mean; in short, I mean that oil should be listed as other freight is. And my opinion is that it would be a good idea to have a railroad examiner just as you have a bank examiner for national banks. If I have a grievance and think Jones or the Standard

¹ See p. 370; Mr. Lee, p. 270; Mr. Archbold, pp. 577, 578; Mr. Phillips, pp. 589, 590, 595, 596; Mr. Emery, p. 656.

Oil Company is getting cheaper rates from a common point to Montreal than I am, let me file a complaint and have one of these examiners investigate the books of the railroad companies. It takes but a moment to find out where a groceryman or a wholesale-oil man is buying oil. You are not giving away a man's business by going to a railroad company and ascertaining the freight rate and the weight of his oil. The customer is not injured. I say that the complainant should do this because all men are human, and this is such a big business in shipping that we might not get justice even if a commissioner were appointed.

Q. Do you mean by that that it would be possible to buy up an inspector?—A. Yes.

Q. Unless the complainant were to have the privilege of going also?—A. Certainly. There are so few refineries that 3 or 4 railroad examiners would, in my mind, be sufficient. Of course other shippers might demand the same thing, but I believe, the way things are, conditions are such that something of that kind is necessary. It strikes me so, because I do not believe that we are getting justice; and I do not believe we can get it unless a thorough investigation is made.

Q. (By Mr. PHILLIPS.) Do you think there should be laws allowing the inspection of freight passing over the railroads?—A. Yes; I do.

Q. Have you anything further to suggest in remedial legislation for monopolies?—A. I do not believe they are harmful when on right lines. I believe that illegal or illegitimate competition ought to be banished in some way, whether by legislation I do not know.

Q. (By Mr. JENKS.) By illegitimate competition do you mean special favors shown by the railroads, and also this special cutting of rates in particular localities, of which you have already given us examples?—A. I mean the cutting of prices below cost of production. The oil business and every other business should be run on its own merits; if the Standard Oil Company, or Armour, or my little works can not get trade by holding out good goods and by good, honest competition, by manly efforts, we are not worthy of the trade; we should certainly have something that will protect us.

Q. (By Mr. RATCHFORD.) By honest competition do you mean that every man shall be allowed to place his goods upon the market with the opportunity to make a reasonable profit?—A. Yes; I do.

Q. (By Senator MALLORY.) Do you also mean that public carriers are created for a public benefit, and should not be permitted to show favors to one set of producers as against another set?—A. I can write a letter to Montreal, Quebec, soliciting trade, for instance, and send it for 2 cents. The Standard Oil Company pays 2 cents for the same kind of a letter. When I ship a carload of oil there that weighs 44,000 or 48,000 pounds, I pay freight on it accordingly; but from what I have seen, from what I have told you gentlemen, I am satisfied that their car goes through billed at 24,000 pounds, although it holds the same quantity as mine does. That is what I want; the majority of companies maintain that that is what I deserve.

AFFIDAVIT.

STATE OF PENNSYLVANIA, *County of Venango*, ss:

I swear that the statements made by me of my own knowledge in the foregoing report of my testimony before the Industrial Commission are true, and that all other statements I believe to be true.

(Signed)

THEODORE B. WESTGATE.

Sworn and subscribed before me this 7th day of October, 1899.

[SEAL.]

CHESTER L. KERR,
Notary Public.

WASHINGTON, D. C., June 17, 1899.

TESTIMONY OF MR. M. L. LOCKWOOD,*Independent oil producer.*

The commission met at 10.55 a. m., Vice-Chairman Phillips presiding. Mr. M. L. Lockwood, being duly sworn as a witness upon the subject of the oil industry, testified.

Q. (By Mr. JENKS.) Will you kindly give us your name and address?—A. M. L. Lockwood, Zelienople, Butler County, Pa.

Q. What is your connection with the oil business?—A. I am an oil producer.

Q. For how long a time have you been in that business?—A. Since 1865.

Q. Are you an oil refiner also?—A. No.

Q. You have, I believe, a statement ready to make to the commission. If you will kindly give us that, we will afterwards ask any questions that seem desirable.

MR. CHAIRMAN AND GENTLEMEN OF THE INDUSTRIAL COMMISSION:

Robert Lockwood came from England with Winthrop in 1680. One hundred and forty-seven of his descendants, one of whom was my great-grandfather, participated on the side of the colonies in the war of the Revolution. I refer to this that there may be no question as to my Americanism.

It seems to me as though this reference is proper from the fact that it has become the custom of the monopolistic classes and all those who are fawning for favors at their hands to stigmatize as anarchistic and un-American any expression not in harmony with the present monopolistic condition of affairs.

I am a native of the State of New York. I left the farm in Erie County of that State in 1865 and went to the oil regions of Pennsylvania, and have been engaged in the work of producing oil ever since.

EARLY RAILWAY DISCRIMINATIONS.

Away back in the latter part of the sixties some of the refinery men in the oil regions who did not have the ear of the railway managers were unable to get a freight rate over the railroads that would enable them to sell their oil in New York and the export cities at a profit. They were obliged to sell the refined oil to the men who afterwards helped to create the Standard Oil Company, for these men even at that early date seemed to have an advantage in freight rates that enabled them to market oil at a profit when no one else could.

The facts which I shall present to you I desire not to be construed as against men, for I believe that the Standard Oil people are no better or worse than any other set of men would be, armed as they have been with practically exclusive advantages over the railways of the country. But the facts which I shall present to you I desire to be construed against an accursed system of railway discriminations which has made this great curse, the Standard Oil Trust monopoly, a possibility—against a system that has enabled the Standard Oil Company people to drive into obscurity, bankruptcy, or servitude the men whose energy and enterprise developed the great oil-producing and refining industry of America,¹ for before the blighting curse of railway discrimination was turned against the oil refinery men they prospered and grew rich in the refining business. They doubled the capacity of their refineries, adopted new and better processes, and were going forward in a business that promised much for themselves and their descendants.

But when the conspiracy between the Standard Oil Company people and the railways was consummated all men not included within the favored few were condemned to financial obscurity or ruin. No business ability however great, no better process however superior, could triumph, when the highways over which you must go to market were closed against you and manipulated in the interests of your competitors.

As long as there were open and equal rates over the highways of the country, many growing and prosperous refineries were built at every favorable point—at Franklin, Reno, Oil City, Rousseville, Petroleum Center, Pioneer, Titusville, Warren, Pittsburg, Cleveland, and Corry. The competitive contest in the business forced hundreds of the best minds to the study of better and more economic processes in refining, and the most rapid strides were made in perfecting and cheapening cost.

Many refinery men made many buyers of crude oil, and the producer selling his oil in the competitive market was enabled to obtain a fair share of the profit in the business. The consumer buying his oil from competitive sellers was enabled to receive the benefit of each and every economy in the process of producing and refining petroleum.

¹ See Mr. Archbold, p. 553.

THE SOUTH IMPROVEMENT COMPANY CONTRACT.

In 1878 the men who had been intrusted with the management of the highways, the railways of the country, understood so imperfectly their duty as common carriers to the public that they entered into a contract with the men who afterwards created the Standard Oil Company. This contract was known as the South Improvement Company contract, and was between a corporation of that name and five trunk railways—all of the railways that entered the oil regions of Pennsylvania.

This contract provided that the railways should increase the freight to about double what they had been charging on all oil shipped; that they should pay back in rebate to the South Improvement Company an amount about equal to said increase of freight rates; that they should pay to the South Improvement Company a like rebate on all of the oil that anybody and everybody else shipped; that they should make any other change in freight rates necessary to insure the South Improvement Company's success in business. This contract provided, in substance, that they should break up and destroy all refinery men outside of the South Improvement Company by high rates of freight; and that they were to keep watch and report to the South Improvement Company all the business and shipments which any of these outside refineries should make.¹

Now, Mr. Chairman and gentlemen, I desire here to say that everything that the railway companies publicly contracted to do for the South Improvement Company in 1878, the railway companies have since secretly and persistently done for the benefit of the Standard Oil people,² as I will prove to you. I shall prove it, too, in the face of the fact that whenever any of the Standard Oil Company's people or their agents or the railway people who knew the facts have been subpoenaed to testify they have almost invariably refused to answer, shielding themselves behind that provision of law which provides that you shall not force a man to testify to that which will convict him of a crime.

The men who developed the oil regions of Pennsylvania were of the best families of the Republic. The ancestors of many of them helped to win our independence as a nation, and when the provisions of the contract of the South Improvement Company became known, it created such a furor in the oil regions as has seldom been seen. Men saw the principles of equal rights destroyed, the highways over which their products must go to market being in the hands of a set of brigands, who had pledged themselves to rob the people of an average of more than \$1 a barrel on all the oil they produced, and give it to the 18 men who constituted the South Improvement Company.

The public press of the oil regions at that time had not yet been subsidised and it gave the alarm. Men came together and consulted, meetings were called, and the more that was learned of the provisions of the South Improvement Company contract the more awful the crime which was attempted against the rights of the people developed to be. Mass meetings at Franklin, Oil City, Titusville, and Parkers were attended by thousands. Men determined that if the railways were to be used to destroy the great American right of equality they would have no railways, they would tear up their tracks and burn their bridges.

SOUTH IMPROVEMENT COMPANY (CHARTER REVOKED).

The railway companies became alarmed. A committee of the producer refiners went before the legislature, then in session at Harrisburg, and secured the repeal of the charter of the South Improvement Company. The railway officials made fair promises to give everybody equal rates, and the producers and refiners, thinking that they had won a victory and their rights would be respected, went about their business.³ Right here I desire to state that the battle of the producers in the oil regions has been continuously and persistently conducted upon that same principle. They asked no favors beyond this, that they should be accorded equal rights over the highways of the country.

But it soon became apparent that the railway companies were not keeping faith; that in fact they were doing for the Standard Oil Company people secretly just what they had publicly contracted to do for the South Improvement Company. The independent refiners were fast being driven to the wall, while there was evidence of the greatest prosperity among the Standard Oil people's refineries. Very few of the facts of this period have leaked out, as when the Standard Oil Company people or the railroad people who knew the inside facts were subpoenaed.

¹ For a copy of this contract see the report of the Hepburn committee of New York, passed to 461; or Fifteenth Congress, first session, House Reports, vol. 8, pp. 387-391. A part of it is reprinted in this volume, pp. 430-434.

² See p. 430. Mr. Archibald, p. 359; Mr. Boyle, pp. 421-423; Mr. Emery, p. 415.

³ See producers and refiners' contract, p. 446, Hepburn committee report; or Fifteenth Congress, first session, House Reports, vol. 8, p. 391. It is reprinted in this volume, p. 430.

to testify they almost invariably, under the advice of their counsel that their evidence might incriminate them, refused to answer.

But by the evidence in the case of the Standard Oil Company against W. C. Schofield, at Cleveland, Ohio, we learned that the profits of refining, including railroad rebates for 4 of these years, was an average of more than \$2 a barrel, a profit in refining which, if economically managed and honestly capitalized, amounted to more than 400 per cent annually; while at the same time the refinery men who did not have the favor of the railroad companies were being driven into bankruptcy and ruin, while the producers, much of the time, were forced to take a price for their oil below the cost of production, and the consumers to pay two prices for the oil that they burned in their lamps.

STANDARD OIL COMPANY SECURES CONTROL OF THE PIPE LINES.

I have a record of 26 pipe lines built in the early part of the seventies to transfer oil from the wells to the railways.¹ These pipe lines were mostly built by producers in their struggle for deliverance from monopolistic control. The Standard Oil Company people, having secured control of the United Pipe Line and American Transfer Company, began a campaign to bankrupt, destroy, and absorb the pipe lines built by the producers. The Standard Oil people, having a large rebate on all the oil they shipped and on all the oil that anybody else shipped² through any of these different pipe lines, could go into the field and pay a little more at the wells, and could sell oil at a little less at the seaboard than any other shipper, and still only use a small fraction of the large rebates which they were receiving from the railway companies; growing rich themselves while they were bankrupting and absorbing the pipe lines built from the meager means which the producers were able to wring from the grasping greed of this great monopoly. Finally the producers and refiners came to understand that the highways of the country—the railways—were in the hands of a set of highwaymen, who, every time they went to market, would rob them of all of their profit and a part of their principal and hand it over to the Standard Oil Company people, helping to fasten that monopoly upon us. Mr. Chairman, if you must be robbed it does not make any difference to you whether Dick Turpin does it through the instrumentality of a pistol, or whether John D. Rockefeller does it through the instrumentality of a railroad.

There could be but one end to that kind of business—bankruptcy and financial ruin of the independent pipe lines. For the sworn evidence to prove all of the above statements, I desire to present the commission extracts from the evidence before the Interstate Commerce Commission, before the courts, and before both State and national investigating committees.

RAILROADS PAY REBATES TO THE STANDARD OIL COMPANY.

I have stated that interested parties refused to testify, but there is always some way for the truth to come out. There arose a little unpleasantness between the Pennsylvania Railroad and the Reading Railroad, and we were enabled by subpoenaing the assistant comptroller of the Reading Railroad, in the case of the Commonwealth of Pennsylvania against the Pennsylvania Railroad and the Standard Oil Company, to bring into court the settlement sheets showing their settlements for the transportation of oil. Some of these sheets showed that there had been rebates paid to the Standard Oil Company to the amount of \$1.10 per barrel.

Mr. A. J. Cassatt, third vice-president of the Pennsylvania Railroad, being subpoenaed to testify in regard to these settlement sheets and the rate on oil,³ was asked the rate per barrel. The answer was: "\$1.90." Question. "What was the actual rate?" Answer. "If shipped by the Standard Oil Company, 80 cents a barrel." The open accepted rate was \$1.90; but, after deducting the rebate of \$1.10 which the Standard Oil Company people received, the actual rate would be 80 cents. Now, further investigation showed that, through the terminal charges of corporations in which the Standard Oil Company was largely in control, the railway companies only actually had 35 cents a barrel to divide between themselves for the transportation of this oil for the Standard Oil Company, while an outside refiner and shipper would be obliged to pay \$1.90 per barrel. Question.⁴ "I understand you, Mr. Cassatt, that this 22½ cents paid to the American Transfer Company is not restricted to oil that passed through their lines?" Now, mark his answer, because it is a remarkable one. Answer. "No, sir; it is paid on all

¹ See Mr. Archbold, p. 553; Mr. Boyle, pp. 413, 420, 423-426.

² See Mr. Page, Mr. Rockefeller.

³ See page 608 of the transcript of testimony in the case of the State of Pennsylvania v. Pennsylvania Railroad Company, United Pipe Lines, and Acme Oil Company. Reprinted, p. 191, House Reports, vol. 9, Fiftieth Congress, first session.

⁴ Ibid., page 601.

oil received and transported by us, as I have before stated." Question. "Now, you will find a drawback paid of \$34,000—\$41,000 less the \$7,000, the Buffalo, Philadelphia, and New York proportion. (Part of this oil was shipped over a road that was not in the combine.) Could you tell who that drawback was paid to?" Answer. "Forty-nine cents per barrel went to the American Transfer Company and the Standard Oil Company under the arrangement which I have already explained." The testimony of J. D. Archbold showed rebates paid to the Standard Oil Company of 64½ cents a barrel.¹

It was impossible about that time and during the growth of this monopoly for outside shippers to get any cars for transporting their oil. The testimony of W. L. Fox, who owned a pipe line, Warren Gray, and others shows that the railways refused to allow the independent shippers cars, and that they were unable to move their oil.²

Q. (By Mr. FARQUHAR.) What year was that?—A. That was in 1878, I think. I wish to present here an extract from a letter of Mr. Daniel O'Day to Mr. Cassatt, accepting the commission or rebate. Now, I suppose you know that Mr. O'Day is the general manager, almost the generalissimo, of the Standard Oil Company. A very large percentage of the brains of that concern is done up in that little Irishman's head. It reads as follows:

"I here repeat what I have once stated to you, and which I ask you to receive and treat as strictly confidential, that we have for many months received from the New York Central and Erie Railroad certain sums of money, in no instance less than 20 cents per barrel on every barrel of crude oil carried by each of these roads. I am constrained to say to you that in justice to the interests I represent we should receive from your company at least 20 cents a barrel on each barrel of crude oil you transport.

"In submitting this proposition I feel that I should ask you to let this date from the 1st of November, 1877, but I am willing to accept as a compromise (which is to be regarded as strictly a private one between your company and ours) the payment by you of 20 cents a barrel on all the crude oil shipped, commencing February 1, 1878.

"I make this proposition with the full expectation that it will be acceptable to your company, but with the understanding on my part that in doing so I am not asking as much of the Pennsylvania road and its connections as I have been and am receiving from the other trunk lines."

Now here is an extract from a letter of A. J. Cassatt to Mr. R. W. Downing, comptroller of the Pennsylvania Railroad.

Q. (By Senator MALLORY.) What court was that case in? Was it in the supreme court of Pennsylvania?—A. It was taken before an examiner of the supreme court. The extract is as follows:

"I agreed to allow this commission from and after February 1, until further notice, after having seen receipted bills showing that the New York Central Railroad allowed them a commission of 85 cents a barrel, and that the Erie Railroad allowed them a commission of 20 cents a barrel on Bradford oil and 30 cents a barrel on all other oil, and that they had been doing so continuously since the 17th of October last.

"Of this, however, you saw the evidence yourself in the bills which I submitted to you last week. Please therefore prepare vouchers in favor of the American Transfer Company, per Daniel O'Day, for this commission of 20 cents on shipments during February, March, and April, and hereafter make settlements monthly."

In the same report will be found a letter from Mr. A. J. Cassatt to Mr. Daniel O'Day, dated May 15, 1878, in which he says: "Your favor of February 15 has been received, and direction has been given to allow you from and after February 1, 1878, the commission therein asked for, until further notice."

The statement of the Pennsylvania Railroad shows that the 20 cents a barrel agreed to amounted during the months of February and March, 1878, to \$68,753.50, which was paid over to the American Transfer Company by the Pennsylvania Railroad for the benefit of the Standard Oil Company's people. I have a vivid remembrance of that time. I was interested in a pipe line that was competing with the American Transfer Company for the oil produced in Clarion County. I

¹ See page 702 of the transcript of testimony in the case of the State of Pennsylvania v. Pennsylvania Railroad Company, United Pipe Lines, and Acme Oil Company.

² *Ibid.*, page 510. See, in this volume, Mr. Rockefeller's affidavit.

³ *Ibid.*, pages 55-56, and 56-70.

⁴ *Ibid.*, p. 732.

⁵ *Ibid.*, p. 734.

⁶ *Ibid.*, p. 734.

do not believe that at that time the American Transfer Company had over \$60,000 invested in all their pipe-line system, and yet in 2 months they received in rebate from the Pennsylvania Railroad Company alone \$68,753.50. I remember what a hard time we had in keeping alive, financially, the old Atlantic Pipe Line Company. The American Transfer Company was paying a little more for oil at the wells than we could get for it after we had piped it and loaded it on the cars. I can imagine now how financially easy the old Atlantic Pipe Line Company would have been if the Pennsylvania Railroad Company had poured into its coffers \$30,000 or \$40,000 a month. Remember, this \$68,753.50 was from the Pennsylvania Railroad alone. What the Erie and the New York Central were paying then I do not know, for there is no record; but men who have studied the evidence in the Hepburn committee's report claim that the evidence shows that the 5 trunk railways paid to the Standard Oil Company people \$11,000,000 in rebates in 16 short months.¹ Reverse these conditions and the Atlantic Pipe Line Company would have driven the American Transfer Company into bankruptcy just as the Atlantic Pipe Line Company was driven. Railway discrimination means ruin to any enterprise that is discriminated against, and it means monopoly for any enterprise discriminated for.

DESTRUCTION OF INDEPENDENT PIPE LINES.

Upon the question of the destruction of these independent pipe lines, Mr. W. T. Shidey, testifying before the Hepburn committee, said, in answer to a question as to whether the Hunter and Cummings Pipe Line, which was one of these independent lines, was shut out of the market: "Yes, sir; they were shut out of the market practically."² The history of the Hunter and Cummings Pipe Line was the history of all the independent pipe lines in the oil regions. By railway discrimination they were practically shut out of the market. Concerning the effect which the Rutter circular—providing for a rebate for certain pipe-line companies—had upon all the pipe lines not in the United (Standard) Pipe Line pool, Mr. E. G. Patterson testified before the Hepburn committee as follows: Question.—"To whose benefit did the 20-cent rebate provided for in the Rutter circular inure?" Answer.—"Entirely to the United (Standard) Pipe Line. The result of it was that the United Pipe Lines absorbed 80 per cent of the 20 lines that were then in existence in the country."³ To which I desire to add that they ultimately absorbed them all. The testimony before the Interstate Commerce Commission in the Titusville and Oil City independent cases goes to prove that the railways had turned their terminal facilities for the transfer of oil from the cars to the seaboard in New York over to the Standard Oil Company, so that the independent oil refiners could not use their tank cars in transferring oil to the seaboard, and had to ship their export oil all in barrels.⁴

Q. (By Mr. JENKS.) Do you recall the date of these cases?—A. They were about 1878 and 1879. Then came the discrimination against barrel shippers and in favor of tank shippers and in the interest of and for the benefit of the Standard Oil Company, and when the Interstate Commerce Commission ordered the railway companies to stop this discrimination they ignored the order.⁵ The evidence goes to prove that the railway companies adopted a system of false billing in the interest of the Standard Oil Company and against the independent refiners. The evidence further goes to prove that after the independent oil refiners had spent many years in building up a trade for their oil in the New England States the railway companies, in the interest of the Standard Oil Company, put up the railroad rates to New England to the independent refiners and shut them entirely out of that market. The work of years was destroyed in an hour by an act of these railway conspirators.⁶

All of this evidence, hundreds and hundreds and hundreds of pages of it, goes to prove without a shadow of a doubt that the railway companies all through these years were doing for the Standard Oil Company secretly just what they had publicly contracted to do for the South Improvement Company in 1876.⁷

NO REMEDY FOR RAILWAY DISCRIMINATION IN THE COURTS.

Now, what is the remedy? There is practically no remedy in the courts. They are too slow and expensive. These great railway combinations, in cooperation with the trust organizations, can "razoo" a man up and down through the courts, from one to another, for 10 long years, until he is financially exhausted and his business ruined. Why, gentlemen, the Cox case, which related to

¹ See Mr. Lee, pp. 264, 267; Mr. Archbold, pp. 514-516; Mr. Emery, pp. 260, 261.

² Hepburn Committee Report, p. 2794.

³ Hepburn Committee Report, p. 1069.

⁴ Titusville and Oil City Independent Cases, p. 30.

⁵ See Interstate Commerce Commission's Report, 1898, concerning tank and barrel rates on oil.

⁶ Titusville and Oil City Independent Cases, pp. 253, 254. See, also, in this volume, pp. 374-377.

⁷ See Mr. Archbold, p. 553.

anthracite coal shipments, with all the power and influence of the Interstate Commerce Commission behind it, has been before the courts for 11 long years, and is yet unfinished. This evidence goes to prove that these railway discriminations and favoritism were continued in favor of the Standard Oil Company and against the independent refiners even after the interstate commerce law was upon the statute books.¹

Now, then, in the face of all the wrongs which I have enumerated to you, the Oil Producers' Council, a body elected from the different producing districts, began criminal action in 1879 against the Standard Oil Company and the Pennsylvania Railroad for conspiracy against the public. This action was brought in the courts of Clarion County, Pa. The case was brought in the names of Col. J. A. Verra and myself. The case was prepared at enormous labor and expense. The evidence was at hand to prove the facts, some of the conspirators were before the court and the jury, with almost a certainty that, with the evidence at hand, they would be convicted and sent to the penitentiary to pay the penalty of their crime; and then 8 members of the supreme court of Pennsylvania took original jurisdiction in these criminal cases and took the indicted conspirators away from the courts of Clarion County and hung the case up.¹

The late Franklin B. Gowen, a man of great integrity and ability, who was a member of the constitutional convention of Pennsylvania in 1873, said before a committee of Congress here in Washington: "That if that constitutional convention did anything effectually it was when it took original jurisdiction in criminal cases away from the supreme court of the State." And yet when the men who had entered into a conspiracy to monopolize the great oil producing and refining industries of that State had been indicted and were before a jury of their peers, we find members of the supreme court ready to stretch, aye, violate, the constitution in order to protect them from just punishment. The producers and refiners, exhausted and impoverished, fighting for their right to do business in this free country, found not only the railway companies, in league with the Standard Oil Company, against them, but members of the supreme court ready to do the bidding of the Pennsylvania Railroad and the Standard Oil Company and protect indicted conspirators from just punishment for their crimes.

Read the record of the Matthews case¹ against the Standard Oil people for conspiracy to blow up his refinery and ruin his business. Read the evidence of Matthews; read the evidence of his partner, whom they had bribed and debauched to betray his associate. Read the evidence of this man, whom they had spirited about from the Atlantic to the Pacific, keeping him under cover, under an assumed name, at Boston and elsewhere—keeping him under cover for four long years, that his evidence might not be had by the courts; keeping him until the load of crime in his heart became too great for him to bear, and conscience forced him to go back to Buffalo and confess to Matthews. Note how Matthews, struggling with poverty, yet determining that justice should be done, had spent the few remaining thousands he had left in these litigations, and how finally his little refinery was forced into the hands of a receiver, and he was financially ruined. Read it all, for I say to you that no honest man can read the record of his case without feeling that there was a crime committed against the State. And that's not all. Matthews had verdicts for \$270,000 against the Standard Oil Company people in his civil damage cases, and the creditors of Matthews, under this receivership, had to settle these \$270,000 verdicts for \$17,300.² And this is not all. These great monopolies and the political bosses—who are but the creatures and servants and instruments of these great monopolistic combines—these bosses secure, in my opinion, nominations of judges, and then, through the help of the party machinery and a liberal supply of corruption funds, succeed in electing them; and there, in our higher courts, men, elected by corruption funds, sit to dispense their kind of justice to the American people.

The remedy is not in courts. You can not reach these fellows in the courts. They will circumvent you. They will break up any man who honestly attempts to bring them to judgment. The thought is fast becoming fixed in the minds of the common people that these great railway combinations, extending as they do from the Atlantic to the Pacific and from Canada to the Gulf, these great combinations of corporate capital, are gradually packing our higher courts with men who will do their bidding, or rather with men who are in sympathy with the present monopolistic condition of things.

THE INTERSTATE COMMERCE ACT.

Now, then, in 1878 the producers of petroleum in Pennsylvania had the old Anglo-Saxon confidence in the justice of the courts and in the power and omni-

¹ See Mr. Archbold, p. 558; Mr. Boyle, pp. 427, 428; Mr. Emery, p. 602. ² See Mr. Archbold, pp. 555, 556.

tency of the law. If we could get a law enacted by Congress which would remove all discriminations we thought then there would be no more trouble. I paid \$1,600 to a retired railway attorney of great ability to draft an anti-discrimination railway bill. The conditions were that it should be such a bill that when enacted into law the railroad companies could not drive a train of cars through it. I shall never forget the report which that committee made when they came back without bringing that bill from Washington. They found Judge Reagan, of Texas, chairman of the Committee on Commerce, and took the bill to him. He read it over and said: "Well, my God! this is just what we need down in Texas." We all know what a magnificent fight Reagan and the friends of that measure made in Congress for its passage. We always thought that the Cullom amendment in the Senate very much weakened it, but at last it was passed, and we had the interstate-commerce law. But do you know that these great railway and trust combinations do not seem to care any more for that law than though it was not upon the statute books? On every subterfuge they evade and violate it. If they can control the appointment of Attorneys-General and Supreme Court judges they do not care what the law is. They have become bigger than the Government itself. They dare to threaten the Interstate Commerce Commission and ignore its orders, and that commission of this great Government seems powerless to perform the duties provided for it in the law that created it.

Four or five years ago the Atchison, Topeka and Santa Fe Railroad went into the hands of a receiver, and about the first thing the receiver found out was that the officers of the road had paid out over \$7,000,000 in rebates to trusts, monopolies, and favored shippers. And, while this was a State prison offense, there did not seem to be any disposition on the part of the Attorney-General of the United States to bring these great criminals to judgment. These great railway combinations and monopolistic organizations seem to overshadow the Government and direct and control the action of its officials.

Q. (By Senator MALLORY.) Was not that before the passage by Congress of the law which subjected the party who received a rebate to liability under its provisions and which bound all parties concerned in the rebate business?—A. It was at the time the Santa Fe road failed, in 1893-94, long after the interstate-commerce law was in operation.

Behind the power of railway discrimination the Standard Oil Company, the Sugar Trust, the Steel Combination, the Big Four Beef Combination, and the rest of these trust organizations feel so secure in their power to throttle competition and plunder the producers and consumers of America that the stock of these companies, some of it from 30 to 90 per cent water, is selling to-day at from 200 to 400 cents on the dollar.

THE CASE OF GEORGE RICE, OF MARIETTA.

The greatest battle in the record of time has been fought by George Rice, of Marietta, Ohio, for the right to do the business of his choice in this free country. What is the record in that case? In the latter part of the 70's the railway managers, in order to cripple Rice in the interests of the Standard Oil Company, doubled the freight on oil at Marietta, where Rice's refinery was. But the raise was only on oil; no other freight was raised. It was also only at Marietta. Ten miles below, at Parkersburg, on the Ohio River, the Standard Oil Company had a refinery, and the rate was not raised on oil from there, nor was it raised at Wheeling, above Marietta. The railroads raised the rate on Rice's oil at Marietta, but no raise was made anywhere else. There is evidence to prove this statement.¹

What further? The railroads over which Rice had been shipping to the southern markets raised the rate to him from 29 to 212 per cent over and above what the Standard Oil Company had to pay. Finally they refused to give Rice any rates at all.²

What further? The railroads paid the Standard Oil Company rebates on the oil that Rice shipped.³

¹ For the evidence to prove these statements, see Proceedings before the Interstate Commerce Commission in the Titusville and Oil City Independent cases, pages 26 and 27. See also Complaint of the Interstate Commerce Commission to the United States circuit court in the Cox case. See also Contentions of Railroad Companies in the Rice case, page 3 of their brief.

² See report of the committee of the Ohio legislature on railroad freight, pages 4, 21, 22, 126, 141, 166, 168, and 170.

³ See testimony in the Rice case before the Interstate Commerce Commission, numbers 21-40, pages 147, 148, and 149. See also Rice's complaint, page 4.

⁴ See the report of the committee of Congress on trusts in 1888, pages 575, 576, 577, 578, and 582. See also, in the present volume, Mr. Archbold, p. 644; Mr. Rice, pp. 704-705.

No. 159

UNITY, PA.

Mr. *Robert Leonard*

Station, *July 13* 1895

To THE ALLEGHENY VALLEY RAILWAY CO., Dr.

7/12/96
Way-Bill No. 16602 Car No. 14176

For Freight from

PITTSBURGH, PA.

MARKS.

ARTICLES.

WEIGHT. RATE.

FREIGHT.

Oil Well Supplies

32000 b

1920

(past)

Charges Paid at PITTSBURGH, PA.

TOTAL.

1920
2740
4660

DEMURRAGE will be charged for detention of cars and use of track by the failure of Consignees to unload cars within forty-eight (48) hours after notice of arrival, at the rate of One Dollar (\$1.00) per day or part thereof, for each car so detained.

W. H. McLaughlin, Freight Agent.



No. 254

Mr. Leonard Dalling Co

Station,

1890 189

TO THE ALLEGHENY VALLEY RAILWAY CO., DR.

For Freight from

Way-Bill No. 20754 Car No.

MARKS

ARTICLES.

1 Cord Rope

WEIGHT.

RATE.

FREIGHT.

36309

327

[Handwritten signature]

CHARGES PAID AT.

TOTAL,

327

DEMURRAGE will be charged for detention of cars and use of tracks by the failure of consignees to unload cars within forty-eight (48) hours after notice of arrival, at the rate of One Dollar (\$1.00) per day or part thereof, for each car so detained.

Freight Agent.

No. 308

189

Station

M. Patterson & Co. in v. d. Gully & Co.

TO THE ALLEGHENY VALLEY RAILWAY CO., DR.

Way-Bill No. 21687 Car No. 4266

For Freight from

MARKS

ARTICLES.

WEIGHT.

RATE.

FREIGHT.

1 Bbl Rods

180

13 1/4 miles for ton

13 1/4 miles for ton

14 mile

180

CHARGES PAID AT,

TOTAL,

DEMURRAGE will be charged for detention of cars and use of track by the failure of consignees to unload cars within forty-eight (48) hours after notice of arrival, at the rate of One Dollar (\$1.00) per day or part thereof, for each car so detained.

Freight Agent.

Mr. Wallace on Lockwood Rollins Station

Station,

189

For Freight from

TO THE ALLEGHENY VALLEY RAILWAY CO., DR.

Way-Bill No. 2644 Car No.

MARKS

ARTICLES.

ARTICLES.
L. J. M. & P. & P.

WEIGHT.

RATE.

FREIGHT.

2505

5

distance 14

CHARGES PAID AT.

TOTAL, 19

TOTAL,

DEMURRAGE will be charged for detention of cars and use of track by the failure of Consignees to unload cars within forty-eight (48) hours after notice of arrival, at the rate of One Dollar (\$1.00) per day or part thereof, for each car so detained.

Freight Agent

Q. (By Mr. KENNEDY.) How much?—A. I have given you the reference so you can tell. I did not go into that.

What further? The railroad companies discriminated against Rice in favor of the Standard Oil Company to an amount equal to \$128 per car on cars carrying 100 barrels.¹

I hope I am not asking too much when I ask the members of this commission to read these 48 pages² giving the history of George Rice's exertions to do business over these American railways. Every statement therein made is supported by sworn evidence before the Interstate Commerce Commission, before the courts, and State and national investigating committees. When you have read this report of crime and seen how the rights of American citizens are destroyed by these railway companies, I would suggest, and I think it proper, that when John D. Rockefeller appears before you, you ask him whether, if the railway companies had treated him as they did George Rice, he thinks that he could have succeeded in business.

Q. (By Senator MALLORY.) What is that [referring to book in witness's hand]? What book is that?—A. Three chapters of H. D. Lloyd's great book called *Wealth v. Commonwealth*.

It does not seem possible that, under this great Government, based upon the doctrine of the equal rights of man, such outrages could be possible. Yet this great Government, through its Congress and its commissions, seems powerless to prevent the wrongs which I have enumerated.

THE REMEDY FOR RAILWAY DISCRIMINATION.

What is the remedy? Take the railroads away from the corporations; make them public property, let the Government own and run them; make them highways over which the people can go to market upon even terms. The \$11,000,000,000 of capital combined in the railways of the Republic, organized under joint tariff and passenger associations, has throttled the law of competition and constituted one gigantic railway trust, controlling the highways of the people, dictating who shall and who shall not do the business of the country, and condemning this man to poverty and that man to riches. The holders of this \$11,000,000,000 of capital, with those holding the capital of the trusts and monopolies, have constituted themselves the political dictators of this country. They furnish millions of dollars for corrupt political campaign purposes. They assume to own the votes of all the men in their employ, and he who becomes politically obnoxious to them is blacklisted and turned out to starve or to hunt a new occupation. Shrewd politicians, backed by this combination of capital and this power, have constituted themselves political bosses. These political bosses are but the creatures and servants and instruments of this great corporate power, and these bosses are dictating the nominations of legislators, Congressmen, Senators, and judges satisfactory to their masters. In this way they are controlling legislation and escaping punishment for their crimes. It takes a strong man, Mr. Chairman, well anchored in the confidence and affections of his people, to triumph politically against this combined capital and power, and just in proportion as these great trust combinations are enabled to absorb the wealth produced by the people and impoverish them, just in that proportion will the people become subservient and cowering, because the fear of hunger for wife and babies makes cowards of us all. Can the Republic survive with these railways in the hands of corporations which are fastening these monopolies upon us? These corporations, in justification of their management of the highways of the people, the railways, set forth that they are moving the freight of this country cheaper than the freight of any other country upon the globe. True, but out of their own mouths they convict themselves of a great crime. I hold in my hand a receipted freight bill for the shipment of a carload of oil-well supplies from Harmony, Pa., to Unity, Pa., a distance of 49 miles. The cost was \$46.40 for this carload of 16 tons, or \$2.91 a ton for the 49 miles, or \$0.0593 per ton per mile. I have freight bills showing that I have paid \$0.0493 per ton per mile in carload lots. A large percentage of the freight of the American people is moved in less than carload lots. I have here receipted freight bills for 1 and 3 ton lots, and I find that I paid \$0.1257 per ton per mile.

Q. (By Mr. JENES.) Have you any evidence to show that, over the same road for the same distance and the same kind of freight, any lower rate has been given

¹ See exhibit, page 552, report of the Fifth Congress on combinations and trusts.

² H. D. Lloyd, *Wealth v. Commonwealth*.

to anybody else?—A. No; I have not. It is a small matter and I am only shipping occasionally, you know. A large percentage of the freight of the country is shipped by men who ship a car this month, a car next month, etc.

Q. These freight bills are for fifth and sixth class freight, which I think oil-well supplies are. Does not everybody pay the same freight?—A. For small shipments I suppose they do. Now, statistics show that all the freight of this country, including everything, is moved at the average rate of \$0.0085 per ton per mile. These facts convict the railroad managers of a great wrong, for these freight bills show that the people are being robbed for the benefit of the stockholders of the railroads; and the statistics show that the stockholders of the railroads are being robbed for the benefit of the monopolies, trusts, and favored shippers. Here is the problem: If the people are obliged to pay upon their shipments of freight, as these freight bills show, from \$0.0432 to \$0.1357 per ton per mile for the movement of their freight, and all of the freight of the country is moved for \$0.0085 per ton per mile, how much less than \$0.0085 do the monopolies, trusts, and favored shippers pay in order to bring this average from \$0.1357 per ton per mile down to \$0.0085 per ton per mile? The answer to this question will answer the oft-repeated question of why so many of our railroads are in the hands of receivers. A proper answer to this question will answer why it is that so many of our railway managers are becoming multi-millionaires while the railroads are becoming bankrupt. The record of the last 25 years has demonstrated that as long as the railways are in the hands of corporations they will use them for the benefit of their friends, or inside combinations, and for the purpose of destroying the great principle of equal rights, which is the foundation stone of our Republic.

Take the railroads away from these corporations, and give every man an equal right in the transportation of his products. I know the independent oil producers and refiners of America, and if you will establish equality over the railways, with a guaranty that that equality will continue, I feel safe in saying that in less than 15 years the independent oil producers and refiners will drive the Standard Oil Company into a secondary position in the oil trade of the country. These great trust combinations do not know the first principle of economical management. By virtue of the great flow of wealth which has come to them from railway rebates and trust possessions, they have not been obliged to study the principles of economy a moment in their lives. By this monopoly process they have been able to take more money from the people than they absolutely know what to do with. Reestablish the equality of our people with respect to the railways of the country and there will be no more coal-miners' strikes; soldiers and deputies will not be called upon to shoot down American citizens like dogs in order to force them back under monopolistic control, for then the miner can ship his car of coal just as cheap as the biggest coal combine in the land. Men do not strike and go out and starve except as a last resource. Establish the equality of our people over the railways of the country and then the coal miners, when they become dissatisfied for any reason, will get together and form a little coal company of their own instead of striking. They will lease McCoomse's or McLaughlin's farm, open up a coal mine of their own, and ship their coal, the product of their own labor, to market upon equal terms with the biggest coal combination in the land. How could these great overcapitalized and extravagantly managed coal combinations stand such competition as that? They could not stand it at all; it would be mighty hard on the big coal combinations, but it would be justice and a wise national policy. With absolute equality over the railways of the country, so that every butcher could ship a car of cattle just as cheaply as the Big Four Beef Combine, that combine could not hold the monopoly of the meat trade of America for 24 hours. Under Government control, the letter of an oil producer, a coal miner, or butcher goes to its destination with the same speed, at the same cost, and with the same precision as the letter of an Armour or a Rockefeller. Send their oil, meat and coal to market upon the same terms of equity and it will not be long before these monopolistic combinations will be getting rid of their \$25,000 a year lawyers and managers upon the plea that their business will not stand such high-priced men. These managers will soon be engaged in building up businesses of their own, and the lawyers in a better business than advising their principals just how far they can go without getting behind the bars.

GOVERNMENT OWNERSHIP AND CONTROL OF THE RAILWAYS FEASIBLE.

How can the railways be taken away from the corporations? The public welfare demands it, and the power exists under the right of eminent domain of the State. The States can condemn the railways for the public welfare just as the private

lands were condemned upon which the railways were built for the public welfare. Pay the corporations for them just what they are truly worth, and in this transaction let there be no injustice either to the people or to the stockholders. But, someone will say, how could the Government pay the interest on the immense public debt which this purchase would create? Mr. Chairman, the people in this land, who are the Government, are paying it to-day. These railway companies are taxing the people under exorbitant freight rates for the payment of the interest on all of their corporate debt, money dividends upon watered stock, and hundreds of millions annually for the benefit of trusts, monopolies, and favored shippers. The railways are the peoples' highways, and under Government ownership they are only changing their managers. One of the greatest judges that this land ever produced, in my judgment, once said that "a public highway can not be private property." An important reason for Government ownership consists in the fact that the bonded debt of the United States for the purpose of acquiring the railroads could be placed at from 1½ to 3 per cent less interest than is now being paid upon their bonded debt. This great reduction in interest would be an important factor in cheapening the cost of transportation. But a greater and more overshadowing reason for Government ownership is that then we should be able to shake off the grip of these monopolies from the throats of the people. But some very good men, however, fear the power of patronage which Government ownership would give the party in power. I do not fear it. That can be controlled by civil-service laws. But even if Government ownership should be a source of strength to the party in power, that party would have to be responsible to the people for a just, wise, and fair administration of this great public property in the interests of the people. Under corporate management, all of the power and influence of these great railway combinations, together with that of the men whom they control, is thrown into the balance in favor of this party or that party, according to whichever will secretly agree to serve them the best. They hold the balance of power in many of the States, and can elect the candidates of the party whose bosses will guarantee the greatest subserviency to their will. The party that obtains control by virtue of this influence is not held responsible to the people for the maladministration of these public highways, as they would be under Government ownership. It is because these \$11,000,000,000 of railway capital, together with all the men which it controls, are in politics clear up to their armpits, and it is because this capital and these men are in politics for corrupt and selfish purposes, irrespective of the public welfare. That capital of \$11,000,000,000, together with all the capital of the trusts, is corrupting our public affairs and debauching our public men. That constitutes one of the most important reasons why the people should take the railways away from the corporations. The record of the last 25 years has demonstrated that the Government must own and control them or else they will control the Government.

In the oil regions of Pennsylvania there is left a set of men who have never bowed the knee to Baal, but have battled on continually for their rights as American citizens in the use of the railways of the country. It has been a long battle; some of them who buckled on the armor in 1872 have been claimed by the hand of death; some of them have gone down under the blandishments and money of the Standard Oil Company; many of them have become bankrupt and been reduced to servitude and even obliged to go to work for that great monopoly in order to obtain bread for their families; some of them, with a deep sense of the great wrong that has blighted all their hopes and darkened all their future lives, with a deep sense of the great wrong that has driven them from the highways of the country, and chained them to the rock helpless while that great monopoly robbed them, have been driven to the grave of a suicide and to the insane asylums; but there are enough left to keep the faith and battle on for commercial liberty and equality. They have never faltered, but have battled as best they could with the means at their command. They first built the 26 pipe lines to which I have referred and then found that it was railway discrimination. They then went to the courts, and when the courts failed them, they went to Congress for the interstate commerce law. When the interstate commerce law failed them, they attempted to hew a way for themselves by building a pipe line to the ocean where commerce is free, thinking, hoping, praying that somewhere beyond our borders they might find a government where the equal rights of man are maintained upon the highways. We have found it in the great Empire of Germany, where the Government owns and controls the railways. The poorest man in Germany can ship a barrel of oil from one end of Germany to the other just as cheaply as the Standard Oil Company can. In Germany the independent oil producers and

refiners of America are not only able to compete successfully with the Standard Oil Company, but in addition they are enabled to earn flattering profits upon their entire capital. Give us national ownership of the American railways, which will insure and perpetuate equal rights, and we will soon give the people of America their oil at competitive rates. The people of America will not then be obliged to pay 40 per cent dividends on Standard Oil Trust stock, at least 50 per cent water, because there will be plenty of capital ready to serve them at 6 per cent profit upon the actual amount invested. I take no stock in the idea that inordinately great capital produces cheaply; where monopoly begins there improvement ends; it is competition that drives men to economy, improvement, and invention; it is monopoly that demands great profits. While competition was putting refined oil into tank steamers for the competitive markets of Germany at 2 cents a gallon, monopoly, backed by railway favoritism, was forcing the people of Texas and Arkansas to pay 25 cents a gallon for the oil that they burned in their lamps.¹ The attorneys of the Standard Oil Company, by a liberal use of the public press and a system of comparisons, have imposed upon the American people the thought that the Standard Oil Company has furnished them their oil cheaply. If the people have been served cheaply by this great monopoly what is the meaning of the \$500,000,000 which it has garnered? It is not the purpose of trusts to serve the people cheaply. It is their purpose to create monopoly and then force producers and consumers to pay dividends on billions of watered capital. Before the Sugar Trust had fully fastened its fangs upon us I bought good granulated sugar for my family use at \$3.90 a hundred. To-day the Sugar Trust is forcing the American people to pay from \$5 to \$6 a hundred upon the same grade of sugar, a difference, I am told, of more than \$200,000,000 annually. Two hundred million dollars, produced by the American people, are by this process transferred from the pockets of the people to the coffers of the Sugar Trust; and then Havemeyer says, "What are you going to do about it?"

How can this be prevented? First, by assuming control of the railways and guaranteeing to every man equal rates on the transportation of his products, and then by enacting a law forcing the great trusts and monopolistic combinations to fix a price upon their goods which, freights considered, will be the same in every township and hamlet of the land. When the price is changed at any point it must be changed everywhere. Make a violation of this law by the managers of corporations a State's prison offense. Corporations are the creatures of the State; the State has created them and has the right to control them in such a way that they will not be detrimental to the public welfare. Such a law would prevent the trusts and combinations from putting up the price in one section of the country, where there is no competition, and forcing the people there to pay the cost of destroying competition in another section. Such a law would prevent the corporations from forcing the people to pay for a war of annihilation against growing competition. It would protect and encourage competition upon every hand and cure the evils which are upon us. Say to all of our people—mine, manufacture, produce—the products of your labor shall go to market at rates equal for all, and you shall be protected in a fair competitive combat. Do this, and the great over-capitalized and unwieldy trust combinations will wither and go down before the energetic, intelligent, and active competitive capacity of the American people.

Q. (By Mr. KENNEDY.) I gather from the statements which you have just made that you believe freight discrimination and favoritism to be the mother of all the great trusts of this country?—A. I do, largely, yes; that is really the foundation; a trust must be protected in some way; the brains of the country are not in the heads of a few men. The protection which has created the Standard Oil Company, the Big Four Beef Combine, and trusts and monopolies of that class, is that of discrimination in freights.

(After a recess from 1 to 2 p. m. the examination of Mr. Lockwood continued.)

METHODS BY WHICH THE STANDARD OIL COMPANY SECURED CONTROL OF THE PIPE LINES.

Q. (By Mr. JENKS.) I understood you to say that there were quite a number of different pipe lines in the earlier days in Pennsylvania that were either forced to suspend operation or were bought up by the Standard Oil Company and united. How many pipe lines did you mention?—A. I have a record of, I think, about twenty-six.

Q. Can you tell us the methods by which the Standard Oil Company secured control of the pipe-line industry?—A. Well, in those early days their policy was to go to the wells and bid more for the oil than anyone else could pay. For the

¹ See p. 398; Mr. Archbold, p. 559; Mr. Emery, p. 616.

last 15 years they have adopted a policy of paying what they call a premium on oil that is accessible to the competing pipe lines. When a new pipe line starts into a particular district then the oil of that district becomes very valuable, the Standard Oil Company will put a premium on it, say, of 20 or 30 cents a barrel. When they have finally succeeded in driving out or buying up the competing pipe line the oil is no longer any more valuable than other oil, and then they take the premium off. Let me give you an illustration: In 1887 the Craig, Elkins & Kimble Company built the Western and Atlantic Pipe Line. They made their first shipment of oil on October 11, 1887. At that time the Standard Oil Company was paying 69 cents a barrel for crude oil at the wells. The Western and Atlantic Pipe Line did not fairly get started in business until the spring of 1888; but by that time the exchange market for crude oil, under the growing competition, was 88 cents per barrel, and the white-sand oils of Butler, Armstrong, Allegheny, and Washington counties, into which the Western & Atlantic Pipe Line ran, had become so valuable that the Standard Oil Company was paying a premium of 20 to 25 cents a barrel, which, added to the 88 cents, gave the producers of those counties \$1.08 and \$1.13 a barrel for their oil at the wells.

Refined oil was selling in August of that year for 7½ cents a gallon, including the barrels, in New York City and export points. In November, 1889, the Standard Oil Company was paying us \$1.30 a barrel for oil at the wells, and refined oil was selling in New York City at 7½ cents a gallon. Competition was putting crude oil up to the producers and refined oil down to the consumers. I have a very vivid remembrance of this time, because I was opening up some territory on the Little Connequenessing Creek, in the western part of Butler County, Pa., in what is known as the 100-foot rock. I had leased the Cable, Charley Young, Edward Young, Eyeholtz, and Hayes farms. I was getting some magnificent wells. One on the Eyeholtz farm started off at 125 barrels an hour. I had 1 well on the Charley Young farm that averaged 1,000 barrels a day for a long time. I think I drilled about 40 wells on this property. Competition was giving me all this oil was worth, as compared with what the consumer was paying for it, and I was getting rich. I was getting from \$1.10 to \$1.30 a barrel. About this time it became evident there was a 100-foot oil belt extending from the western part of Butler County down into the eastern part of Beaver County, Pa.

I worked night and day, and never stopped for anything, until I became interested in about 3 miles of this oil belt. Starting on the southwest I got the Fogle, Kanoff, Shrumm, Trautman, Allen, Passavant, Coker, Fauke, McCurdy, Eyeholtz, Getman, Eichenower, and Moyer farms. I was interested in 2½ miles of this oil belt solid; I had it all. I thought I would make a million. I got some grand wells; one on the Trautman farm started off 1,200 barrels a day. About this time the Standard Oil Company gave the Elkins and Kimble crowd their price, and bought their pipe lines and refineries. The very next day the premium came off from that oil. It was not any better then than any other oil. As soon as there was no competing pipe line its superior qualities were gone, and from that day competition was gone. The price of oil gradually fell to 53 cents. They kept the market below 60 cents for one whole year. I did not sell a barrel of oil for one year above 60 cents. The average, I think, was about 56 cents. The next year I was obliged to sell all my oil at less than 70 cents a barrel, and below the cost of production. This condition continued for two years. The Standard Oil Company practically confiscated all of that magnificent property, and instead of having \$1,000,000, which I should have had, if I had been able to secure my share of the profit that was made on that oil, I absolutely had to mortgage my property to get money to pay my debts contracted for the tubing, casing, engines, boilers, rope, tools, and men. All of the value of that immense property, that would have made any man a millionaire, was transferred to the coffers of the Standard Oil Company.

Q. (By Mr. KENNEDY.) What did you say was the price per barrel when it started?—A. \$1.30.

Q. And what was the price of refined oil?—A. The price of refined oil at the time I started was 7½ cents a gallon in New York City.

Q. The cost of refined did not go down at all compared with the cost of the crude?—A. No; it did not. You can see from the dates I have just given that during the period of competition when that pipe line was in existence, the price of crude oil went up and that of refined oil went down, I think, a fraction of a cent. The history of that case is the history of the manipulation of the Standard Oil Company over and over again. If the oil producers are lucky enough to find and open up a great field the Standard puts the price down and practically confiscates the profits. Of course the Standard Oil Company's newspapers will be full of

cock-and-bull stories about the increase of production and increase of stocks of oil, but the facts are, that during the year which I have described, when the price of crude oil was pulled down from \$1.30 to 53 cents a barrel, the entire increase would not have supplied the consumptive demand of the world for 2½ months.¹ All of this talk about production and stock was a mere subterfuge to take from the producers the wealth they had created and transfer it to the coffers of the Standard Oil Company.

Q. (By Mr. JENKS.) Does that practically cover the explanation of the way in which the pipe lines were absorbed by the Standard Oil Company and the effects upon producers?

Q. (By Mr. PHILLIPS.) About 28 in number?—A. Yes; I have a record here of the number and names of them, if it would be of any benefit.

Q. It is, perhaps, not worth while to name them here, if you can give us the reference to the book. [Book held by the witness.]—A. Now, this is in a biographical book in which there is a speech delivered by myself on the free-pipe bill question 20 years ago.

DOES THE STANDARD OIL COMPANY AT PRESENT RECEIVE FAVORS FROM THE RAILROADS?

Q. In your testimony this morning you gave a great many instances of special railroad rates that were secured by the Standard Oil Company a good many years ago, and showed how, in your judgment, by virtue of these special rates, the Standard Oil Company had been built up. You cited us also the authorities by which these statements could be verified. Have you any information or any proof that the Standard Oil Company is at the present time getting any special privileges from any of the railroads?—A. The evidence in the Titusville and Oil City Independent cases goes to prove that.

Q. (By Mr. JENKS.) How long ago were these cases brought?—A. They were brought in—

Q. (By Mr. KENNEDY, interrupting.) Did you not say 1893 this morning?—A. It was about then; they were along after the interstate-commerce law was enacted. The evidence all goes to prove that the railroad companies are manipulated in some way so that the Standard Oil Company gets an advantage, and the great fear among the independent producers and refiners is that, after they have gone on and extended their trade and spent money to build up stations in which to do business in any section of the country, by some scheme the railroad companies will put up the rate on them and shut them out of that district, just as they shut them out of the New England States in the case which I cited this morning. It is the fear of railway discrimination that paralyzes men.

Q. (By Mr. JENKS.) We have had some evidence offered tending to show that the Standard Oil Company is at the present time receiving special favors. Have you yourself anything of a definite nature to offer in that direction?—A. No. I am an oil producer and I do not get in touch with the railroad people so much as the refinery men do. I have no doubt that they are getting a great advantage to-day, and probably at the end of 4 or 5 years we will find out just what that advantage is. At the time when they were getting \$1.50 and sometimes more in rebates they persistently denied that they had any advantages, but ultimately the truth came out in some way and we saw then why it was that they were triumphing over the independent companies.

Q. Have you any information at the present time with reference to the freight rates on oil over the Canadian roads?—A. No; I have no information on that subject.

Q. Did you not give us some instances this morning of very high rates which you had paid on some of the roads that run from Pittsburg to Union City?—A. To Unity Station.

Q. You showed that these rates were very much higher than the average rates throughout the country. Have you any proof of discrimination in rates between different persons or different companies by those railroads?—A. The road that extends to Unity is a coal road. It was built into that district to take out coal for, I think, the Buffalo and Cleveland Coal and Gas Company. I was told, while operating in that district, that the rate of freight on coal to anybody outside of that company was so high that it was impossible for them to compete at all in the market at Buffalo and in Canada.

Q. Were the rates on coal different to members of the company from what they were to outsiders, or were the rates the same to all parties, the members of the company getting their profits simply from the high rates that put money into

¹ See table of stocks and prices, p. 547.

STANDARD OIL COMPANY

PAID UP CAPITAL \$3,500,000
 FULL PAID

35,000 SHARES
 \$100 EACH

This is to certify that
 One Hundred Dollars each
 in the Capital Stock of the
 Standard Oil Company, being one of the
 shares of the Company in full of the
 Corporation and in payment of all liabilities on the part of the holder to the
 Company, subject to the provisions of law and the By-Laws of the Company,
 is hereby acknowledged by the President and Secretary
 of the Company
 1st 1887

James H. McGowan
 President

1887

their pockets as railroad owners?—A. I really do not know the inside working of that coal road. All I know is that the men who own coal farms there can not ship their coal. They are powerless to do any business in competition with the coal combination.

Q. Of course that might have been true, even though the owners of the road were paying the same rates, because what they were paying out in one form they were possibly getting back in another. Have you any information to show that this railroad has been acting contrary to law in making discriminations?—A. I imagine that on the class of freights which I ship everybody pays the same.

Q. Is there very much freight shipped over this road besides coal?—A. There has been quite a development in the oil and gas business in the region, which has made that road necessary for shipping oil supplies and pipes.

Q. You speak of this railroad running from Pittsburg to Unity. Is it a small line or a large road?—A. It is a part of the Allegheny Valley system, which is a branch of the Pennsylvania Railroad.

PIPE LINES OF THE INDEPENDENT COMPANIES.

Q. (By Mr. KENNEDY.) Did you not say the independent companies had their own pipe lines to the seaboard?—A. After the purchase by the Standard Oil Company of the Elkins, Kimble & Craig pipe-line system, when oil got down so low that it meant bankruptcy and ruin to all of us, the independent oil producers went to work and tried to hew a way out for ourselves by building a pipe line through to the seaboard. The first movement was in building what was known as the Producers and Refiners' Pipe Line Company, Limited. I think that was built into the McDonald field, with the expectation of piping oil to the railroads and then shipping it in cars to the independent refineries at Oil City and Titusville. As soon as that was completed and business began, a system of discrimination was set up against them in some way. I do not remember just how it was, but it resulted in the producers having to lay a line from the McDonald field, where the first little line was started, through to Oil City and Titusville and the refineries. After they had done that the discrimination began against the refined oil again. As long as these refinery men were taking the inferior oils of the Standard Oil Company which had been in tanks until the finer parts had evaporated, there was not much discrimination against them, I understand, but after they were able to get good fresh oil from the wells shipments of refined oil were blocked. Then we undertook to lay the seaboard line from Titusville to New York, or Jersey City.

Q. Have you a line there?—A. The line has been built down into New Jersey, but the railroads have blocked us. The managers bought a piece of land in fee simple that went under where a highway, a wagon road, passed. In the lower courts I believe we got a verdict in favor of our right to lay the line under there and transport oil, but they finally carried the case up to the supreme court in New Jersey, and after we had laid our line, I think, 60 miles farther on, that court reversed the decision and forced us to stop. I do not know, but I think we are still putting oil through there, but it is subject to the final decision of the court. The verdict was reversed by which we had the right.¹

Q. Does the line go to the seaboard?—A. It goes down now from New Jersey over the Central Railroad.

Q. (By Mr. PHILLIPS.) From what point?—A. From the end of the pipe line, I think 80 or 90 miles; it may not be as far as that to the tanks at the seaboard. This line that the Producers and Refiners Company has built is a double line. They transport the refined oil from the refineries at Oil City, Bradford, and Titusville through to the end of this pipe line, as they do the crude oil, and then it goes on board the cars to the seaboard. The refined oil is there put into steam tank vessels and sent to Germany, where the independent producers and refiners have built 3 large stations, each one of them, I think, capable of holding 70,000 barrels of oil. The crude oil is refined at the seaboard. In Germany there is no railway discrimination.

Q. What I wish to get at is whether the railroads now give the Standard Oil Company any advantage over you in getting oil to the seaboard; but I judge, by what you say, that, with the possible exception of the Jersey Central, no road can do it.—A. No road except the Jersey Central Railroad has anything to do with our oil from the time it leaves the well until it gets to the seaboard.

Q. They cannot, then, give the Standard Oil Company any advantage over you?—A. No, not on export oil; we are on even terms with the Standard Oil Company, with the exception, I think, of about 7 cents freight per barrel.

Q. (By Mr. PHILLIPS.) It does not exceed 15?—A. No, it does not exceed that.

¹ See Mr. Emery, pp. 650-655, 662; Mr. Phillips, p. 593.

SHIPPING REFINED OIL THROUGH PIPE LINES.

Q. A great deal has been said about the Standard Oil Company's methods of doing business. Were they ever able to, or did they ever, ship refined oil any distances through pipe lines?—A. Not to my knowledge; they have always claimed that it could not be done; that it would injure the quality of the oil.

Q. What has been proved by this pipe line running through to New Jersey?—A. It has been proved that it can be done successfully. You can ship 110 fire test, which is export oil, and put through right behind it 150 fire test, and separate the oil at the end of the line without making a change of more than a barrel, which is within 20 or 30 feet of the column of oil.

Q. Is that an improvement by the independents over the Standard Oil Company's methods of handling oil?—A. Certainly; very much.

Q. (By Mr. KENNEDY.) Then the independent companies do have some advantage over the Standard Oil Company in getting their oil to the seaboard?—A. In that connection.

Q. (By Mr. PHILLIPS.) Does the Standard Oil Company refine a percentage of theirs at the seaboard after pumping it through in a crude state?—A. Yes; I understand their export oil is nearly all refined at the seaboard.

PRICE OF OIL SHIPPED TO GERMANY.

Q. (By Mr. JENKS.) Did I understand you to say this morning that the independent refineries were supplying refined oil in Germany at 2 cents a gallon?—A. In the contest for that trade the producers sent shiploads of oil to Germany at from 2½ to 2½ cents a gallon; one cargo of oil, I believe, was sent at 1½ cents a gallon.

Q. Was that for the purpose of starting the German trade?—A. Yes; it was to get into the trade.

Q. They were then selling oil in Germany considerably cheaper than here?—A. I think so; a good deal cheaper than it was sold to American people generally.¹

RELATIONS BETWEEN INTERSTATE COMMERCE COMMISSION AND THE STANDARD OIL COMPANY.

Q. Did I understand you to say that the independent oil producers were chiefly instrumental in starting the idea of the interstate-commerce law?—A. Yes.

Q. And also that since the interstate-commerce law had been in force the Standard Oil Company, in particular, and the railroads, who were opposed to any restrictions upon their powers, had succeeded, in your judgment, in defeating largely the purpose of the law?—A. Yes.

Q. And in that connection, did you make the statement that the members of the Interstate Commerce Commission have been threatened?—A. Yes.

Q. In what way have they been threatened?—A. That their powers would be tested.

Q. You do not mean, then, that the members of the Interstate Commerce Commission had been personally threatened?—A. Oh, no; they simply questioned their authority and threatened to test their powers.

Q. From the connection in which you used the expression I was not certain but that you meant to say that the members had been personally threatened. You meant simply that the Standard Oil Company and the railroads had asserted that they thought they could defeat the law?—A. That the Commission did not have the power to perform the duties provided for it under the law.

Q. And they proposed to test that in the courts?—A. Yes; in the courts. There was one case taken into the courts by the Commission. You remember the Cox case; that was 11 years ago, and it has not yet been finished.

THE PRESS SUBSIDIZED BY THE STANDARD OIL COMPANY.

Q. You made the statement also that the press had been subsidized by the Standard Oil Company. Have you any positive information of special cases in which the Standard Oil Company has subsidized the newspapers?—A. Well, they have bought out the Oil City Derrick, and have hired Pat Boyle to run it. He runs it in their interest. I do not know just what the arrangements are, but the

¹ See Mr. Lee, p. 274.

paper is conducted in the interest of the Standard Oil Company, and attacks the independent producers and their movements.

Q. (By Mr. PHILLIPS.) Has there ever been any action brought against that paper for libel?—A. Yes. I think that Senator Lee sued them for libel; they published some very damaging statements, and he brought suit against them. I think Senator Emery also brought suit against them for what they stated about him.¹

Q. Were either or both of these suits carried to a conclusion?—A. I am not certain as to how those cases ended. My memory is that they were settled in some way, but I do not know just how.

Q. (By Mr. JENKS.) Have you any other specific cases in mind besides the Oil City Derrick?—A. Well, the Titusville papers, particularly the Titusville Herald, seemed to be under their thumb, and the Pittsburg papers have now reached a point where they take all of the oil information that they publish from the Standard people. The Standard publish what they want to in the reports and in the daily papers.²

Q. Your statement, then, means substantially this, that there are several papers in the section of the country in which you live that regularly make favorable reports with reference to the Standard Oil Company's methods and unfavorable reports with reference to the methods of those opposed to it?—A. Yes.

Q. More particularly the Oil City Derrick?—A. More particularly the Oil City Derrick.

Q. But you have no direct personal knowledge that the paper is owned by the Standard Oil Company, and you make your assertions largely upon the nature of the material that is published by that paper?—A. That is the source of the knowledge I have of the transaction.

Q. (By Mr. PHILLIPS.) Has the Oil City Derrick generally been favorable or unfavorable to the independent movement?—A. It is bitterly opposed to the independent movement and attacks the credit and reputation of the men who are exerting themselves for an outlet.

Q. You do not remember the termination of their suit at Warren in regard to the libel case?—A. Now, I am not sure as to that.

RAILWAY DISCRIMINATIONS RESUMED.

Q. (By Representative BELL.) Have you ever read Larrabee's book on railroads?—A. Yes.

Q. What would you say as to the merits of it?—A. Well, I think it is a full exposition of the railroad question in this country.

Q. Does not he develop the fact that as early as 1876 there was a tendency in the United States to interfere in political affairs?—A. That is, a tendency of the railroads to manipulate political parties?

Q. Yes.—A. Yes.

Q. And to fill judicial positions with their sympathizers?—A. Yes.

Q. Now, you spoke of the Standard Oil Company building up their trust through railroad discriminations. Was there any reason whatever at that time for creating the trust or anything that would enable them to build up the trust other than railroad discrimination?—A. I do not think there was. The men who were refining oil were men of ability and business capacity. At least equal to the business capacity of the Standard Oil people, with the exception that the Standard Oil people recognized that it was a question of advantage in freight rates instead of a question of superior goods; that superior goods could not go over the railways unless the railways let them.

Q. They raised the price on crude oil from about 40 to 80 cents a barrel, and then if an independent company shipped a barrel of oil did they not take 40 cents of that and hand it over to the Southern Improvement Company?—A. From 40 cents to \$1.10.

Q. And that had the effect of destroying not only the competitors, but of destroying the value of all the independent oil wells in the United States?—A. Very largely.

Q. And the market fell off?—A. Very much.

Q. And forced them out of business?—A. In a great many cases.

Q. Have you given any attention to the coal fields of Pennsylvania?—A. No; I have not, except in a general way.

Q. Is it a fact that the railroads of the United States refuse to let any private individuals operate a coal field?—A. Yes; I know that to be the case in Allegheny County.

¹ See Mr. Boyle, p. 487.

² See Mr. Boyle, pp. 404, 487; Mr. Rogers, p. 587; Mr. Monnett, pp. 312, 381.

Q. They have an independent coal company, which is a kind of a wheel within a wheel, gotten up among the railroad stockholders?—A. Yes; and that company is the only one that can successfully ship coal over that special railroad.

Q. If they give you a rate, do you ever have any trouble in your country in getting cars?—A. Why, in those early days and throughout the time of the independent refiners' struggle that was one of the principal ways in which the railroads discriminated in favor of the Standard Oil Company. They refused to give cars to men who had oil to ship. For instance, if a man wanted 20 or 30 cars, perhaps 2 or 3 days after he needed them 1 or 2 would come, and he would not be able to get his oil into the market at the time he expected.

Q. What have you seen in the way of discrimination against towns? Has anything of that kind come under your observation?—A. Well, not personally, but in the investigation of this question I have found that towns are built by railroads and that towns are practically destroyed by railroads as far as their commerce and industry are concerned.

Q. Is it the tendency of private ownership to create commercial centers, great centers?—A. Yes.

Q. Like Chicago?—A. And New York.

Q. Now, what, in your judgment, would be the effect of Government ownership or Government control that would require all railroads to carry freight for one man at the same price as they carry it for all others, the distribution of population being taken into consideration?—A. I think that it would be especially beneficial. It would give individual enterprise an opportunity. Men would have the courage to enter into business enterprises that they do not dare to enter under the present system.

Q. As I understand you, there is a timidity about building up enterprises in your part of the country for fear of discriminations in favor of some strong company and against the men that are starting the new enterprises?—A. Yes.

Q. These men are afraid to meet competition?—A. Yes; the great, overshadowing fear that men have in the oil country in starting in to compete for the oil trade and the refining business is that the railways will design against them and shut them out of the markets; that is the trouble. If there was a guaranty that everybody would be treated equally by the railways, the men of the oil regions have the courage, the ability, and the resources to go in and do this business.

Q. Now, what has been the experience in your part of the country with regard to the individual farmer marketing his product and the elevator companies shipping the same product from the West?—A. We do not have any elevator companies in our section.

Q. No; not in your section; I refer to the elevator companies in Chicago and the West. How does the freight rate from Chicago to New York correspond with that from Pennsylvania to New York?—A. Well, from the information that I have gathered on investigation of the subject, the rate from Chicago to New York is sometimes much less than it is from Pittsburg to New York.

Q. That is, the elevator companies and the beef companies can reach the markets in New York for less than the individual farmer in Pennsylvania?—A. Yes; I believe that.

Q. Is that a general principle now established with regard to the beef combines, the elevator combines, and all like combines?—A. I think it is.

RELATIONS BETWEEN RAILROADS AND THE SOUTH IMPROVEMENT COMPANY RESUMED.

Q. (By Mr. RATCHFORD.) Did I understand you to say this morning that the South Improvement Company made a contract with the railroad companies in 1872?—A. Yes; in 1872.

Q. Was that a contract to transport their products at certain prices?—A. Yes, at certain prices; they raised the prices.

Q. Would you care to state those prices?—A. I can not state the prices without referring to the testimony in those cases.

Q. (By Mr. PHILLIPS.) Have you referred to where that testimony can be found?—A. I have referred to the sworn testimony.

Q. (By Mr. RATCHFORD.) Can you state who composed this South Improvement Company? Was it composed of the independent producers and refiners?—A. The South Improvement Company was composed of 18 men. Ten of them were afterwards the prime movers in the Standard Oil Company combine.¹

Q. It appears that the contract to which you refer was not carried out on the part of the railroad company.—A. No; publicly it was not. I wish you would let

¹ See Mr. Emery, p. 619; Mr. Rice, p. 490.

me answer that. That contract was so abhorrent to every idea of American right that the men in the oil regions went into revolt. They would not stand it; they created such an excitement that the legislature took up the question and repealed the charter of the South Improvement Company.

Q. Did the producers bring action against the railroad company?—A. There was a settlement of the difficulty at the time, in which the producers, or a committee of the producers, entered into a contract with the railroad company that henceforth there should be no discrimination for or against anybody; that everybody was to have equal rights. I have given the reference to that contract;¹ it is on record.

Q. Is the South Improvement Company still in existence?—A. The charter of the South Improvement Company was repealed by the Pennsylvania legislature in 1872, and the company, of course, went out of existence; but as you will note, by referring to my statement, everything that the railroad company contracted to do publicly for the South Improvement Company in 1872 they have since secretly and persistently done for the benefit of the Standard Oil Company. If the South Improvement Company had been allowed to go on, they would have created a monopoly and controlled the oil business just exactly as the Standard Oil Company, enjoying the same advantages which the railroad companies had contracted to give the South Improvement Company, was afterwards able to do.

THE CASE OF MR. RICE RESUMED.²

Q. In referring to the case of Mr. Rice, of Marietta, against the Standard Oil Company, did you say that the railroad companies increased the rate on Mr. Rice's product, charging him an exorbitant price?—A. Yes.

Q. And that in doing so they paid a certain percentage of the amount received from Mr. Rice to the Standard Oil Company?—A. That is right. Now let me answer that a little further. Rice got the crude oil for his refinery from the Maxburg field, which, I think, is something like 70 or 80 miles from Marietta. Rice had a little pipe line and a car. He obtained a rate, I think, of 15 cents a barrel from the Lake road for his car, running it back and forth. He was extending his business, and the Standard Oil Company got after that railroad and told those men that he had to be stopped. When the road went into the hands of a receiver, Daniel O'Day went to the receiver and threatened that unless they would carry the Standard oil for, I think, 10 cents a barrel and charge Rice 35 cents a barrel—I am not quite sure as to these amounts, but I can fix that—they would lay a pipe line and ship all their oil by pipe line to their refineries in Marietta. The evidence shows that the receiver made that arrangement, and out of the 35 cents that Rice paid he turned over 20 or 25 cents in rebates to the Standard Oil Company. It is in evidence; it is on record; it can all be seen.

Q. Do you believe that it was the result of a demand on the part of the Standard Oil Company?—A. Yes.

Q. Following that question, now, a little further, have you not stated that the railroad company finally refused to ship Mr. Rice's oil at any price?—A. Yes; that was afterwards. Rice extended his pipe line to the Muskingum River, I think, or some river that runs in there at Marietta, and got some flatboats. The refusal to give Rice any rate at all was when he attempted to get his oil into the southern markets.

Q. Do you believe that was also the result of the influence of the Standard Oil Company?—A. I have no doubt of it in the world; not the least.

Q. Now, if the Standard Oil Company found it advantageous to get from the railroad company a certain percentage of the money paid by Mr. Rice for his shipment, how could it be advantageous for it to influence the railroad company to give Mr. Rice no transportation?—A. The profit of this monopoly has been enormous. The \$500,000,000 which it is said they have accumulated is an immense amount of wealth, and they have gotten it by working the railroads to destroy all competitors so that they could force the consumer to pay a large price for their oil. The 25 cents rebate which they got on Rice's oil was only a drop in the bucket compared to the profits that they could obtain by shutting Rice out of the market and selling their oil in Rice's territory.

Q. I take it from that that the company obtained the best conditions they could and that when they could improve them they did so. Is that it?—A. The Standard Oil people?

Q. Yes.—A. They are always looking out for the Standard Oil.

¹ See p. 385.

² See p. 390.

WASHINGTON, D. C., September 6, 1899.

TESTIMONY OF PATRICK C. BOYLE,

Proprietor and publisher of the Oil City Derrick.

The commission met at 10.30 a. m., September 6, 1899. Vice-Chairman Phillips presided and introduced Mr. Patrick C. Boyle, of Oil City, Pa., who, being duly sworn, testified regarding the oil industry.

THE OIL CITY DERRICK THE ORGAN OF OIL PRODUCERS.

Q. (By Mr. PHILLIPS.) Please state to the commission your name and residence.—A. Patrick C. Boyle, Oil City, Pa.

Q. What business are you engaged in?—A. Just now I am an editor and publisher.

Q. Of what paper?—A. The Oil City Derrick.

Q. You are the editor and publisher of that paper?—A. And proprietor.

Q. Who are the owners and stockholders?—A. Well, there are five stockholders. I own all of the stock but enough to qualify—all but four shares; there are four other stockholders owning one share each, enough to qualify them as directors.

Q. Are any of the Standard Oil Company interested at present, or have they been, in the Oil City Derrick?—A. They are not now and have not been for very many years. I have been the proprietor of the paper for a great many years.

Q. Were they not the original purchasers of the paper before you came into possession of it?—A. When I came into possession it was known as the Derrick Publishing Company, and W. J. Young was manager; that was in 1885.

Q. Was W. J. Young managing it in the interests of the Standard Oil Company?—A. Not as I understand it. He did not conduct it in the interests of any particular party, but employed editors, and they printed the news, as other papers did.

Q. Is it not publicly and fully known to be the organ of the Standard Oil Company? Is it not so considered throughout the whole oil field?—A. It may be assumed to be the organ of the Standard Oil Company, but it is not. It is the organ of the oil producers. It is the firm and steadfast friend of the producing interest, and has been from that day to the present time. I am speaking of my personal connection with it. From 1879 to 1885 I knew very little about the paper, but up to 1879 and since 1885 it has not been the organ of any special party.

Q. Has there ever been any adverse criticism of the Standard Oil Company in the Derrick?—A. Oh, unquestionably; any number of them.

Q. Within the last 10 years?—A. Oh, I can not recall any particular time. Within the last 10 years there has been no occasion for adverse criticism of the Standard Oil Company. There unquestionably would have been if there had been any occasion for it.¹

Q. Since you have been manager it has always been very friendly to the Standard Oil Company?—A. I can not say that. It is very friendly to the entire oil trade. As the Standard Oil Company is a part or division of that trade, it is friendly to that as well as the other interests.

Q. Has it not been adverse to all the independent movements that have been started since you have been manager and editor?—A. No, sir.

Q. And especially the independent pipe lines?—A. Only to those involving an unnecessary outlay of money and a taxation of the producers. It has stood hand in glove with the producers except those who would impose a tax on them for useless service.

Q. Do you consider it imposing a tax on the producers for the refiners and producers to build a pipe line into a given field for their own benefit?—A. So long as there was an efficient service already performed at the same cost I should consider it a hardship to have a duplicate.

Q. If you owned a refinery would you consider it a hardship on yourself and stockholders to lay a pipe line to gather oil from the fields?—A. We have taken the position that the producer would not be benefited by the duplication of the pipe line, and in that position we have been sustained by the results. Most of the pipe lines erected 10 years ago have never paid a cent in dividends.

¹ See Mr. Lockwood, pp. 398, 399

WHY THE WITNESS IS BEFORE THE COMMISSION.

Q. You may proceed in your own way to make a statement of whatever facts you have to the commission, but there is one question I will take the liberty to ask before you proceed. By whose solicitation did you come before this commission to give testimony?—A. My own.

Q. Your own solicitation. Did you have any conversation with the principals of the Standard Oil Company before coming before this commission?—A. None whatever, before or since. I should like to state in way of explanation that it was the outrageous testimony which I had heard here by previous witnesses that impelled me to ask the privilege of coming before you as an observer and as a person in a position to know the facts and to make some statements concerning the oil industry.

EARLY HISTORY OF THE OIL INDUSTRY.

There was an oil business in existence before Drake drilled his experimental well in 1859. The manufacture of shale oil began about 1840 in France, 10 years later in England, and 3 years later in America. While America was perhaps the latest among the Anglo-Saxon races to embark in the new industry, it made up in enterprise what it lacked in precedence. With the discovery of petroleum in 1859 the coal-oil industry of this country within a year or two practically ceased to exist, and plants constructed for the distillation of oil from shale were converted into refineries for the crude petroleum. By this means the refining industry was fully established, when petroleum appeared to claim the attention of commerce. The product, crude from the wells, found a ready market at remunerative prices. Petroleum was produced from gravel beds, salt wells, and oil springs long before it was obtained by the artesian process, and a considerable commerce established by Kier, Badger, Ferris, Peterson, Lockhart, and others when the Drake well came to increase the production. It was not at once used in the arts, but a demand was found for it among the apothecaries, and for many years it was known to the pharmacopœist as a liniment. Artesian borings were first applied in America by salt producers. At this point I should like to present petroleum in the original package. That is the way it appears. [Presenting small bottles of crude petroleum]. The first is from the Kiers well, and the second is from a well in Kentucky—from the American oil well on the Cumberland River. Prof. S. F. Peckham describes at some length in the Tenth Census reports the process employed by Colonel Ruffner, the pioneer salt-well driller, in 1808. Colonel Ruffner is given credit by this writer for having devised drilling tools not differing materially in form from those now in use. The jars, an essential implement in the oil-well driller's outfit, is said to have been devised and first used by Colonel Ruffner, and every salt-well borer since his time has laid claim to the use of this indispensable implement. As a matter of fact, drilling tools, substantially the same in form, were employed by the English coal hunters a hundred years before. This, however, does not detract in the least from the credit due to Colonel Ruffner, who unquestionably had never seen nor heard of an English rock-boring outfit. Many of the early oil wells were drilled after the manner of Ruffner and those who succeeded him with light tools, depending from the end of a flexible pole, which rose and fell by hand power manually applied. Oil, often in very considerable quantity, was noticed in salt wells, in some of which the flow was so free as to interfere with the operation for brine. The demand for salt, about 1810 to 1814, along the western slope of the Alleghenies from New York to Alabama was so great as to excite adventure in many parts, and salt wells were bored simultaneously in widely separated localities on the Ohio, Monongahela, Allegheny, and Kanawha rivers and their tributaries in large numbers, and with what might pass for spontaneous effort. Every district so explored has its traditions of oil discoveries, and, singular to say, the later oil developments in almost every instance have been faithfully outlined by the salt wells. In the absence of surface indications, at one time much in demand, all the earlier oil developments were conducted in the vicinity of salt districts, with the single exception of Oil Creek, and here it was found exuding from crevices in the rock or from gravel bed deposits. Rev. S. J. M. Eaton, one of the most intelligent observers among the early writers on oil topics, reports the first shipment of petroleum from the region of Oil Creek to consist of two 5-gallon kegs, conveyed to Pittsburg on horseback by a Mr. Carey, one of the first settlers in Venango County. Gen. Samuel Hays, another pioneer settler of Venango County, at a later period purchased the oil product of the county, 16 barrels in all, representing a year's production, which was conveyed to Pittsburg by raft and sold to

apothecaries at a dollar a gallon. Previous to 1820 the production of oil from salt wells, added to a somewhat extensive dipping interest at various places in several States, had reached a very considerable amount; so large, indeed, that the supply seemed inexhaustible, and a writer in the *Pittsburg Gazette* in 1828 agitates the use of petroleum for street-lighting purposes.

THE FIRST FLOWING OIL WELL.

The first flowing well anywhere was the famous American well, near Burkesville, on the Cumberland River, in Kentucky. It was drilled for brine in 1829, on the land of Mr. Lemuel Stockton, who passes into history as the first of his race to literally "set the river on fire."

Niles' Register (1829) says: "Some months since, in the act of boring for salt wells, in Cumberland County, Ky., a vein of pure oil was struck, from which it is almost incredible the quantity of the substance issued. The discharges were by floods, at intervals of from 2 to 5 minutes between each flow, vomiting forth many barrels of pure oil. These floods continued for 3 or 4 weeks, when they subsided to a constant stream, affording many thousand gallons per day."

Another writer says: "The oil found its way into the Cumberland River, was set on fire, and is said to have burred on the surface for a distance of 40 miles below." In 1833 Professor Siliman describes a visit to the oil springs near Cuba, N. Y., and the manner of collecting the oil from the surface of the water. Charles B. Tergo, in his *Geography of Pennsylvania*, 1843, describes the oil springs on Oil Creek, from each of which from 2 to 10 barrels of oil were collected in the season by the proprietors. In 1845 petroleum obtained from Peterson's salt well, at Tarentum, was experimentally used as a lubricant at the Hope Cotton Factory, in Allegheny. Two years later, Thomas and Samuel M. Kier produced oil from salt wells in the vicinity of Peterson's wells, and Samuel Kier, deeming the oil more important than salt, set about to find a market for it. A description of his efforts in this direction is set forth in the *Derrick Handbook*, pages 945 and 947. No one who is familiar with the history of the petroleum industry can withhold from Kier the credit of being the first trader and one of the earliest manufacturers of mineral oil. His efforts in behalf of an infant industry merit more than passing notice, and his contribution to it should be perpetuated in permanent form by a grateful people.

ORGANIZED ATTEMPT TO PRODUCE PETROLEUM.

The first organized effort to produce petroleum appears to have been set on foot in 1853 by Jacob D. Angier, of Titusville. The first recorded lease, the one under which he operated, contained these stipulations, to wit:

"Agreed, this 4th day of July, A. D. 1853, with J. D. Angier, of Cherrytree Township, Venango County, Pa., that he shall repair up and keep in good order the old oil spring on land in said Cherrytree Township, or dig and make new springs, and the expense to be deducted out of the proceeds of the oil, and the balance, if any, to be equally divided, the one-half to J. D. Angier, the other half to Brewer, Watson & Co., for the full term of 5 years from this date, if profitable.

"BREWER, WATSON & CO.
"J. D. ANGIER."

The royalty or rental fixed in the above lease served as a model for the oil leases later on, and the terms were adopted to a very considerable extent during the earlier periods of development. Under this agreement Angier proceeded to dig ditches and pits, and in so doing frequently struck pockets of oil in the gravel a few feet below the surface. When the ditches were first opened from 4 to 6 gallons were collected per day from the surface of the water, but the labor required to keep the oil flowing consumed the entire profit, and after a few months the experiment was abandoned.

Angier appeared to have been unfortunate only in his location. A slight change of a very few rods north and westward would have brought him to the vicinity of what was subsequently known as the bonanza district, where, in 1877, oil springs were developed at a depth of 15 feet in a bed of gravel confined above and below by a casing of clay, impervious to water, from which, in the course of a very few months, thousands of barrels of oil were obtained.

The next organized effort to obtain oil from the springs was by George H. Bissell and Jonathan G. Eveleth, who in 1854 purchased 185 acres in Cherrytree Township, Venango County, from Brewer, Watson & Co., upon which the subsequent experiments of Drake were conducted. Preliminary to the boring of the Drake

well a lease, dated December 30, 1857, was effected by and between the Pennsylvania Rock Oil Company, and E. D. Bowditch and E. L. Drake, conveying the same land purchased by Bissell & Eveleth from Brewer, Watson & Co. As the first oil lease under which operations were actually conducted it is worthy of notice. The lease in substance makes acknowledgment of the payment of \$1 in hand, then is mentioned the demise and let of the lands, "owned or held under lease by the said company in the county of Venango, in the State of Pennsylvania, to bore, dig, mine, search for, obtain oil, salt, coal, or other minerals existing in and upon said land, and to take and remove and sell such for the exclusive use and benefit, for the term of 15 years, with the privilege of renewal for the same term. Rental, one-eighth of all the oil collected from the springs in barrels furnished or paid for by lessors. The lessees may elect to purchase the said one-eighth royalty at 45 cents a gallon, but when such election be made it shall remain. On all other minerals, 10 per cent of the net profit. Lessees agree to prosecute operations as early in the spring of 1858 as the season will permit, and the failure to work the property for an unreasonable length of time or failure to pay rent for more than 60 days, the lease to be null and void." By agreement, February 12, 1858, the lease was amended so that 12 cents for every gallon of oil should be payment in full for all rental; the amendment also gave the lessees the privilege of renewal for 25 years.

SUCCESSFUL PRODUCTION IN THE OIL CREEK TERRITORY.

The experimental boring, begun in 1858, was not carried to a successful conclusion till the latter part of August, 1859. The excitement attending the success of Drake's experiment finds a parallel in the gold discoveries in California, to which it is second only in degree and not importance. The fact that the oil could be obtained by artesian boring with so little labor and expense was sufficient to create a demand for territory in the vicinity and to inspire others to follow his example. During this and the year following wells were completed in various parts, embracing the entire length of Oil Creek, south of Titusville and extending to Franklin, below its mouth and Tidioute above. The produced oil did not go begging for a market; rather buyers came begging for the oil. Col. A. C. Ferris claims to have purchased the first thousand barrels produced from the Drake well, which he distributed among the New York refineries. The early writers, Gesner, Hodge, Redwood, Antisell and others inform us that the art of refining coal oil had attained to an advanced stage before petroleum was commercially known. Both Gesner and Antisell published lists of patents covering almost every process of manufacture as practiced by the oil refiner of the present day, all known and many of them issued prior to 1860. Steam was freely used in distillation and suggestions offered for various processes of continuous distillation. In 1860 Joshua Merrill took out letters patent for a process for "cracking" oil, which demonstrates that chemistry was abreast of the drill, in devising useful methods of manufacture.

TRANSPORTATION AND MEASURES OF OIL.

The one problem left unsolved was that of transportation. The oil district, then 30 miles distant from the nearest railway points, was dependent upon teams for an outlet. Oil was conveyed by wagons from Titusville to Union Mills (now Union City) and Erie, by raft and barge to Pittsburg, by way of Oil Creek and the Allegheny River. Oil refineries rose as if by magic throughout the region. Before the industry had closed its first year there is said to have been upward of a dozen so-called refineries in Erie, 50 miles distant from the fields of production. One of the difficulties met at the outset was the scarcity of packages. The demand for barrels outgrew the supply, and any cask fit to retain fluid was impressed into the service of the oil producer. The unit of measure at the outset being the gallon, sales were made on that basis, therefore the size of the package was not a necessary condition to trade. But later on, when the barrel became the unit, discrepancy in the size of barrels became a matter of embarrassment to the producer. The resources of the seaport towns were drawn upon for coopers, and as a consequence men from the Eastern States were among the first to recognize the importance of establishing barrel works in the new oil fields. The whaling industry, at that time unprofitable, owing to the extended voyages and hardship of the chase, had a fully developed cooperage industry, and mechanics drawn from this trade found employment in the oil-producing country. The capacity of the barrel became a matter of comment among producers about the time of the advent of the whale-oil men, who brought casks of enormous size with them,

which in periods of surplus production were offered and accepted as ordinary barrels. Therefore the necessity for a uniform barrel was early apparent. As the result of these discussions, 40 gallons became the trade-customs barrel for crude oil, and this continued from 1860 to 1866, when representative producers got together and issued the following:

"Whereas it is conceded by all producers of crude petroleum on Oil Creek that the present system of selling crude oil by barrel without regard to the size is injurious to the oil trade, alike to the buyer and seller, as buyers with the ordinary sized barrels can not compete with those with large ones, we therefore mutually agree and bind ourselves that from this date we will sell no crude oil by barrel or package, but by the gallon only. An allowance of 2 gallons will be made on the gauge of each and every 40 gallons in favor of the buyer."

It will be seen that the barrel by resolution differs from the barrel by adoption only in the addition of 2 gallons for tare or waste. Later on, after the establishment of pipe lines, buyers began to demand 42 gallons net with the addition of 2 per cent for tare, which is the accepted barrel of to-day, although the construction placed upon the barrel by the Government during the period of excise, April 1, 1865, to March, 1866, was "any vessel containing not more than 45 gallons and not less than 28 gallons." This amount was subject to a duty of \$1. The railroads, for transportation purposes, when bulk shipments began, construed the barrel to be 45 gallons, and so it remains, but the barrel of commerce is 42 gallons.

NUMBER OF WELLS IN OIL CREEK REGION PREVIOUS TO 1869.

The development after the striking of the Drake well was necessarily slow, and its history is somewhat obscure. We can do no better than quote from the Derrick's Handbook, page 788, in regard to this period:

"There is a great deal of uncertainty in the early records of field operations. No systematic effort at collecting the statistics of rigs, drilling wells, and completed wells was made, except by spasmodic efforts now and then, until May, 1875, when the Derrick commenced to publish its regular monthly report of oil developments."

On November 21, 1860, the Venango Spectator published a report containing the names and location of 74 producing wells in the Venango oil region. These wells had a combined daily production of 1,165 barrels, and were distributed from the head of Oil Creek to its mouth and along the Allegheny from Tidioute to the Hoover well, 3 miles below Franklin. In this report the output of Drake No. 1 is given as 12 barrels, and No. 2 at 30 barrels a day.

A year and a half later, May 18, 1863, the Oil City Register made a careful estimate of the entire field and gave results as follows: "Number of producing wells, 75; number of wells that had formerly flowed and pumped, 62; wells drilling, 358; total, 495."

On January 1, 1869, according to Cone and Johns, in Petrolia, there were 1,186 producing wells in the region. About 150 of these wells produced less than 2 barrels. There were 200 of which the production was less than 5 barrels a day. Of the entire number on the producing list, 724 were completed in 1868 and the remainder during the preceding years, as follows: 1867, 148; 1866, 92; 1865, 99; 1864, 46; 1863, 29; 1862, 20; 1861, 17; 1860, 10; 1859, 1.

The total number of wells drilled in the region from 1859 to 1869, as given by Henry E. Wrigley, in the Second Geological Survey, was 5,560. This would show that 4,874 wells had been completed and abandoned as dry or unprofitable during the first ten years of the industry.

Before the closing of Professor Wrigley's report the oil business had become firmly established and thoroughly systematized in all its departments.

FLOWING WELLS AND THEIR DISASTROUS EFFECTS.

At the close of 1860 fully 500 teams found employment in the transportation of oil from the wells and the movement of supplies, in addition to the flats and barges employed on the creek and river to the number of 100 or more. In 1861 flowing wells appeared to vex the producer and embarrass the trade. The first flowing well, which was also the scene of the first tragedy in connection with oil development, was struck in April by Little & Merrick, on the John Buchanan farm, Rouseville, 3 miles above the mouth of Oil Creek and 12 miles below the Drake well. The sight of a flowing well was so unusual as to attract many spectators, who crowded about the derrick to the number of some hundreds, and while they were looking on in amazement at the phenomenon before them, fire was com-

municated to the floating gas by a near-by boiler, when a terrific explosion occurred and in the resulting fire 17 persons lost their lives, among them being the Hon. Henry R. Rouse, ex-member of the legislature and one of the leading spirits in the oil development.

In June following, the Funk well, about midway between the Rouseville and the Drake wells began to flow, and in September of that year, Phillips & Co. No. 2 on the Tarr farm, about midway between the 2 flowing wells, began to gush at the unheard of rate of 4,000 barrels a day. In December the Woodford well, 400 feet from Tarr No. 2, was flowing at the rate of 3,000 barrels a day. The effect of the flowing wells upon the oil trade was little short of disastrous to the small producers, and for the time being were not a little embarrassing to the owners thereof. The scarcity of barrels and the absence of tankage made it extremely difficult to save the oil, but as fortune would have it, all these flowing wells were located on the banks of Oil Creek and the barges became available to store the surplus production. One of the effects of the enormous production was to smash the market which, at the close of 1860, was not very strong, having declined from \$20 a barrel in January to \$2 in December. January, 1861, prices opened at \$1.75; the market continued to soften until the advent of the gushers, when it went off to nominally nothing, 5 and 10 cents a barrel being offered.

The condition of the trade at the close of 1861 was very much worse than it was at the beginning, and this period, owing to overproduction and the political disturbances due to the opening of the rebellion, was one of the worst known in the history of the business. One of the results of the flowing wells was to create a corner on oil barrels, coopers refusing to sell except for cash, and the value of a barrel at this time expressed in terms of oil was as 20 to 1.

CONDITION OF THE INDUSTRY IN 1862—CONSTRUCTION OF THE FIRST PIPE LINE.

Unremunerative prices checked production, and the spring of 1862 witnessed a gradual rise in the price of oil. The suspension of specie payment and the rapid advance in the price of gold caused a general advance in the values of all kinds of commodities. Petroleum was in good demand and better prices began to prevail. Oil at the wells rose from 10 cents a barrel in January to \$1 in June and \$2.50 in December. The most reliable estimate of the average for the year is \$1.05 per barrel.

The development work in 1862, while not large, was exceedingly important in the discovery of large wells. Operations for the most part were confined to the Upper Allegheny—that is, Tidioute, Oil, and French creeks. Smith's Ferry, 100 miles in a bee line from the Drake well, marks the first important extension of the oil development. The cost of sending a barrel of oil to New York from the producing field in January of this year was \$7.45; the cost of delivering a barrel of oil in Pittsburg by steamboat, \$2; teaming from Oil Creek to Meadville, \$2.25. The producers, appreciating by this time the value of good resolutions, held a town meeting and resolved to sell no oil at less than \$4 per barrel.

A bill was this year introduced in the legislature for a pipe line from the upper oil farms to the mouth of the creek. A charter was granted under the title of the Oil Creek Transportation Company to carry oil in pipes or tubes from any point on Oil Creek to the mouth or to any point on the Erie Railroad. No line was built.

In March of this year the first shut-in movement for the betterment of prices was inaugurated, owing to the stagnant condition of the trade. Stopcocks were turned on the wells, production ceased for a considerable period, and the movement was carried to a successful conclusion. Congress during this year imposed a tax of 10 cents per gallon on refined oil and proposed to tax crude oil 5 cents per barrel; but the producers, conscious of the power to be attained by uniting, held a town meeting in Titusville, where resolutions were adopted and Congress petitioned to lay a tax on refined oil only, and for the benefit of the refiners recommended a drawback on all oil exported to foreign countries. Congress assenting, laid a tax of 10 cents a gallon on refined oil and absolved the producer from any levy whatever.

The first successful pipe line was constructed during this year by J. M. Barrows, to convey oil from the Densmore wells on the Tarr farm to his refinery, distant about 1,000 feet. This was the first pipe line, "correct in principle and successful in operation."

About the same time a pipe line $2\frac{1}{2}$ miles long was constructed from Tarr farm to the Humboldt refinery. Cast-iron pipe with lead joints was used as a conduit. Great loss resulted from leakage at the joints. After an experiment of some months' duration, the loss from this source proving greater than the cost of

transportation by team, the enterprise was abandoned, and no other attempt was made to solve the great problem of hydraulic engineering until Van Sickle's experiment, 24 years later. Railways were extended into the region this year—the Oil Creek road south from Corry to Titusville and the Atlantic and Great Western eastward from Meadville to Franklin. By means of the latter the Cleveland refining interest received its first great impulse, since it was possible to receive oil by rail direct from the wells without transshipment, and the advantage thus derived gave them a trade position later on which was practically impregnable.

On the other hand, Samuel Downer, availing himself of the advantage of rail transportation, located an oil refinery, the largest of its day, at Corry, a point most admirably adapted because of the facilities afforded by two competing railroads.

DEVELOPMENTS IN 1863 AND TRANSPORTATION BY BOATS.

The production of the large wells had greatly declined and the total yield for 1863 was hardly one-half that at the beginning of 1863; developments throughout the year did not materially add to the production. The development work of the year was neither large nor important, though not entirely lacking in sensational features, as attested by the striking of the Noble and Delamater well on the Farel farm, Upper Oil Creek, which started with an initial production of 3,000 barrels, and maintained an average of 1,000 barrels per day throughout the year. This was followed in midsummer by the Maple Shade well on the Hyde and Egbert farm, which started with an initial production of 1,000 barrels per day. During this year the pond fresh obtained its highest development. A conservative estimate of the number of boats plying on Oil Creek at this time would be 300, and upon the Allegheny River 700, making a total of 1,000 boats employed in transporting oil.

The pond fresh was unique in that it was an artificial flood, made by confining the water in several dams, all of which were cut at a given time, letting out vast quantities of water and creating a boating stage that continued from 2 to 3 hours, during which hundreds of boats would float out with the tide and reach the Allegheny River. The pond fresh had its days, when water was comparatively plentiful, as many as two a week would be arranged when water was plentiful, but during the dry season it was generally limited to one—Friday usually being the day selected. It was not unusual for 20,000 to 60,000 barrels of oil to pass out of the creek upon one of these artificial freshets. If a source of convenience to the trade it was also a source of annoyance because of accidents occurring to boats and the consequent loss of oil. A careful writer has estimated that fully one-seventh of the oil produced was wasted by the oil freshets, leaky barrels, etc., which loss, as a rule, was incurred by the shipper. The pond fresh was a source of considerable expense to shippers and boatmen, and to meet the cost of creating the artificial rise a tax upon the boats or oil shipments was levied by an agent of the mill men who controlled the water. The method of collecting the tax, though somewhat simple, was exceedingly laborious, an agent passing along the creek from point to point making the collections before the boats started. It frequently occurred that when collections were difficult the fresh was delayed often as much as a day.

The fall of this year was exceedingly dry, and the mill men, taking advantage of it, raised the price of water upon shippers. The difficulty in making collections at this particular time caused the insertion of the following notice in the Oil City Register, October 29, 1863, signed, A. S. Dobbins, superintendent.

"A statement in regard to the cost of a pond fresh in dry weather, or when all the dams are needed, may be interesting to those who have to pay for them, and will serve to explain why 4 cents per barrel per pond-fresh tax is charged this season instead of 2 cents for the same purpose the last season. I here give the cost of the dams and other necessary expenses of the pond fresh this year: Kingsland's dam, \$300; Pearson's dam, \$12; Stanton's, \$20; Childs, Benedict & Rouse's, \$20; Tallant's, \$5; Newton's, \$20; Langworthy's, \$7; Tryan's, \$20; Lyttell's, \$10; Hide Creek, \$29; for superintendent's horse, expenses and hire of the 2 men to cut dams, one on each creek, \$40; thus making a total of \$583. All these dams can not often be had, as their owners will not set them up for us. In dry weather Mr. Benedict will not cut his at any price, hence we can not get the Rouse dam, which is right above it. In dry seasons a freshet can not be had every week, and if the superintendent spends a week or two extra between freshets collecting along the creek, this must be added to the expense. So that

in some cases a fresh actually costs \$400. The same dam which we now pay Mr. Kingsland \$200 for cost us in the early part of last season but \$55, and at no time during the summer of 1862 over \$100. Other owners of dams have raised their prices but not in the same proportion. The rise in the price of oil and the railroads at Titusville and Franklin have greatly diminished the amount of oil run out of Oil Creek. While the cost of a pond fresh is fully as much as last year, the amount of oil shipped is fully one-third less. During the prevalence of the smallpox and cholera scare it was impossible to collect the tax; and then many boats run through to Franklin without stopping, and they 'haven't stopped since.' This leaves us with a debt of nearly \$800 to commence the coming season."

Transportation by teams and boats received their first effective blow by the completion, that year, of the Atlantic and Great Western Railroad to Franklin, and the Oil Creek from Corry to Titusville.

CONDITION OF THE OIL-PRODUCING INDUSTRY IN 1864.

During 1864 the Oil Creek developments were extended to Upper Cherry Run, and there was great excitement over oil in all parts of the country. It was the beginning of the era of oil stock companies and every part of the known oil region was purchased or leased by them. In July, 1864, the Reed and Criswell well, on the Reed lot, Cherry Run, was struck and flowed at from 280 to 800 barrels a day. A quarter of the land interest in this well was sold for \$280,000, and the first purchasers realized nearly \$1,000,000. Oil in July sold as high as \$18.75 per barrel. In this year the export trade began to assume large proportions, and the total shipments of refined oil abroad amounted to nearly three and one-half times as much as was sent abroad in 1863. Prices reached the highest point this year since 1859 and 1860 and have not been paralleled in the history of any succeeding year. Starting at \$4 a barrel in January, values rapidly appreciated until July, when some sales were made at \$14. There was afterwards a falling off which carried prices down to \$0.50 a barrel in October, but this was followed by another rally, and the year closed with oil bringing from \$10.50 to \$12.

In July, 1864, the Oil Creek Railroad was completed from Titusville to the Schaffer farm. There was an active demand for lands along the Clarion River, but the experimental wells were all failures.

COST OF DRILLING WELLS IN 1864.

Drilling extended to the hill slopes and hilltops during 1864, and the use of machinery for drilling purposes became more general. The cost of drilling a well to a depth of 600 feet at this time, as given by Eaton, page 125, is as follows:

40 feet of metal pipe, at \$6 per foot.....	\$240.00
1 engine, 10-horse power.....	1,600.00
Band wheel and belting.....	125.00
1 set of boring implements.....	325.00
Derrick, complete, bull wheel, etc.....	100.00
600 feet of cable and sand-pump rope.....	100.00
Drilling, 600 feet, at \$2.50 per foot.....	1,500.00
600 bushels of coal at 50 cents.....	300.00
Total	4,290.00

SPECULATION AND AMOUNT OF CAPITAL INVESTED IN THE BUSINESS.

It is difficult for the average mind, unfamiliar with dealings in speculative interests, to appreciate the magnitude of the oil business at the time. The capital represented was greatly in excess of that necessary to produce the results attained on the side of production. Speculation had become such a prominent feature of the business that the most extravagant prices were offered and declined for desirable producing properties. The same is true of the refining branch of the business, which was so enormously remunerative, transportation alone being unaffected by the spirit of speculation. John W. Forney is authority for the statement, made by Governor Curtin at Titusville, on the occasion of a visit to the oil region this year, that "4,000 teams were employed in the transportation of oil and supplies in the oil fields, and that 1,000 boats, employing from 2,000 to 4,000 men and as many horses, found employment upon the creek and river."

The capital invested in teams and paraphernalia, reckoned at the prices ruling for this time, namely, \$800 per outfit, amount to the enormous sum of \$3,000,000. Adding to this \$3,000,000 for the 1,000,000 oil barrels required to handle the product, estimated at the ruling price of \$3 each, there would be a sum total of \$6,000,000 embarked in the single feature of transportation. In the above I have averaged the barges with their outfit as equaling in value the price of a team of horses and its outfit. The average production for the year did not greatly exceed 6,000 barrels a day, and had reached the full limit of the existing transportation facilities. That is to say, if production had increased at this time beyond the capacity of the teams and boats to haul the product to the market, oil would have backed up at the wells, gone into permanent storage or to waste. The capital engaged in transportation would have purchased the entire production of the region at \$1,000 a barrel, a sum greatly in excess of the cost of production. In other words, transportation had so fully kept pace with field developments that the cost of moving a barrel of oil to the river or railroads exceeded that of producing it.

IMPORTANT EXTENSIONS OF THE OIL FIELD IN 1865.

The year 1865 witnessed the collapse of the speculative oil bubble. The opening of the Pithole pool is one of the landmarks of field developments. Marked extensions of the oil field took place during this year, notably the discovery of oil at Parkers Landing, following upon the heels of a successful venture in the same line at Bradys Bend at the close of the year previous. Pipe lines came into use and revolutionized the transportation. On the market side prices failed to maintain the high average of the preceding year, owing to the imposition of an excise tax of a dollar a barrel on crude oil, which went into effect on April 1.

THE TAX ON OIL AND PRICES IN 1865.

This tax has to be deducted when figuring what was actually realized by the producers for their oil at the wells. Starting at \$10 a barrel in January, the lowest point, \$4, was reached in August. After that there was an advance to \$9.50 in October, but the year closed with oil at \$5 a barrel. The statisticians of the New York financial journals placed the average realized for oil in 1865 at \$4.27 in gold, and \$6.61 to \$7 in currency. At New York the average price for refined for the year was 87½ cents per gallon. The Columbia Oil Company realized \$6.65 per barrel for their product during the first half and \$5.87 for the latter half of the year 1865. Their average for the year was \$6.18. It is well to recall that these are quotations along Oil Creek, and that a tax of \$1 a barrel had to be paid from the producers' receipts. Oil at Pithole sold as low as \$2.50 per barrel in August and \$4.50 to \$4.60 in December. It was not unusual previous to the establishment of pipe lines to find a difference of 50 per cent between the ruling prices on Oil Creek and those at the wells at Pithole, the difference being due to the cost of transportation.

IMPORTANT IMPROVEMENTS IN 1865.

In many respects 1865 stands forth as the red-letter year in the oil business. During this year casing was introduced, by which the life, so to speak, of an oil well was greatly prolonged, as well as its production materially increased, by permitting the free escape of gas in such manner that it could be utilized for fuel purposes in the production of steam. Tank cars appeared on the railroads, due to the inventive genius of the Denzmores, admitting of bulk shipment for the first time by rail, and dispensing with the cumbersome barrel, which had proved both an incubus and an embarrassment to the trade. There were sundry improvements in drilling; a notable increase in the weight of the tools; the torpedo appeared as an aid to production, upon the appearance of which the crevice searcher, sand scraper, volcano burner, steam injectors, and various other devices for increasing production disappeared. The cylinder gas pump came into limited use this year, displacing the rotary gas blowers and atmospheric injectors previously in use. The use of benzine as a solvent for paraffin was beginning to attract public notice. Careful observers estimate that in the five years ending 1870 a million barrels of benzine went into oil wells to dissolve paraffin, came out as crude oil, and was sold back to the refiners at an advance of 800 and 400 per cent on the original cost.

Shippers eventually were compelled to apply a gravity test upon all oils to protect themselves from the benzine habit, and for many years high gravity oils, now so much in demand, were not considered a good delivery at export points. I think the limit of gravity was placed at 48°. Oils above 48° were not a good delivery at export points.

The increase in the refining capacity during 1864-65 was a matter of very general comment throughout the region. Eaton estimates that there were 90 refineries in the oil region, with a crude capacity of 18,000 barrels a week, costing on an average \$10,000 each. The whole he roughly estimated at \$1,000,000 in value.

PROGRESS IN THE CONSTRUCTION OF PIPE LINES.

The first successful pipe line was completed during this year,¹ the Miller Farm line, using force pumps to deliver the product at a railroad point 5 miles distant. About the same time the Pennsylvania Tubing Transportation Company completed a gravity line from Pithole to Oleopolis, on the river. Both were successful and well patronized. The effect was to reduce the cost of delivering oil to shipping points from \$2 and \$3, according to the condition of the roads, to a uniform price of \$1 per barrel, the fixed price established by the pipe lines. Within a year five pipe lines centered in Pithole, competing for a business scarcely sufficient for one, namely, the Miller Farm Pipe Line, the Pennsylvania Tubing and Transportation Company (later known as the Rochester and Oleopolis Pipe Line), Pickett & Sherman's Titusville Pipe Line, John Warren & Bros.'s Pipe Line to Henrys Bend, and Smiley & Coutant's gathering line about Pithole. When pipe lines were first established they did not reach out for the producers' wells, but established a tank at a fixed point, called a "dump," at which the producer was obliged to deliver his oil in barrels. Smiley & Coutant's line was the first to connect with the producers' wells and its function was limited to delivering the producers' oil to the dump tanks of the pipe lines. Later on they sold their gathering system to the Titusville Pipe Line and from that time forward the pipe lines were extended to the producers' tanks and gathered their oil on their own account. The tariff charged for gathering this oil by Smiley & Coutant was 25 cents a barrel, being slightly below the cost of delivery by team in barrels.

I want to call your attention especially to the following fact: It has been stated before you that piping the refined oil is a recent thing.² During this year, 1865, refined oil was successfully transported by pipe lines a distance of 3 miles by John Warren & Bro. from the Osceola refinery, at Plummer, to McMaho's Run, on the Allegheny River, near Oleopolis.

The following year Vandergrift & Forman's Pipe Line put in an appearance and made the sixth pipe line competing for business in the Pithole watershed.

Commenting upon the pipe-line system, just then introduced, the Pithole Record, in its issue of October 16, modestly says: "One of the most wonderful of the many wonders produced at Pithole is the oil pipe running from the United States well to the Miller farm, on Oil Creek, a distance, on an air line, of about 5 miles. The pipe is 2 inches in diameter and lies most of the way on top of ground. Three pumping engines are stationed along the route, forcing the oil through the pipe at the rate of about 80 barrels an hour, doing the work of about 300 teams working 10 hours a day. This machine can work all day and all night. This was considered experimental, but proved a decided success. The 6-inch pipe line laid from Pithole Creek to the Island well, distant 7 miles, by the Pennsylvania Tubing Company, is likewise a success."

COST OF TRANSPORTATION IN 1865.

The cost of moving a barrel of oil from Pithole to New York in December, 1865, was \$5.55, to wit: Pipe transportation from Pithole to Miller farm, \$1; barreling, shipping, etc., at Miller farm, 25 cents; freight to Corry by the Oil Creek Railroad, 80 cents; freight from Corry to New York, \$3.50. Cost of delivering a barrel of oil to New York by the way of Pittsburgh: Transportation charges by pipe from Pithole to the river, \$1; freight on river to Pittsburgh, \$1.50; wharfage, loading, etc., at Pittsburgh, 25 cents; freight from Pittsburgh to New York, \$3.44; total, \$4.59; difference in favor of Pittsburgh route, 56 cents.

The price of moving a barrel of oil from any part of the region to the seaboard to-day is 50 cents or less, owing to the existence of pipe lines, the price for rail and pipe being the same since 1879.

¹ See pp. 406, 604.

² See testimony of J. W. Lee, page 267; Mr. Lockwood, p. 366.

THE PRODUCTION AND PRICE OF OIL IN 1866.

The tax on crude oil was repealed in May, 1866, but it did not stay the downward tendency in prices. Production had been increasing under the impetus of higher values and the daily yield for the winter of 1866 was at least 12,000 barrels. By May this had largely declined, owing to the falling off in the output of the wells at Pithole, and prices again began to strengthen, but the collapse of numerous oil companies and the general scare over the bursting of the great oil bubble exercised a depressing influence. The Columbia Oil Company's statement (we have a good deal to say about that company, because it is the only company that has been in existence constantly from the beginning of the oil business to the present time; their prices were given at stated periods and they were producing continuously from 1861 to 1890) shows sales at \$1.65 to \$5, and an average price of \$3.78 per barrel for the year. Another good strike was made at Bradys Bend this year, promising the opening up of new territory in that section.

RAILWAY TRANSPORTATION AND BANK FAILURES.

Railways were now in general operation throughout Venango County, and the beginning of increased shipments of oil by rail is to be noted. The railroads and the pipe lines eventually superseded the water transportation of petroleum down the Allegheny River. At the beginning of this year the Oil City and Pithole railroad was ready to carry freight from Pithole to Oleopolis. The failure of the banking house of Culver, Penn & Co., the prime movers of which were interested in financial institutions throughout the oil country, caused great excitement and the closing of several of the smaller banks. Among them were the Petroleum Bank, Venango County Bank, Crawford County Bank, and Cotton & Co.'s Bank, located at Oil City, Meadville, Titusville, and Petroleum Center.

Q. (By Mr. PHILLIPS.) Were these banks all under the control of Culver, Penn & Co.?—A. They were supposed to be under the control of Culver, Penn & Co.

Q. They, therefore, did not affect other banks so as to cause failures?—A. But Culver, Penn & Co. were so closely identified with the oil interest at this time that it seemed to affect it at every point.

LOSS OF OIL BY FIRE—INCENDIARY.

In April, 1866, the oil tanks of Henry Harley & Co., at Shaffer, which received the oil from Benninghoff Run, two miles distant by pipe line, were set on fire by an incendiary mob composed, it is said, of teamsters, who had been thrown out of work by the construction of this and other pipe lines. Four Oil Creek railroad cars, with two tanks on each, together with pipes, platforms, and about 1,000 barrels of oil, were burned. In July, 1866, the Titusville Pipe Company perfected arrangements whereby oil shippers could have their product shipped direct to New York by the Empire Line, the pipe line lading bill answering for the entire distance. The effect of that innovation by the Empire Line, 1866, was to make one rate on the oil from the well to the seaboard or refinery, a matter which caused a great deal of discussion later on between the shippers, producers, and railroads. The Oil City Register estimated that the loss of oil by fire during the first six months of 1866 amounted to 70,000 barrels. The Warren and Franklin railroad was completed to Oleopolis, where it connected with the Oil City and Pithole railroad. It was noted that Professor Hamar, in July, 1866, successfully exploded a torpedo in a well on the Tarr farm, which is reported to have brought the well up from nothing to 800 barrels.

CONDITION OF THE INDUSTRY IN 1867.

The year 1867 proved another one of low prices and general depression owing to over-production. Dennis Run and Triumph Hill, near Tidioute, with Shamburg and Scrub Grass, were added to the producing area this year. The advent of railroads and the established success of the pipe-line system had greatly improved the methods and lessened the cost of oil transportation. Pipeage charges from Benninghoff Run to Shaffer were 50 cents per barrel; Pithole to Titusville, 50 cents; Bull Run to the Miller farm, 45 cents.

West Virginia had assumed some prominence as an oil field, and the daily pro-

duction of the various fields was reported in January as follows: Burning Springs, 500 barrels; White Oak, 200 barrels; Sand Hill and Horse Neck, 100 barrels; lubricating oil district, 100 barrels a day.

Q. The first production was at Burning Springs, on the Little Kanawha, and was for many years confined to that region?—A. The first was at Burning Springs; that is, the first actual operations were there; but almost contemporary were the operations on Duck Creek in Ohio.

Q. But both these fields ceased to be any factor?—A. They ceased to be any factor from 1861 to 1867. In 1867 there was an increase. They came into prominence then through the operations in the vicinity of Newells Run and Cow Run in Ohio. The production had not entirely ceased at any time on Duck Creek.

In March, John Ponton published his much-abused pamphlet on the Crisis in the Oil Region, in which he figured the stock of oil in the United States on March 10 to be 386,105 barrels; in Europe, 325,000 barrels; a total of 711,105 barrels. He figured the foreign and home consumption of oil during 1866 at 8,577 barrels per day, and declared that it would require a net daily production of 11,237 barrels to supply the probable demand of the year. The production he placed at about 6,000 barrels a day, showing a deficit of over 5,000 barrels. At an estimated value of \$2 a barrel for crude oil for that period Ponton proceeded to demonstrate by figures that the production of oil was a losing business. He went into figures showing the cost of producing or lifting oil by gas on an estimated value of \$3,500 a well, and was able to show a profit of \$504 by the use of gas that cost nothing; by the use of coal, at 50 cents a bushel, he was able to show a loss of over \$1,500 to the producer at existing prices; with wood fuel, at a cost of \$10 a cord, there was a loss of upward of \$1,000.

HIGH COST OF FUEL IN THE OIL REGION.

Q. Will you state why fuel was so high at that time? From where was the coal supplied?—A. The high cost of fuel was owing in very great part to the difficulties in teaming. Coal was procured from various places.

Q. But largely from Pittsburg?—A. Largely, and from points on the Allegheny River.

Q. There was no coal produced in the immediate oil field?—A. Not on Oil Creek; the nearest coal to Oil Creek was at the Cranberry mines, 4 miles south of Oil City and substantially 20 miles south of the Drake well.

Q. A very large number of people think that coal and oil have some connection; I brought it up for that reason; there is no coal overlying the original oil fields?—A. There is no coal overlying the original oil fields, but, with the completion of the Jamestown road, the coal was brought in from the Jamestown fields at a very much less cost.

PROFIT AND LOSS IN THE PRODUCTION OF OIL.

I will read an extract from John Ponton's *A Crisis in the Oil Region, 1867*:

"The cost of sinking wells at the present time is less by from \$2,000 to \$3,000 than it used to be when new engines and machinery had to be bought and labor was more expensive. With secondhand machinery the average cost of sinking a well is \$3,500; very rare instances occur where men have been fortunate enough to put down their wells for \$2,500, while in other cases it has cost \$6,000. We will, therefore, take \$3,500 as the average. From accurate statistical information it has been ascertained that upward of 50 per cent of all the wells that have been sunk in the region have produced no oil; this is an actual loss of capital to the extent of \$350,000 in every hundred, and the hundreds of wells yearly put down will give an idea of the exhaustion of the life principle of the region. Of the producing wells, 14 per cent are under 5 barrels, and three-fourths of the oil is obtained from wells under 30 barrels per day. What is meant by a 30-barrel well is one which produces 210 barrels per week. This class of wells sometimes pump 40, 50, and even 60 barrels when running, but as they are constantly breaking down they average only 30 barrels per day.

"About 50 per cent of this class of wells use, in some cases partially, in others totally, gas for fuel; the other 50 per cent use wood and coal. In nearly every instance one-half the oil goes to pay the land interest; this reduces the supply to 15 barrels per day. Now the average life of wells does not exceed six months, and we shall see whether or not it is a paying business.

416 HEARINGS BEFORE THE INDUSTRIAL COMMISSION.

"The average daily cost of running a 30-barrel well by gas, coal, and wood, is as follows:

BY GAS.

Two engineers, at \$3.....	\$6.00
Waste oil and repairs.....	2.00
	<hr/> 8.00
By 15 barrels of oil, at \$2	30.00
Deduct expenses.....	8.00
	<hr/> 22.00
Surplus to pay back capital.....	22.00
\$22 per day for 182 days or 6 months	4,004.00
Original capital invested.....	8,500.00
	<hr/> 504.00
Profit	504.00

BY COAL.

Two engineers, at \$3.....	6.00
Waste oil and repairs.....	2.00
Seven-eighths ton coal, at \$12 delivered	10.50
	<hr/> 18.50
By 15 barrels of oil, at \$2	30.00
Deduct expenses.....	18.50
	<hr/> 11.50
Surplus to pay back capital.....	11.50
Original capital invested.....	3,500.00
\$11.50 per day for 182 days or 6 months	2,093.00
	<hr/> 1,507.00
Loss	1,507.00

BY WOOD.

Generally \$2 less than coal	\$16.50
	<hr/>
By 15 barrels of oil, at \$2	30.00
Deduct expenses.....	16.50
	<hr/> 13.50
Surplus to pay back capital.....	13.50
Original capital invested	3,500.00
\$13.50 per day for 182 days, or 6 months.....	2,457.00
	<hr/> 1,043.00
Loss	1,043.00

"These figures clearly prove that the present low price of oil has a direct tendency to destroy the entire oil production of the territory, and not only is the capital of the country becoming rapidly exhausted, but, owing to the reckless speculation in oil lands in the years 1864 and 1865, whereby it is supposed over \$100,000,000 were withdrawn from other useful occupations in the United States and lost, it has become a practical impossibility to induce capital to return to the region for the purpose of development. The class of men who have during the past year been instrumental in developing the territory were not men of capital. One would put in his labor, another supply an engine, a third build the derrick, a fourth supply the tools, a fifth the fuel, etc., dividing the proceeds into shares or interests. It is almost unnecessary to state that the bitter experience of the past few months has made them sadder and wiser men. In fact this process of development has become almost extinct. The development of the territory is now left to those parties who have been successful in making large strikes, and to the land interest.

"It is a very significant fact that the chances of striking large wells are becoming less, in a ratio that is, to say the least, truly alarming. The 1,200 and 1,400 barrel wells of 1865 were replaced by 300 and 400 barrels in 1866; and at the present time

a man who strikes a 100 or 200 barrel well may be considered to have realized the extreme of success. If this diminution takes place in the future in the same ratio, a 30 or 40 barrel well will be considered at the close of this year as much the extreme of success as a 200-barrel well is to-day, and those parties upon whom we now depend for development will, if they do not receive a proportionately remunerative price for their oil, become actually ruined with those upon whom we depended for the production of last year.

"Our philosophers will look wise and say that the law of supply and demand will regulate itself, which is certainly not true in this case; but, even supposing it to be so, if the law of supply and demand takes so long to regulate itself that before that much-to-be-desired end is accomplished we must ruin our capitalists, reduce our mechanics to the brink of starvation, and deplete the territory of its inhabitants, it is high time that we take the supply into our own keeping and give it only to those who are willing to pay a remunerative price for the same."

In this connection I will say that this refers to 1868, but, owing to the general improvements in the means of transportation and the decline in prices of oil machinery and the uniform success in drilling operations, that year proved highly prosperous to all concerned. Large casing was introduced for drilling operations during the year, and to some extent in the year previous; it enabled the driller to have a dry well clear to the bottom, and water could enter into it to no very considerable extent.

Q. Will you state what the casing was put in for? A. It was used to exclude fresh water; it was put in at what would be considered the lowest point of fresh-water supply—the mountain sand as we call it. That was the point below which no fresh water was found, and salt water was not considered so detrimental to the wells and no provision was made against it. The casing was used to control the water.

CONDITION OF THE INDUSTRY IN 1868—REPEAL OF THE WAR TAX.

The Armstrong and Clarion fields began to attract the attention of oil operators, but the greater part of the oil developments during 1868 were confined to the older sections of the region. The improved methods of transportation were gradually placing the industry on an entirely new basis. In January the Titusville Herald estimated the production of the region at 11,035 barrels a day, with 182 wells drilling. On February 3 a convention of Oil Creek oil refiners was held at Petroleum Center and resolutions passed demanding that the tax on refined oil be repealed. The production was greatly in excess of the demand, and the price had consequently declined below the cost of placing the refined product on the market. On July 1 the production for the month of June was reported at 11,220 barrels a day, with 200 wells drilling. On July 18, 1868, Congress passed a bill exempting petroleum and its products from taxation. Refined oil at this time was subject to a tax of 20 cents a gallon.

Q. What was the tax on crude oil levied by the Government?—A. One dollar a barrel, and it existed for practically a year.

Q. That tax ruined quite a large number of small producers, did it not, who were not able to pay such a tax? The Government war tax on crude petroleum of \$1 a barrel, which remained about one year, worked very unequally, because small producers could not afford to pay it, whereas if a man struck a very large well, 500 barrels or upward, he could afford to pay it. A large number of farms that were only capable of producing from 10 to 25 barrels a day could not be operated, whereas farms adjoining them having a larger producing capacity would drain the other farms. It operated very unequally?—A. My answer to that would be that the period of the tax on the oil was 3 or nearly 4 years, but it was repealed on the refined. There certainly were a great many failures in that period, but coexistent with them was the bursting of the oil bubbles—a great number of companies that started at the time. There was so much disaster that it is difficult to tell what was the cause of it. I can not say that I know of any producing well which was ever stopped on account of the tax; but my knowledge extends to hearsay only, as my experience does not go back that far. I went to the oil country the year the tax was repealed on crude oil.

Q. (By Representative LIVINGSTON.) Why was the tax levied?—A. It was an excise war tax.

Q. What is the tax on oil now?—A. There is no tax.

Q. Why not?—A. That is beyond my knowledge. There is no tax on any manufactured products except whisky and cigars and tobacco of which I know.

Q. If you should levy a small tax on oil would it not be a good source of

revenue?—A. It would be a source of revenue, but it would be bad for the oil interests.

Q. Would it be good for the people who burn it?—A. It would be bad for the consumer; the price would follow. The subject of levying a tax on oil was pretty thoroughly discussed in Congress.

COST OF FUEL IN THE OIL REGION RESUMED.

Q. (By Mr. RATCHFORD.) In one of the papers you read it is stated, I believe, that coal delivered was \$12 a ton at a certain time. What date was that?—A. The figures, as stated, I read from Ponton's Crisis in the Oil Regions, 1867.

Q. Are you prepared to state what the cost of crude oil was at that time?—A. Two dollars a barrel; he states that in the same connection.

Q. Are you prepared to state what the cost of transportation of oil was at that time?—A. I have just read that, by pipe line at that period, the cost from Benninghoff Run to the Shaffer farm, a distance of 2 miles, was 50 cents a barrel. From Pithole to Titusville, a distance of 10 miles, the rate was the same.

Q. Now, I should like a comparison between the cost of coal, oil, and transportation at that period and their cost at present. What is the cost of coal to-day?—A. There is no consumption of coal in that region to-day for the purpose then used. They use gas engines. There is oil produced in the same locality, but there is no consumption of coal except to a very limited extent.

Q. What does it cost where it is used?—A. About \$2 a ton delivered at the wells.

Q. A reduction of \$10 as compared with the other period. What is the cost of oil per barrel?—A. About \$1.37.

Q. Does not that show that the reduction in the price of oil has not equaled the reduction in the price of coal?—A. If the commission will indulge me, I should like to answer by a little explanation. At the time to which you refer, 1867, coal at the mines did not exceed \$2 a ton and the difference was made up in transportation. There were a great many transfers to the boats and each transfer added cost and the teamsters charged enormous prices for hauling a little coal. A load of coal might be anywhere from 500 to 800 pounds, or three loads to the ton, and they charged \$2 to \$2.50 a load. I am speaking of conditions that would make the rate that. I am quoting a writer of that day, a man that has a considerable reputation as a statistician. He was a newspaper editor at the time. I am giving his figures.

Q. I asked these questions because it is claimed by the friends of oil producers, particularly the Standard Oil Company, that the reason for the existence of the trust is that the prices of their products have been reduced much more than the prices of other products. When you spoke of coal I supposed you spoke of soft coal. There has been no trust in soft coal, excepting one formed within a week or two past. There was none at that time. The figures you have quoted show that there has been a very much larger reduction in coal than oil.—A. I should say that the comparison is rather unfair, for you take oil at the point of production and coal at the point of delivery, where it has acquired cost by every movement. Let us reverse the case, and take oil at the seaboard; take the price of oil at the seaboard at that time.

Q. Take them both at the point of production. I believe the same conclusion would hold good. What would it have cost to ship a ton of that coal from the initial point?—A. It depends on the initial point.

Q. In the vicinity of Pittsburgh?—A. It would have cost more than one-half of the \$12, at least, to get it there. I am not competent to state the price of coal, and I am not defending this gentleman's figures. We are speaking of the conditions of the time in the mind of the man who did the writing.

PRICES OF CRUDE OIL AT THE SEABOARD IN 1867 AND AT PRESENT.

(By Mr. SMYTH.) I should be glad to know as to the comparative cost of oil delivered at the seaboard to-day and in 1867, and the cost of coal delivered at the seaboard to-day and in 1867.—A. In 1865 and 1867 existing conditions were very much the same, with this difference, that crude oil was higher. The price of coal remained about the same between 1865 and 1867, but in 1865 the statistics show that the cost of crude oil at the seaboard was 37 cents a gallon.

Q. What is the price of crude oil delivered to-day?—A. \$1.37 or \$1.40.

Q. Per gallon?—A. Per barrel.

Q. Can you give us the gallon price to-day, so as to make a comparison?—A. It is somewhere in the vicinity of 5 cents a gallon.

Then the reduction has been from 37 cents to 5 cents. Can you tell us about it?—A. I do not know anything about that.

Q. (By Mr. RATCHFORD.) Was that 37 cents the normal price at the period of which you speak?—A. I can not tell you as to that.

Q. I asked the question because you stated in one of your papers that oil fluctuated from 10 cents to \$2.50 a barrel at the well.—A. From 10 cents to \$1.75.

Q. I understood you to say \$2.50. It seems the price of oil has taken some very rapid jumps up and down.—A. We are now discussing a period in the oil business when it was controlled entirely by speculation. The business had hardly gotten down to a stable basis and the value necessarily changed rapidly in those days.

Q. (By Mr. FARQUHAR.) In the statement you were reading from, were the prices conditioned on speculation entirely, on production, or on transportation; that is, the fluctuation from 10 cents to \$1.75?—A. I think they were conditioned on all three, but mostly on transportation—the difficulties of getting the oil to market.

Q. (By Mr. PHILLIPS.) Was not the fluctuation from 10 cents to \$1.75 caused by striking a large number of flowing wells?—A. Overproduction. We had never had a consumption equal to over 1,200 barrels a day up to that time. The consumption was 1,200 barrels a day, and a constant outflow of 7,000 or 8,000 barrels a day caused depression.

Q. (By Mr. FARQUHAR.) Overproduction at that period—it is not possible to account for it by a combination of producers?—A. Oh, no; not at all.

THE PRODUCTION OF OIL IN 1869.

For 10 years up to 1869 the amount of oil produced was about 25,700,000 barrels. Butler, Armstrong, and Clarion counties, and Church Run, near Titusville, proved the most active centers of oil development during that year. Small extensions in the producing territories at Rouseville and Cherry Run were made and there was some excitement over a few large strikes on West Pithole Creek. On January 30, 1869, the Pittsburgh Commercial Gazette reported 68 refineries in operation in Pittsburgh, and stated that the petroleum trade of the city amounted to \$13,000,000 per year. On February 12 a meeting of oil producers was held at Titusville and the Petroleum Producers' Association of Pennsylvania organized (being the first association of producers), with George K. Anderson, president, and F. W. Andrews, vice-president. This association was called into existence to take cognizance of the statistics of the region, for the better protection of the trade. The shippers and buyers of that day had begun to influence the speculative market by reports and by bulling and bearing it to their advantage. The purpose of this association was to gather statistics and to inquire into the general condition of the trade for the betterment of the producers, and from what I know of it I say now that it was necessary. On March 11 it was reported that the Vera and Blake well, Petroleum Center, which was opened September 22, 1868, had sold, up to date, 22,699 barrels of oil, for which the owners had received \$98,500. July 1, 1869, work was begun on the extension of the Jamestown and Franklin Railroad, from Franklin to Oil City, contracts being let for the entire distance, including the tunnel at Oil City.

Q. (By Mr. JENKS.) Was the producers' association distinct from the refiners?—A. Yes; it was distinct from the refiners' association.

Q. (By Mr. PHILLIPS.) It was not a chartered company?—A. No; it was not a chartered company at that time, but it led into other associations and agencies by which stock was issued.

PRICES OF PETROLEUM IN 1869 AND 1870.

At the close of 1869 the New York Daily Bulletin said: "The price of petroleum ruled higher during 1869 than during any of the three previous years, and those engaged in the production of oil have received larger profits in comparison with the capital employed than during any previous year. The profits of the refiners and dealers have been fair, but very much less than those of the class first mentioned. Speculation has been pursued on a colossal scale, and prices underwent great and violent fluctuations. But notwithstanding this the year closed with a much smaller volume of failures than usual, and on the whole was singularly exempt from any serious financial disaster."

Values showed a downward tendency in 1870, and the market steadily declined from the prices established during 1869. The extreme range was from \$4.90 per barrel in January to \$2.75 in August. The year 1870 closed with petroleum at from \$3.30 to \$3.50 per barrel.

That decline may be accounted for in a great measure by the hostilities between Germany and France, for the closing of their ports against us operated seriously with the oil business of this country.

In January, 1870, the first well drilled on the bluffs on the Robinson farm, at Parkers Landing, started at 40 barrels a day. In February a petroleum association was formed by Cleveland refiners for the purpose of protecting the refining interests of that city.

Q. (By Mr. JENKS.) In February of what year was this refiners' association made?—A. 1870; refiners' associations were very prolific in those days; they were found wherever the refiners were, exactly as the producers were associated.

The year 1870 was a very important year in many respects, because of the striking of the well at Bradys Bend; that developed fourth-sand territory. The finding of a flowing well in that country rather agitated the trade and stimulated things. Large and important developments were made at West Hickory. Coming all at the same time, these new developments created a very serious situation.

Q. (By Mr. SMYTH.) What was the percentage of increase just at this time from the flowing wells?—A. I can not state the percentage, but it was very large.

Q. You said a little while ago consumption of the world was twelve hundred barrels a day?—A. I was speaking then of the overproduction in 1861, which was caused by large flowing wells.

PRODUCTION AND PIPE LINES IN 1870.

Q. What period are you now speaking of?—A. 1870, or a year later. Parkers Landing at that time assumed very formidable proportions. There were at least twelve to fifteen separate, individual pipe lines; and there was one, named the Mutual Pipe Line, just reaching the Karns Pipe Line, organized that year or the year before, which began buying oil on the same terms as the other lines. At this time the other pipe lines were bidding for the production, probably 800, but not exceeding 1,000 barrels a day, at Parkers Landing. The Karns was one of them. It would take oil on the same terms as another line; each line framed its own terms, and many of them had drawbacks, rebates, and private contracts with producers and shippers. Competition was such that they were forced into that in order to get business and prevent others from going in.

On April 9 the production of the Petroleum Center district was estimated at 1,426 barrels a day. The Karns Pipe Line began taking oil upon the same terms as the Mutual—25 cents a barrel transportation charges and 2 per cent for loss. By October, 1870, the total production of the region had reached nearly 30,000 barrels a day. The James S. McCray farm, which had a daily production during October of 2,686 barrels, declined to 1,944 barrels in November, a falling off of 742 barrels a day.

The important development of the year was in April, at Armstrong Run, 8 miles southwest of Parkers Landing, which had an initial production of 1,000 barrels a day. The production declined rapidly, but other wells equally productive, with better staying qualities, came in later on. This was the first flowing well found south of Scrub Grass, and attracted universal attention.

OPERATIONS IN 1871.

The Titusville Oil Exchange was organized in 1871, and was the first regularly organized exchange in the oil country, although the trade at Pittsburg was organized some years previously. Exchanges were likewise opened at Oil City and Franklin.

The Titusville Herald places the daily production of the Pennsylvania field, on April 11, at 13,581 barrels.

Q. (By Mr. PHILLIPS.) That was in 1871?—A. That is in 1871; yes, sir. A. D. White, reporter for the Petroleum Producers' Association, for the lower district, issued the following report for July in Parkers Landing district:

"There are 441 producing wells, of which 63 produce all the oil, and average 10½ barrels per day, while the daily average of all wells is 5½ barrels. The average depth of the wells is 1,060 feet, and the average cost of completing a well is \$25,200."

Hints of speculation by pipe lines in the production of oil increased; there were more than hints; there were rumors, and in some instances the result of that being that oil was not held the same by any two of the existing lines. There were scarcely any two of them that offered the same prices for oil. The price was dependent very largely upon the reputation of the line for integrity. Those lines having a reputation for integrity—that is to say, oil put in their custody

would be found when wanted—got the highest price. Those lines which were sometimes considered short got a lower price.

Q. (By Mr. PHILLIPS.) Did the producers ever lose any oil through these pipe lines to which you refer, to your knowledge?—A. To my personal knowledge, no; except the difference in the valuation of their product; there was a difference in valuation, but I know of no loss.

Q. No embezzlement of oil that was left in the line?—A. No embezzlement of oil. I have no personal knowledge of that. Rumors were circulated in midsummer of 1871, that the various pipe-line interests of Pennsylvania were about to merge their holdings into a single combination, the whole to be under one management. No merger ever took place, or at that time; no merger took place at that time.

Operations this year took a very wide range. Bradford appeared for the first time in the oil reports. A correspondent of the Petroleum Center Record, writing under date of September 29 concerning a trip made to Bradford, says:

"Bradford is a village of 300 inhabitants, and is altogether a very desirable point for the coming oil excitement which we feel sure is bound to break out in the vicinity. The Bradford well is down 90 feet and being pushed as fast as possible. It is located near a well sunk in 1864, which had an excellent showing and produced some oil, but was abandoned. About 3½ miles south of this point Col. J. K. Haffey has a well drilling, and the indications are good for finding oil. North of this latter point are the two Job Moses wells, one of which is producing about 2 barrels and the other drilling deeper. The oil from the Moses wells sells for \$22 a barrel (for lubricating purposes)."

It is important here in this connection as pointing out that the discovery of the Bradford region, which was developed say 10 years later, or less than 10 years later, the greatest field ever discovered, was long before actual developments ever took place there. The existence of oil, the presence of it, was known in that field for at least 8 years, and wells actually sunk even before the Butler and Clarion county fields were fully developed.

Q. (By Mr. PHILLIPS.) It did not become a factor in the oil business until 1876 and 1877, did it?—A. 1876, I think it was, or 1877; yes, sir; 1877.

Q. It became a factor?—A. It became a prominent factor, a leading factor at that time, but the possibilities of the field always pointed to it as a field for wildcats, for some place that producers could occupy their time, and led to overproduction, great overproduction. Operations in Clarion County had reached a point near the mouth of Turkey Run, where D. L. Kistler and others found a ten-barrel well. S. L. Kier, the pioneer petroleum merchant, developed a 20-barrel well on the Faust farm, near St. Petersburg. Marcus Huling's well, on the Ashbaugh farm, near St. Petersburg, was reported flowing 250 barrels a day, and 300 wells were reported in various stages of operation between Alum Rock and the mouth of the Clarion River at the close of October. These were all pioneer wells at that time.

HISTORY OF THE SOUTH IMPROVEMENT COMPANY.¹

The year 1872 is conspicuous for the remarkable progress in Butler and Clarion counties. Starting from a point at the Clarion River, remunerative developments penetrated to a point beyond Antwerp, more than 5 miles, and southwestward to Millerstown and Greece City, in Butler County, a distance of 15 miles, with the prospect of further extension at both ends. The increase in production was rapid, owing to the large capacity of the wells developed in all of the new fields. In addition to a very large production of crude oil, there was an unquestioned overcapacity of pipe lines, and an overproduction of refining plants, so that these two divisions of the business, refining and transporting oil by pipes, became unprofitable. This is the year of the South Improvement Company, a movement which found few supporters in the region and was very generally execrated by the trade, and died, so to speak, "a-bornin'." Of all the multifarious movements having for their object the betterment of trade conditions, this one is perhaps the least understood. The movement was a combination of the railroads and certain refining interests. It had its inception with certain Philadelphia and Pittsburgh refiners, with an agreement for cooperation on the part of certain Cleveland refiners. But philosophical minds, viewing the subject from this distance, are agreed that it had its origin, as a matter of fact, with the railroad interests, rather than the oil interests. Refiners, ever satisfied with a fair profit, had been able and were willing to accept their chances with the trade, but with the railroads the case was slightly different.

¹ See Mr. Lockwood, pp. 385, 400; Mr. Archbold, pp. 540, 553; Mr. Emery, pp. 605-613, 615-623, 644, 646; Mr. Rice, pp. 659-664.

The development southward from 1870 brought about conditions through which some of the important railroads of the country might be deprived of a share of the oil-carrying trade. The Pennsylvania Road, however, was not affected by the transfer of activities from the Venango region to that of Butler and Clarion counties. The Allegheny Valley Railroad, on the one hand, serving as a feeder for rail shipments, and the Allegheny River serving the Pittsburg refiners, on the other, with barge shipments, the products ultimately coming to the Pennsylvania Railroad for export and interior shipments, gave them not only a fair but the lion's share of the carrying trade. The northern railway lines—namely, the Erie and New York Central—were naturally affected by the transfer of operations to distant fields which they could not reach with their existing connections. The first-named road was materially aided by the gathering lines of the Pennsylvania Transportation Company, operated by Henry Harley, but the New York Central and its connecting lines were left without petroleum feeders of any description. This resulted some years later, and after the failure of the South Improvement Company to establish itself, in the creation of pipe lines by the New York Central interests. Therefore, at the close of 1873 all the principal railway lines touching the oil regions at any point were served by feeders or pipe lines specially provided. From this period developments were so rapid that no attempt will be made to trace the progress of the business chronologically, except by movements in the order in which they take place.

Now this leads us up to the time of the South Improvement Company, when the overproduction of the pipe lines and the competition of the railroads were so very sharp, and it sought to correct all the difficulties that the region has ever been troubled with in the way of discrimination in freights.

Q. (By Mr. JENKS.) Have you anything further to state with reference to the South Improvement Company?—A. I have here about 1,000 pages touching the whole question—the history of the proposed movement.

Q. You could, perhaps, make a brief statement concerning the South Improvement Company, and then give us additional information?—A. I have nothing further on that branch of the subject, unless I refer to the Derrick's handbook, about what was done. The first move was to meet and combat the South Improvement Company. The producers combined, and the combination took in the oil interests of their class; well-owners, producers, and the railroads—that is, the Oil Creek Railroad and the small railroads of that region—felt satisfied.

Q. I understood you to say that the railroads themselves organized an association and made special discriminations in rates, and that the South Improvement Company was organized afterwards?—A. Yes; but its inception was with the railroads through the carrying trade.

Q. Then it is your idea that the railroads suggested the formation of the association called the South Improvement Company, and that they then offered it special rebates, or more favorable rates than they were giving to other refiners?—A. That is my idea; and it is, further, my idea that it originated in Pennsylvania. The Standard Oil Company has been very much maligned in connection with the South Improvement Company.

Q. (By Mr. PHILLIPS.) You said that the Cleveland and Pittsburg refiners were in this movement, and then that the refiners after defending it were opposed to it?—A. I said the local refiners.

Q. (By Mr. JENKS.) Then the association was made up practically of Pittsburg and Cleveland refiners for the purpose of getting differential rates from the railroads?—A. It was the purpose to make differential rates, but it was never carried out.

Q. (By Representative LIVINGSTON.) Were any advantages given by the railroads to any oil producers or refiners?—A. I am not aware of any.

Q. (By Mr. FARQUHAR.) Was this South Improvement Company incorporated by the legislature of Pennsylvania?—A. It was incorporated under some other name; I think they purchased one of the numerous charters under the old constitution, prior to 1873. I do not know just what name the charter was first issued under; but whatever it was, they had, among other things, power to change the name of the corporation. It was a charter issued by the State of Pennsylvania.

Q. (By Mr. PHILLIPS.) A special charter?

Q. (By Mr. FARQUHAR.) That is the very question I wanted to ask. Was it a special enactment that gave authority to this South Improvement Company?—A. Yes.

Q. It was incorporated for the purpose of refining, transportation, sales, and everything else?—A. That is the way I understand it, and I think to operate railroads also.¹

¹ See Mr. Emery, pp. 606-608.

Q. What interest did the Pennsylvania Railroad have in the South Improvement Company?—A. The conviction was general in the oil region that the Pennsylvania Railroad was really behind it. It never passed beyond suspicion; there was no proof of it.

Q. (By Mr. JENKS.) Then, if I understand you, when this agreement came to the knowledge of the public, there was so great an outcry on the part of the other refiners that the company itself was abandoned and its charter annulled by the legislature?—A. That is substantially the whole story; it rose and fell within 6 months.

Q. And nothing further was attempted?—A. Nothing further was then attempted.

Q. (By Mr. PHILLIPS.) Are you aware that after the South Improvement Company charter was annulled and the subsequent contract with the producers and refiners of oil by the railroads was made, giving equal rates to all without rebates or other discriminations, that George R. Blanchard, second vice-president of the Erie Railway, testified before the Hepburn committee, in 1879, that said contract only lasted two weeks?—A. I have no knowledge on the subject at that particular time; I am not familiar with the investigations of the Hepburn committee, but I understand that such an inquiry was made in 1879; I can not testify as to exact date.

Q. If this were a fact, would it not leave the same rates prevailing that prevailed under the South Improvement—that is, the same discrimination?—A. No; I can not say that. I merely recall now my own assent; and I wish to substitute for that, that I do not know.

REBATES IN VOGUE BEFORE THE TIME OF THE SOUTH IMPROVEMENT COMPANY.

Q. (By Mr. FARQUHAR.) Is it a fact or not that every one of the pipe lines, up to the time of the establishment of the South Improvement Company, gave rebates and drawbacks?—A. I believe it is; they gave special rates to favored customers.

Q. Without an exception?—A. I can not testify so broadly as that, but I have heard it variously stated that such was the case, and I know one particular instance.

Q. (By Mr. PHILLIPS.) You know one particular instance?—A. One instance came to my knowledge in such a way that it was impressed on my mind.

Q. But you have no personal knowledge that there were such rebates?—A. Yes; I have personal knowledge of that—my knowledge of the contract.

Q. Of the different pipe lines?—A. Not of the different pipe lines. I said it had been variously stated, and that I know of one particular case.

HISTORY OF THE CONSTRUCTION OF PIPE LINES.

Q. You know of only one particular case in which rebates were given?—A. Yes. We now come to the question of pipe lines. The first line, as I said this morning, was the Vansickle line, 5 miles in length, extending from Pithole to the Miller farm.

Q. About what distance?—A. About 5 miles. Simultaneously with the starting of that line, another line was begun from the same point, that is to say, Pithole, and extended to the Allegheny River, 7 miles in length, called the Pennsylvania Tubing and Transportation Company. The next enterprise in order was the Pickett & Sherman pipe line, extending from Pithole possibly 10½ miles. About the same time Harley & Abbott constructed a pipe line from Benninghoff Run to the Shaffer farm, a distance of 2 miles. The next enterprise was Warren's line, from Pithole to Henrys Bend. From this small lines of 1½ to 5 miles in length, but more generally 2 miles than 5, were extended from year to year. There were very few 5 miles in length, but at various times they were all different concerns. Tidioute had its system of pipe lines, and the Empire Transportation Company was operating Pickett & Sherman's line, and several distinct gathering lines in different parts of the field at the same time. The first pipe lines were laid in what is called Parker's district, in 1860. Possibly there was a small beginning in 1868. In 1869 pipe lines began to be recognized as carriers. The first line there was the Parker, Thompson & Company; the next was the Karns. About the same time, however, Martin & Harms, of Petroleum Center, built a line known as the Foxburg line, subsequently named the Mutual Pipe Line. Then followed the whole Mutual Pipe Line system extending out to St. Petersburg and running throughout Clarion County, throughout the entire field.

10 or 12 miles. The Mutual became quite an extensive concern. The next in order was the Grant Pipe Line, at Parkers Landing, a small gathering line, getting its oil from the Black and Milford farms, at Parkers Landing, and terminating at the river and railroads. Previous to this time and during the Pithole developments and those immediately following it around Fagundas, Vandergrift & Forman started a system which was later extended to the Cranberry district, Pine Grove Township, and the Milton farm, and, with the opening of the large wells in Bear Creek Valley, to the river at Bradys Bend and throughout the producing district in Butler County, and subsequently to Concord Township, in Butler County, on the development of what became the Greece City field. This line formed a nucleus of what is now known as the United Pipe Lines System. The next in order was the Relief Pipe Line Company, starting at Millerstown and terminating on the Allegheny River. This pipe-line development brings us down to the period 1874-75, and what I have named thus far had been constructed on one side of the river; that is, on the side of the Butler and Armstrong developments. On the other side there was equal activity. Marcus Hulings constructed the Antwerp Pipe Line, taking oil in opposition to the Mutual Pipe Line. Later on the American Transfer Company commenced to compete for business. Then came the Atlantic Pipe Line. All these lines would average about 10 miles in length—from 7 to 10 miles in length; possibly the Atlantic might exceed that, for the reason that they had two termini, one on the river and one on a branch railroad. Two of these lines subsequently constructed trunk lines from the Clarion field to Oil City, and delivered oil there, which was at that time a common point. Common points were points of common shipment where stated rates were given. The aim of the pipe line, so far as possible, was to reach a common point, to get the advantage of the freight rate. The original pipe lines were merely transporters of oil, but through the exigencies of operation they became buyers of oil; not in their corporate capacity, but by some arrangements outside of the corporation.¹ Each one of them had a purchasing department and the prices in all lines varied to some extent. Very rarely was the same price stated at the same time on two lines. This condition existed up to 1877.

AGREEMENTS WITH RAILROADS FOR THE ESTABLISHMENT OF THROUGH FREIGHT RATES.

The result of this enormous competition and overcapacity of pipe lines was that no line was able to earn by its legitimate function sufficient to sustain itself. Therefore, the purpose of the association you speak of by the railroads was to establish a through freight rate. These pipe lines were in some manner connected with one or the other of the four leading railway lines, and the rate of freight was established from the wells to the seaboard, or from the refinery, wherever it was, to the termini. In 1874 Mr. Rutter, general freight agent of the New York Central Railroad, issued a new freight tariff in which it was expressly stated that all shippers receiving oil from pipe lines would have rebated to them 22 cents a barrel.²

This was the beginning of the rebating assessment or charge. Considerable tumult was occasioned by this circular; meetings were held, resolutions adopted, and an attempt made to influence the railroads to abandon the rate; at all events that is where the rebate charge of 20 or 22 cents a barrel, about which testimony has been taken by other commissions and which was given to pipe lines, started. Both the pipe lines and the railroads wanted the oil, and their principals, or whoever they were, whatever railroad was back of them, were satisfied to divide the freight tariff with the pipe lines in order to get oil freight for the railroads.

Q. (By Mr. JENKS.) Did all those who shipped oil over these lines generally receive this 22 cents rebate?—A. Yes; all shippers who patronized the pipe lines within the pool, but not all pipe lines either—I want to correct myself on that point, because through the active competition, about 1873 or 1874, a pooling arrangement was entered into by the pipe lines; it was an attempt on their own part to get the pipeage. Failing in that they failed to make a success of their organization with the pipe line association. Then they brought out the Rutter circular, in which I think all the railroads concurred. If the circular is of any interest you will find it already published in the investigation before the Manufacturers' Committee in 1888. It would be loading down your records to quote it again.

THE CONSOLIDATION OF THE PIPE LINES THE RESULT OF EXCESSIVE COMPETITION.

This condition existed from 1874 until some time in 1877, when there was a consolidation of certain pipe-line interests. This consolidation grew until about all

¹ See Mr. Lee, p. 235.

² See p. 605, bottom. See the circular in full, p. 641.

the pipe lines in the region were members of one firm known as the United Pipe Lines Company. The organization was effected some time in 1877 or 1878. The United Lines started, as I understand it, with a capital of \$3,000,000, and acquired by purchase the property of the Columbia Conduit Company and the Empire Line, these two being the strongest, and a lot of smaller lines.

Q. Do you think the cause of this combination among the pipe lines was the extraordinary competition that existed among them practically making the business unprofitable?—A. There is no question about it. It was the overcapacity of pipe-line enterprises, or the eagerness with which individuals rushed into it. Nearly every person within a mile of the railroad handled his own oil, so far as it was possible. By getting the small lines in that way they formed the nucleus of other lines. Having to take a little capital here and there, they got into the pipe-line business. The pipe lines were not equal in strength and capacity or integrity. This period of the overproduction of pipe lines resulted in a great deal of embarrassment to the trade. It is a matter of public information that some of the lines were not able to make deliveries on demand. Suits were entered in the courts for false statements after the pipe-line law of 1874 went into effect. That was the cause of the consolidation of the pipe lines. It was a necessity. The business could not have existed had it not been done.

Q. (By Mr. PHILLIPS.) Was not there more than one suit entered of the kind of which you speak?—A. I recall but one at this time.

Q. Yet there was a multitude of pipe lines at the time when the suit was entered for false statements?—A. I say that from information, because I have the information here. I only speak of what I know. This leads up to the consolidation of the pipe lines. When this consolidation took place, during the period of the greatest tribulations among the pipe lines, from 1874 to 1876, the daily production fell from 29,987 barrels in 1874 to 24,504 barrels in 1876. It rose in 1877 to 35,988 barrels, and in 1878 to 41,544 barrels. From that time on until the highest production in 1897, which was 96,857 barrels, there was an annual increase in production.

Q. Was not the production in 1878 larger than you have named there, being after the Bradford field was opened up?—A. Eighty-one thousand barrels.¹

Q. Did not the Bradford field at one time produce 80,000 barrels per day?—A. That was said to be the case; it was about 1880 or 1881. The year 1878 was the period of the earlier developments. I have heard it stated as a matter of fact that the United Pipe Lines, which began business on a capital of \$3,000,000, afterwards increased it to five million, but paid no dividends for 3 years after its organization, or until after the opening of the Bradford field.

THE OWNERS OF THE UNITED PIPE LINES.

Q. Who were the owners of the United Pipe Lines then; and who are they now?—A. I can not say who they were then; the National Transit Company owns it now.

Q. Did the Standard Oil Company control the National Transit Company when it was organized?—A. I can not say as to that; I do not know that they did.

Q. Do they probably now?—A. The National Transit Company?

Q. Yes.—A. It is a part of the Standard system.

Q. And was from its inception?—A. I do not know who the owners were.

Q. It is the Standard's system, then?—A. Yes.

Q. (By Mr. FARQUHAR.) Can you state at what time the Standard took an interest—an immediate pecuniary interest in this pipe line; what year?—A. Well, that would be very difficult to answer. I should say about 1877.

Q. (By Mr. JENKS.) It was the refiners practically who organized the United Pipe Lines system?—A. Yes; the Standard was an aggregation of firms. It was not a Cleveland concern alone. What we know of the Standard is that it was an aggregation of the strongest refining concerns in the country.

Q. And they organized themselves into a pipe-line system?—A. Well, they were in it.

Q. (By Mr. PHILLIPS.) They controlled it then and control it now, do they not?—A. It is a part of what is known as the Standard system. That is as near as I can answer you. I guess there is no secret about that.

Q. (By Mr. FARQUHAR.) What proportion of interest did the Standard Oil Company have in the United Lines in 1877?—A. Well, I have heard it estimated that in 1877 they took a little more than one-half, because in the formation of the United Pipe Lines, a number of pipe-line owners retained their interest and became officers in the United Pipe Lines.

¹ See table of production, p. 547.

Q. So that the establishing of the pipe line was a mutual arrangement between the refiners?—A. It was a mutual arrangement.

Q. But principally of interest to the Cleveland men?—A. Principally of interest to the Cleveland men.

Q. (By Mr. PHILLIPS.) They were the largest holders?—A. Well, I am not prepared to say that, because I do not know.

Q. (By Mr. FARQUHAR.) But the parties in Cleveland interested at that time in the so-called Standard were the same parties as are now interested in the Standard companies?—A. I believe so, with very few exceptions.

Q. This Vandergrift & Forman Company?—A. Yes; Mr. Vandergrift was president of the line. He was the first president of the line and remained the president.

Q. The Rockefellers were in there as managers?—A. I never understood that they were.

Q. (By Mr. PHILLIPS.) Was not Vandergrift president of this line for some years?—A. I believe he was; I know that he was.

Q. You do not know when he resigned?—A. Yes; I do. He left the service about 1885, or within a year or two of that time.

Q. And about the same time resigned his position as director of the Standard Oil Company?—A. I never understood that he was a director of the Standard Oil Company; I am receiving now my first information on that point.

Q. I have been informed that he was acting in that capacity.—A. It is needless for me to say the information is not common in the oil country or I certainly would have heard it. He was connected with the Imperial Refining Company. Vandergrift & Forman and John Pitcirt were very large holders in that; it passed to the Standard Oil Company.

Q. (By Mr. FARQUHAR.) But that was chiefly Pittsburg money and not Cleveland?—A. It was all Pittsburg money or railroad money in the Imperial Refining Company.

THE FALL IN PRICES AND ATTEMPTS TO LIMIT PRODUCTION.

In 1882 I find the largest daily output. That was the period of the development of the Bradford field. It was 82,358 barrels. The sudden increase could have but one effect upon prices, and there was a downward tendency. Prices dropped of necessity because there was more oil than the world would take. I will run over hastily the period when this depression made itself most manifest. In 1866 there was an agitation for a shut-down movement with the object of bettering the condition of the producers. In 1862 right after the period of the flowing wells we have noticed that there was a movement to turn the stopcocks on the wells and retard production. In 1872 there was an agitation for a suspension of operations both before and after the agitation concerning the South Improvement Company. The first practical shut down went into effect that year—a shut down that was very successful and included both production and drilling. It was almost absolute, as nearly absolute as anything human can be.

Q. What effect did that have on the price of crude oil?—A. It raised the price of oil.

Q. (By Mr. RATCHFORD.) Was that the main object of that agitation?—A. The object of the combination was to increase the price of crude oil which had been depressed by competition.

Q. (By Mr. FARQUHAR.) How long did that shut down last?—A. Thirty days.

Q. Do you know how many barrels were comprised in the shut down?—A. Well, I said it was almost total.

Q. Total?—A. Yes; the daily production then was 17,000 barrels; it was practically total.

Q. This was an agreement between all the producers in that field?—A. An agreement between all the producers in all the fields.

Q. In all the fields?—A. In all the fields.

Q. (By Mr. PHILLIPS.) Do you know about the effect of that afterwards? Did it induce a large amount of drilling and increase the production? Do the facts show that there were a great many more wells drilled immediately after the shut down than before, through anticipation that prices would remain high?—A. That effect was apparent, but it does not account for the great decline in production during the next year. There was an impetus given to drilling for the next 8 months after the shut down that made itself seriously felt in prices; but the decline that took place in 1873 was due to the large wells in the neighborhood of Millerstown. At that time we had, to vex the trade, several points where they were getting wells averaging from 700 to 1,400 barrels a day. I am speaking now of initial production. Take what was known as the Troutman, Modoc, Millerstown, and Buena Vista—that section has been productive of very large wells.

PRODUCTION INCREASED BY DEEPENING OLD WELLS.

Q. Was not that enlarged production caused by the fourth sand running through under the third sand belt, so that it was only necessary to deepen the wells about 60 feet? Were not a large number of third-sand wells deepened to fourth sand at comparatively little cost at the period to which you particularly refer?—A. That period comes later. Fourth-sand discoveries were made in 1873, but the development had no considerable effect until 1874. Its presence was felt in 1873 in the Karns City district, in the Tack and Morehead wells.

Q. That was the reason that the others were deepened?—A. That was what caused the wells to be deepened. From that time forward during the next year the most remarkable development ever seen in the oil region was sprung upon the trade. No one was in condition to receive it. All that was needed was to drill less than a hundred feet, from 65 to 85 feet—that is, one day's drilling—to deepen a well from one rock to another and oftentimes quadruple its capacity.

Q. The increase by deepening those wells was about 18,000 barrels per day, was it not?—A. I have no doubt but the rapid development of the field lasted for about 6 months. Most of the wells were not deepened before midsummer, 1874, because we found the production of 1874 only 2,000 barrels greater than the production of 1873; that is, the daily production.

THE SHUT-DOWN MOVEMENTS OF 1873 AND 1874.

Now, about 1873 there was a disposition on the part of the producers in every section outside of that in which these large wells were found to suspend operations. The remuneration was so small as to leave no inducement to continue, except for a big well. In 1874 an independent shut-down plan originated in Clarion County. I will not call it independent because it was local. The region at large did not participate to any great extent. In the northern extremity of the Clarion fields at this period some very large flowing wells were found, and prices were naturally off that year, the competition among the pipe lines not leaving them anything. So there was an agitation for a shut down, which was only effective locally. In 1876 a plan was started for pooling the surplus oil as a means of advancing the market; but conditions improved so rapidly about midsummer that it became unnecessary, and there was one of the greatest bulges in the market ever known since the trade had become established on what might be called a firm footing. The advance to \$4 a barrel in the fall of 1876 was responsible for nearly all the ills that followed for the next 10 years; it called the attention of persons not permanently engaged in the oil business to the great amount of money to be obtained through drilling wells. Prices did not continue long at \$4. In the fall of that year a peculiar development was started in the region of Bullion. I say peculiar, because it was to one side and out of the usual line of oil belts. This field, not great in extent, was yet large enough to add within 2 years 8,000,000 barrels to the production. Bradford coming on at the same time, gave the producers about the worst quarter of a year they ever had, and it might be extended to a quarter of a century, because prices have scarcely recovered yet.

ORGANIZATION OF THE PRODUCERS' PROTECTIVE UNION.

In 1877 and 1879 what was called the Producers' Protective Union was started in a small way as a result of the effect of the Bullion development on prices. It was the work of a few producers at Elk City, in Clarion County, who thought that by uniting their interests and suspending operations they might induce their friends and neighbors to join them until they formed an unbroken chain. David Armstrong formed the first union and within a short time became the head of an organization taking the name of the Petroleum Producers' Union. This movement continued for two years. When once fairly started Mr. B. B. Campbell, who was called to the presidency, carried the organization along for a greater period than any others of a similar nature that had ever been formed up to that time. Organizations since that time have lasted for longer periods, but up to 1879 no similar movement had lasted two years.

SUITS AGAINST MEMBERS OF THE STANDARD OIL COMPANY AND PIPE LINES.

This movement, which started as a protective concern, developed rapidly into an aggressive organization. They undertook to fight the transportation companies and the railroads. Suits were started in the Supreme Court of Pennsylvania to annul the charters of pipe lines, and criminal actions instituted against some

of the owners of the pipe lines, members of the Standard Oil Company. The object of these suits was never developed. The aim, if it was to improve their condition, failed of its purpose.

Q. Where were the suits brought against members of the Standard Oil Company and the pipe lines?—A. A suit against members of the Standard Oil Company was instituted in Clarion County; the proceedings against the pipe lines were in Venango County.

Q. Was that suit tried in Clarion County or was it removed from Clarion County?—A. It was not tried anywhere and was not removed from Clarion County.

Q. Did they not take an appeal to the supreme court at Philadelphia?—A. No doubt they did, but, as I understand it, the suit was settled outside of court.

Q. Yes, but after an appeal was taken?—A. I am not clear on that point.¹

Q. It was a suit for conspiracy. was it not?—A. It was called a suit for conspiracy, but it hardly was a conspiracy from the fact that it was never tried.

CONDITION OF PRODUCERS NOT IMPROVED BY THE COMBINATION.

Q. Oh, certainly not. You have covered the ground very fully; you have said it was a criminal suit?—A. The condition of the producers was no better after the termination of that combination than it was before. The production continued to increase, and prices were falling with the additions to the stock. In 1879 the daily production was 54,206 barrels and the price 85¢ cents. When the movement was started in 1877 the daily production was 35,988 barrels and the price \$2.39¢. That was the average for the year. That is what makes me say the condition of the producers was no better at the end of the combination than it was at the beginning. The great increase in drilling had not ceased to any extent; stocks had accumulated and production increased. In 1881, during the development of the white-sand pools in Warren County, an individual shut-down occurred among the heavier operators. It was partially successful.

THE PRODUCERS' ASSOCIATED OIL COMPANY.

In 1884 there was an attempted combination of producers to restrict drilling. The movement, while very general, was only partially successful. That was the year of the Thorn Creek development, the period when very large wells were found in a small area. The persons engaged in engineering the shut-down of 1884—that is, the combination of 1884 for the improvement of prices and the betterment of the condition of the producers—claimed and alleged that the failure was due to the want of cooperation on the part of the Thorn Creek operators, for it was carried out very generally through other sections of the field. One of the results of this was the formation of what is known as the Producers' Associated Oil Company, which is in existence to-day. This was a company formed by all the companies, all the existing producing companies, taking some of the shares. The capital stock, I believe, was \$1,000,000, and the shares were parceled out to existing producing companies. It became necessary to purchase property in order to curtail production or stop the drilling. Purchasing was resorted to by the Associated Producers' Company, and all the shareholders participated in the profits accruing. It was considered a very wise arrangement at that time, and the fact that it is still in existence and doing business would attest that it was in every way. In connection with that I want to state another movement, born of it. It was a drilling contract, known as the boundary-line contract, entered into by the operators connected with a subsequent shut-down. It was the contract of the shutdown combine of 1887 and was an agreement between the producers and the Standard Oil Company for mutual benefit. It provided for reducing production one-third and for relinquishing certain holdings in oil, 6,000,000 barrels, I think.

Q. What year was that?—A. 1887-88. In consideration of the receipt of 5,000,000 barrels of oil the producers on their part agreed to suspend active drilling operations and to restrict their production at least one-third for the period of a year.

RELATIONS OF THE PRODUCERS' ASSOCIATION TO THE STANDARD OIL COMPANY.

Q. (By Representative LIVINGSTON.) Will you explain to the commission what you mean by the producers? Does that take in all the producers—the Standard and the independent companies?—A. No; I refer now to the Producers' Association itself, the association in existence to-day.

Q. What is the name of the organization?—A. It was the Producers' Protective

¹ See Mr. Lockwood, p. 389; Mr. Archbold, p. 558; Mr. Emery, p. 602.

Association, and it is in existence and organized to-day. It was organized previous to 1887.

Q. That does not cover the independent companies?—A. No; not necessarily. It is an organization for the betterment of their condition as producers, out of which came these independent companies which you refer to. They resulted from this agreement. I shall lead up to that presently.

Q. (By Mr. SMYTH.) Entirely separate from the Standard Oil Company?—A. Yes; the organization is entirely separate from the Standard Oil Company.

Q. (By Representative LIVINGSTON.) Opposition?—A. It is not in opposition. They are in harmony in many respects; the proceedings state that.

Q. How are they hitched together? If they are in harmony, what hitches them up?

Q. (By Mr. SMYTH.) What is their relation?—A. The remunerative feature that existed in the original contract between the Standard Oil Company and the Producers' Protective Association—

Q. (By Representative LIVINGSTON.) Have you copy of that contract?—A. The contract is published in the voluminous report of the investigations of the Manufacturers' Committee in 1888.

Q. When you speak of producers do you mean the Standard Oil Company and the Protective Association?—A. Yes, if you please; speaking of both sides during that one year.

Q. (By Mr. PHILLIPS.) You spoke of the receipt of 5,000,000 barrels of oil. On what terms was that oil turned over, and what was the price of oil at the time this shut-in movement, as it is called in the oil country, began? On what terms, if any, was that oil turned over to the producers?—A. The oil was turned over to the producers on condition that they suspend drilling operations as far as practicable and restrict their production at least one-third. The price at which it was turned over was 62 cents a barrel. The existing price at the time it was turned over was 10 cents a barrel more. The Standard sacrificed 10 cents a barrel on the oil when they turned it over to the association.

Q. That might possibly be; when the papers were drawn up it was in anticipation, but the day the contract was made it was 62 cents?—A. I can only testify to the facts as they appear, and that is as they appear now—

Q. (By Mr. FARQUHAR.) You testified as to the agreement, that is all?—A. Yes, and the price when the transfer was made; oil was 71 cents.

THE EXTENT OF THE COMBINATION.

Q. I wish you would state very explicitly how wide this combination was, what class of producers it took in, and what control it had over the market and the consumer.—A. Well, I should say that the agreement was far-reaching; it took in every class of producers they could get in. They made strenuous efforts to bring people into it, and I believe great sacrifices were asked on the part of the Standard Oil Company, or rather demanded, to enable some large producers to join it.

Q. (By Representative LIVINGSTON.) Now, then, if I understand that answer, you mean to say that they endeavored to get everybody into it they could?—A. Yes.

Q. Did they get them all in?—A. No.

Q. Why not?—A. Well, I think it might be said to be due to energy, enterprise, or hoggishness—anything you care to call it—that some people would stay out.

Q. (By Mr. PHILLIPS.) The Standard people were as anxious to have other people in as the Producers?—A. It was mutual.

Q. (By Mr. FARQUHAR.) Who made the first proposition?—A. That I am not prepared to answer; I do not think I ever heard it stated or saw it in print.

Q. Did not the proposition originate with this very company of which we have been speaking—the Producers' Protective Association? Did it or did it not?—A. Well, as a matter of opinion, I should say it did.

Q. As a matter of common belief?—A. Belief at the time; yes. Now, as to the other branch of your question—

THE EFFECT OF THE COMBINATION UPON THE CONSUMER.

Q. (By Representative LIVINGSTON.) The other part of the question was: How was the consumer benefited by it?—A. The condition of the producer was bettered by it. Crude oil advanced 20 or 25 cents a barrel. We will now see what refined oil did. I should say that the parallel of increase was regular; that, taking the annual average, the advance to the producer was no greater than the advance to

the refiner and the advance to the public. Refined oil sold in 1887 at 6½ cents retail, and the average for 1888 was 7¼.

Q. What was the advance, then, on refined oil?—A. About three-fourths of a cent.

Q. A gallon?—A. A gallon. The price was not advanced to the consumer in proportion to what it was to the producer.

Q. The producer of crude oil?—A. Yes, of crude oil.

Q. (By Mr. FARQUHAR.) Do you propose to say that the Standard Oil Company stood the difference?—A. Somebody stood it.

Q. Well, what is your judgment?—A. If we hold that the Standard Oil Company produces three-fourths of the refined oil they certainly stood three-fourths of it.

Q. (By Representative LIVINGSTON.) The Standard Oil Company was involved in that original proposition. It would seem that they were working for their health along about that time?—A. It did seem so to me; I thought so.

Q. Now, then, what was the ulterior purpose? If they were standing that loss, in the end they hoped to gain. Do you know how, in the end, they hoped to be benefited by the arrangement, after standing the loss?—A. That question involves an opinion on my part that I do not think I would be justified in submitting. I do not know that I can answer it in any intelligible way. To answer it would be to give an opinion only.

Q. In the end they would put down competition and regain all they had lost?—A. No, sir; that is not it. I can not agree with that, but I can agree with one branch of it. The betterment and the benefit of the producer is always the concern of the Standard. If you kill the goose, where are you going to get the golden egg?

Q. There are more geese.—A. Oh, no. The supply is limited.

Q. (By Mr. SMYTH.) Was the cost of refined oil lessened at that time?—A. I do not think there was any material change in that feature of it.

Q. They could not have recouped their loss by reducing the prices in that way?—

A. No, I think the recoveries have been fully made in oil and its by-products.

Q. I understood you to say that the price was advanced to the producer, but was not advanced in proportion to the consumer. Now, was the process cheapened in the meantime?—A. I think not.

Q. (By Representative LIVINGSTON.) The witness seems to be an intelligent one all along this line, and I do not see why we should not insist on having his opinion as to the nature of this recoupment?—A. I can state it as a matter of opinion.

Q. Well, that is all.—A. I am very willing to state my opinion.

Q. Where would they recoup and how?—A. Well, the betterment of the trade would leave a condition of harmony that could not exist where everybody was working at unremunerative prices.

THE COMBINATION THE RESULT OF TOO MUCH COMPETITION.

Q. Now, that word "harmony;" do you mean by that the killing of competition?—A. What word?

Q. The word "harmony." Do you mean by that the removal of competition?—A. My dear sir, this whole trouble was brought about by competition, too much competition in drilling, too much drilling.

Q. That is what led to the combine. You needed a combine to control it?—A. It led to the combine, and that leads me to the question of one of the movements connected with the shut down of 1887 and 1888. In the drilling contract it was provided that the members of the association were not to drill a well along any line within a stated distance—that is, closer than would give an area of 20 acres for each well.

Q. That lessened production?—A. The aim was to lessen production, and therefore it benefited the trade.

Q. Now, I want you to use another word for that word harmony. You said trade was improved because it produced a kind of harmony among all the parties interested here. You mean that it took all the competition out of the way?—

A. Well, I can not say that competition was destroyed.

Q. I do not mean to say it was, but crippled or lessened?

Q. (By Mr. FARQUHAR.) Hypnotized?

Q. Hypnotized?—A. I will adopt that term, "hypnotized."

Q. Was it not lessened?—A. Oh, unquestionably.

THE LABORER SUFFERED BY THE RESTRICTION OF COMPETITION.

Q. If it was lessened, who suffered by it, the producer or the consumer?—A. Neither—labor.

Q. Labor?—A. Labor lost it all.

Q. That burden was put on labor?—A. The burden was put on labor; but let me say that in addition to this 5,000,000 barrels of oil—

Q. Did you not say that crude oil increased 29 cents a barrel, and refined three-fourths of a cent a gallon? Now, how did the laborer bear that charge? Was not the increase paid to the producer, and the 29 cents a barrel by the consumer?—A. As far as the difference in price would be represented by the difference in cost.

Q. Then the laborer did not bear that loss, but the consumer?—A. True from your standpoint and true from mine.

Q. You have got two ways of looking at that?—A. Yes.

Q. You know what the Scripture says: "He that seeth double"?—A. Yes; I neglected to state that in addition to the 5,000,000 barrels 1,000,000 was set apart in the agreement for labor. To that extent labor did not suffer.

Q. (By Mr. PHILLIPS.) Was not that 2,000,000?—A. Yes; the Standard set aside 1,000,000 and the association 1,000,000 to the labor, and the profits of the 2,000,000 barrels compensated them to that extent.¹

EFFECT OF THE COMBINATION UPON THOSE WHO DID NOT GO IN.

Q. (By Mr. KENNEDY.) You said that about all of the producers went into this association, and I infer that enough of them entered into it to accomplish the object that they had in view. Is that true, and is it true that those who stayed out did not affect that object?

Q. (By Representative LIVINGSTON.) Ask him if the man who did not go in was not hurt. Would it not have been better for him had he gone in?—A. The ones who stayed out made a lot of money by it, because they went on drilling and secured large wells, and most of them got rich. Many of them got rich by simply taking advantage of the producers' necessities. It was necessary to do something at this time. Producing oil was not a remunerative business, but at the prices at which oil was left at the close of the year it was remunerative. Nearly the entire number of operators in the Washington oil field, then the greatest field we had, stayed out because they were getting very large wells. One person drilling along the line would start another, and in this way an endless chain was formed around the group of wells. It was just like setting up a row of bricks and starting the end one—all the rest go.

THE COMBINATION AND LABOR.

Q. (By Mr. PHILLIPS.) Well, did labor work in perfect harmony with that movement throughout the oil country—with that particular feature of it—and agree to go into the thing? There was harmony between the Standard and the laboring people, was there not?—A. So far as I have heard, there was.

Q. (By Mr. FARQUHAR.) Do you think they could help themselves, whether they went in or not?—A. Oh, yes, they could.

Q. Was labor organized at that time?—A. One of the first steps of the laborers, the well drillers, and the tool dressers, was to combine themselves in an organization. It was my observation, and I examined it very closely and took a great interest in it, watching it from year to year, that the drillers could have made a failure for the producers had they been so determined. Enough of them could have got together to start drilling on their own account.

Q. (By Representative LIVINGSTON.) Then, it is your observation that labor in that instance was not damaged by the combination?—A. Not by that particular combination, but what you referred to a while ago was the drilling contract.

Q. (By Mr. PHILLIPS.) Was not the price of labor put up after this shut-in to the scale agreed upon in the movement?—A. Yes, there was a scale adopted.

Q. (By Representative LIVINGSTON.) Who paid that?—A. The oil producers.

Q. Did they pay it in the price of the oil?—A. That is in the construction account; it goes into drilling the well, that is, building the superstructure over the well. It just adds that much to the cost of drilling wells.

Q. That does not have anything to do with the cost of oil?—A. No, not at all. It diverts the producers' profit to the extent of the advanced cost.

Q. (By Mr. KENNEDY.) What did you say was the period of that shut-down?—A. One year.

Q. What was the amount of oil set aside by the producers and the Standard Oil Company for the benefit of labor?—A. One million each, but the 6,000,000 originally came from the Standard.

Q. That oil was sold for the benefit of the laborers?—A. After this shut-in; it was sold for their benefit and distributed by their organization.

¹ See p. 284.

Q. How did the money thus distributed to them compare with the amount they would have earned had the work continued in that field?

Q. (By Representative LIVINGSTON.) Did they lose anything by the combination?

Q. (By Mr. FARQUHAR.) Subsequently?—A. I have not right at my tongue's end the amount that each individual driller received, but for the most part the driller constantly employed (what we call constantly employed) will perhaps work 200 days a year and make \$1,000.

Q. (By Mr. PHILLIPS.) Did not the laborers get more out of their oil being sold first at a higher price than the producers did?—A. I believe that is true.

Q. (By Mr. KENNEDY.) What I want to know is, did they receive anything like the amount of money they would have received had operations continued?—A. About the only way I can get at a reply to that is to state that there were nearly 800 fewer wells drilled during the year of the shut down than the year previous, and labor would lose the amount to be secured from drilling 800 wells, provided the same number would have been drilled in 1888 as in 1887.

Q. (By Mr. PHILLIPS.) Then did labor receive compensation in addition to what they got in the shut-in points?—A. It seems to me that labor received some addition in the way of increased compensation. It would be very difficult to state the precise loss of labor in drilling at that time. Drilling was very active in the Lima fields in Ohio, and gas drilling was very active also during all that period and furnished a new outlet for labor. But the married men living in distant portions could not get away, and they were the ones who would have made the trouble, if there was any, in that association.

CONDITION OF THE OIL INDUSTRY AT THE TIME OF THE COMBINATION.

Q. Were there not about 31,000,000 barrels of oil in tank on top of the ground when that shut-in movement was inaugurated, and was it not deteriorating in value and the price very low, as you said before? Was it not the object of the Standard and the producers to prevent the deterioration of that oil and in the end to get a remunerative price, and also to advance the price of labor?—A. The conditions precedent to that movement were worse than any that had ever existed before. Great stocks had accumulated in the Bradford field, the accumulation having started just 10 years before that period and still continuing with a prospect of increase. The Washington field had been opened 2 years before and the largest wells found anywhere were there. A very prolific district had been found in Butler County, Reibold and Glade Run, where wells were obtained producing 3,000 barrels a day, and at the same period another development was going on at Saxonburg. That was the condition when this agreement took effect. It was entered into heartily on both sides for the betterment of their condition, and I believe they were both benefited by the movement. The stocks were reduced 10,000,000 barrels and upward. I have a leaflet showing precisely the amount and I will hand that in later.

Q. (By Mr. RATCHFORD.) I understand you to say that this shut down was brought about for the benefit of the industry and particularly the producers?—A. Well, that the industry might survive would be my way of putting it.

Q. But from your standpoint are not prices cut for the same reason?—A. No; I do not believe so. Prices are cut because the trade will not take the supply at the existing prices.

Q. I understood from your previous statement that prices are cut for the purpose of improving trade conditions, and I also take it from your remark that prices are advanced for the same purpose. Now, I want to know what the peculiar trade conditions are which can be relieved by methods directly the reverse of one another?—A. I am very willing to answer that question, but my explanation will be simply an opinion. In answer to the first part of your question, I will say that prices are cut in periods of overproduction for the purpose of finding a market for the surplus goods. One of two things can be done—the oil may be stored in tanks and carried at great expense until it can be put on the market at remunerative prices, or prices may be made to the foreign consumer that will induce him to take the surplus. I have no doubt that all companies manufacturing oil find it necessary at times every year to hold out inducements to the trade to take surplus goods off their hands. There is a period, from May until September, when there is a decline of one-third in the consumption of oil. If there is an overproduction of crude during this period of underconsumption, it becomes necessary to convert it into money, for it would seem like folly to add millions of barrels to the existing stock during 4 or 5 months when there would be no sale for it. These various branches of the oil business are dependent on one

another, the producer on the refiner, the refiner on the producer, and the consumer on both. The success of any one branch depends on the success of the whole. The division of labor has not been carried out anywhere so fully, I think, as in the petroleum business.

Q. That is your answer to the whole question?—A. Yes; that is the only way I can answer it. There is only one of two things to do—to find a market at a lower price or hold the oil for higher prices.

Q. If production continues?—A. Assuming that production remains at a point above the consumption.

THE COST OF PRODUCTION AND THE PRICE OF OIL.

Q. Is the oil trust, combination, or whatever it might be called, in the habit of introducing its products into foreign markets by selling them at prices below cost?—A. Well, I do not know that it is sold below cost. It is the aim of business people to get cost where they can.

Q. You are not in a position to say whether oil is sold below cost or not?—A. They may sell at a very low margin of profit, and I believe they often are induced or, rather, compelled to do so.

Q. Have you ever known them to sell, in any particular case, in order to improve the market, as low as 5 cents per gallon?—A. I never have.

Q. If it has been done, do you believe it was below cost? Have they been able to produce it at any time for 5 cents to your knowledge?—A. Well, that involves an opinion on my part. I am not a manufacturer, and can not tell what the cost of producing is. I have heard—what are you leading up to by that question?

Q. I am seeking to corroborate or cast doubt upon testimony that has been given.—A. I should say that 5 cents a gallon would be a very low cost for distributing oil under the existing conditions in this country.

THE PURPOSE OF THE STANDARD IN SELLING AT OR BELOW COST.

Q. It has also been said that the Standard Oil Company has sold oil below cost in cities in the United States where the competition of other companies has had to be met.—A. I can only say that I have in my business sold advertising space below cost in order to have it occupied. I have heard that other business men do that in order to get off surplus stock. You have to sell below cost in order to get cash; and every spring and fall we carry one or two pages of advertising matter for merchants' clearing sales. They are all below cost. At a period of depression in trade, I should not be surprised if a business concern were compelled to sell at less than cost.

Q. I do not think your illustration is a fair one, because it was not your object to crowd out the fellow who was paying regular rates. I understand, however, that it has been the object of the Standard Oil Company to drive out the man who was disposing of his product at a fair price.—A. I have heard a good deal of that, but I have never seen any of it.

Q. After the control of a market has been secured by the Standard Oil Company through very low prices, is it not true that prices have advanced to a very high figure?—A. Assuming the facts to be as you present them, I should think it would be a very natural result.

Q. (By Mr. PHILLIPS.) Has not the Standard Oil Company followed up new, independent producers, from one place to another, where they have found a market, and reduced the prices there so as to drive them out? Are there not a great many instances of that kind on record?—A. There are none in the oil country. My observation is limited to the oil country, and there are none there.

Q. (By Mr. FARQUHAR.) Are you prepared to make any statement as to the dismantling of plants by the Standard Oil Company?—A. None at all. I have no information of that kind. The things we hear about have certainly not occurred within the range of my vision in the oil country.

OIL PRODUCERS HAVE NOT BEEN INJURED BY THE STANDARD.

Q. (By Mr. PHILLIPS.) You may proceed in your own way.—A. I have here a paper I should like to put in evidence showing that the producers of oil are not beggared in their business relations with the Standard Oil Company. It covers the years 1860 to 1896 and has not been presented before. It shows the amount of oil produced, the average price, and the valuation by years; the total production and valuation by decades and for the period, and also the number and cost of wells drilled.

EXHIBIT I.—Yearly production and valuation.

Year.	Amount of oil produced.	Average price.	Total valuation.	Year.	Amount of oil produced.	Average price.	Total valuation.
<i>Barrels.</i>				<i>Barrels.</i>			
1880	650,000	\$9.80	\$6,240,000.00	1881	27,561,376	\$0.854	\$23,496,078.04
1881	2,118,000	.52	1,101,360.00	1882	30,221,261	.784	23,723,689.88
1882	3,056,000	1.06	3,208,800.00	1883	23,942,021	1.064	24,671,014.73
1883	2,681,000	8.15	8,287,650.00	1884	23,952,290	.884	20,030,102.52
1884	2,116,200	8.15	17,247,030.00	1885	21,528,621	.884	19,025,918.81
1885	2,497,700	6.59	16,459,843.00	1886	26,003,945	.714	18,988,565.74
1886	8,597,500	8.75	13,490,625.00	1887	22,873,450	.604	15,239,436.06
1887	8,347,900	2.40	8,053,520.00	1888	16,905,890	.87	14,708,124.30
1888	8,715,800	3.624	13,469,775.00	1889	22,949,825	.944	21,080,772.78
1889	4,215,000	5.60	23,604,000.00	Total.	241,544,250	-----	206,623,341.56
Total.	27,944,500	-----	111,142,608.00	1890	30,067,307	.864	26,045,804.69
1870	5,659,000	3.90	22,070,100.00	1891	85,939,777	.664	23,967,850.87
1871	5,705,000	4.40	25,488,000.00	1892	83,425,877	.554	18,551,361.73
1872	6,539,100	3.75	24,521,625.00	1893	81,762,690	.64	20,072,249.60
1873	9,893,799	1.80	17,908,814.80	1894	30,781,924	.894	25,779,861.35
1874	10,926,945	1.15	12,565,986.75	1895	30,959,139	1.354	41,871,235.50
1875	11,987,514	1.244	14,954,423.61	1896	33,970,222	1.19	40,424,564.18
1876	9,120,699	2.574	23,497,123.51	1897	86,165,990	.784	27,561,244.66
1877	13,337,393	2.994	31,926,312.66	1898	81,647,860	.914	28,839,112.42
1878	15,381,641	1.174	18,015,747.02	Total.	293,220,986	-----	253,113,285.00
1879	19,864,288	.854	17,094,484.10	Grand total.	671,245,042	-----	778,771,847.08
Total.	108,535,309	-----	207,892,617.47				
1880	26,245,571	.944	24,703,643.70				

	Wells drilled.	Cost per well.	Total cost.	Value of crude oil.
1880-1870	5,000	\$4,000.00	\$20,000,000.00	\$111,142,603.00
1870-1880	20,259	3,000.00	60,777,000.00	207,892,617.47
1880-1890	32,132	2,000.00	64,264,000.00	206,623,341.56
1890-1899	43,490	2,000.00	86,980,000.00	253,113,285.00
Total	100,881	-----	232,121,000.00	778,771,847.03

If one-fourth of all the oil produced went to the land interests they would receive \$194,692,968, leaving \$584,078.885 for the oil producers. Deducting the cost of drilling, there still remains \$351,957,885; the cost of lifting the oil, at an average of 25 cents a barrel, would be \$87,989,471.25, leaving \$263,968,413.75 as the profits of the producing business for the last thirty-nine years, or an average of \$6,768,420.86 per year.²

DRY WELLS AND THEIR COST.

- Q. Do your figures include dry wells?—A. They include 15,000 dry wells.
- Q. Is the cost of territory included—the bonus?—A. 15,000 dry wells are included which never produced any oil and which cost the producers about \$30,000,000.
- Q. Is that your idea of the proportion of dry wells? Would not the percentage be much larger than that? How many wells were drilled altogether?—A. 100,881.
- Q. How many dry wells?—A. Fifteen thousand.
- Q. That does not correspond with the experience of a great many as to the percentage of dry wells, does it?—A. It is consistent with the statistics available. We are liable to be mistaken, but our work is subject to revision. These are not our own figures in every case, but we vouch for those that are. We can take the figures from 1875 and vouch for them; beyond that we are dependent on the early statistician.
- Q. Has the inspection of the oil country been sufficient to give you a record of all the dry wells? I can readily see that the striking of a good well would be reported; but has there been an organized attempt in the oil country to ascertain the facts as to the many thousands drilled and abandoned?—A. During the first 10 years of the business there were probably a thousand men in the oil region who had been through it from the beginning to the end. Of these personal observers 900 probably had been over all parts of it. Mr. Wrigley was commissioned in 1874 to make a survey of the field and report as to the extent of the operations. His report carries us down to about 1875. From that time the news-

¹ See Mr. Emery, p. 661.² Compare Mr. Archbold, p. 539. As to sources, see p. 485.

papers have taken it up and published reports; and, whether right or wrong, they are subject to public inspection and criticism. The figures for the first 10 years are as nearly official as they can be made.

THE RENTAL OR BONUS FOR LAND NOT AN ELEMENT OF COST.

Q. I understand that you do not include the bonus or rental paid for holding the ground in these figures; but are there not many instances where persons pay a very large bonus for a prospective territory that does not prove valuable? Do not such payments amount to many millions of dollars?—A. We have considered that question very fully, and have adopted the view that the bonus or rental paid on account of speculation should not enter into a question of this kind. While it is true that it operates against the profits, the amount needed to produce a given quantity of oil consists in the cost of drilling, the rental of the well, and the expense of lifting the oil; any other expense is purely speculative and is incurred for the purpose of giving the individual producer an advantage.

Q. But is it not necessary, in order to pursue the business, to pay this bonus or rental? Could any firm or individual become a large producer without paying a bonus or rental when the ground had only a prospective value?—A. But it should appear as a bonus and not as the cost of operating.

Q. But is not the producer out that many million of dollars, equal perhaps to the cost of drilling?—A. It is not compulsory, while the cost of drilling and lifting the oil is; the lease is speculative and does not enter into our figures; it curtails the producer's profits; when he sees fit to invest in that way he takes the chances.

AVERAGE DAILY PRODUCTION AND PRICE, 1870-1898.

I should like to offer here a table of figures which purports to give the average daily production by barrels from 1870 to 1898, inclusive:

EXHIBIT II.—*Trend of prices of crude and refined oil, 1870-1898.*¹

Year.	Average daily production.	Average price per barrel.	Refined, per gallon.	Stocks increased.	Stocks decreased.	Total stocks.
	<i>Barrels.</i>			<i>Barrels.</i>	<i>Barrels.</i>	<i>Barrels.</i>
1870 ..	15,350	\$3.00	\$0.20	203,872		544,636
1871 ..	15,800	4.40	.24		12,626	532,000
1872 ..	17,925	3.75	.23	552,222		1,084,433
1873 ..	27,106	1.80	.18	541,134		1,625,167
1874 ..	29,937	1.15	.13	2,080,462		3,706,639
1875 ..	24,075	1.24	.13		155,439	3,550,200
1876 ..	24,506	2.57	.19		725,461	2,824,739
1877 ..	35,988	2.39	.15			3,127,837
1878 ..	41,544	1.17	.10	303,096		4,615,300
1879 ..	54,206	.85	.08	1,487,463		8,562,256
1880 ..	71,114	.94	.09	3,936,956		17,145,104
1881 ..	75,004	.85	.08	8,592,848		25,761,051
1882 ..	82,338	.78	.07	8,615,947		34,335,144
1883 ..	63,365	1.06	.08	8,574,093		36,872,892
1884 ..	65,129	.88	.08	1,390,421		33,539,098
1885 ..	50,921	.89	.08	1,157,327	3,393,854	33,367,898
1886 ..	70,679	.71	.07		171,140	28,367,112
1887 ..	58,846	.66	.06		5,011,786	18,604,474
1888 ..	45,058	.87	.07		9,752,638	10,904,793
1889 ..	58,869	.94	.07		7,690,681	9,295,514
1890 ..	82,376	.86	.07		1,609,279	15,343,253
1891 ..	98,191	.66	.06	6,047,719		17,395,389
1892 ..	91,328	.55	.06	2,052,155		12,111,183
1893 ..	85,296	.64	.06		5,284,206	6,336,777
1894 ..	84,334	.83	.06		5,774,406	5,161,905
1895 ..	84,820	1.35	.07		1,174,872	9,550,593
1896 ..	92,815	1.19	.09	4,498,678		10,789,652
1897 ..	96,357	.78	.06	1,239,069		11,541,753
1898 ..	85,206	.91	.06	752,101		

Since 1870 the daily production has increased 450 per cent; the price of crude oil has declined 75 per cent, and the price of refined about 75½ per cent.

In 1871 we exported petroleum and its products to the amount of 152,195,617

¹ See p. 547, where it is shown that this table includes only "Pennsylvania oil;" pp. 561, 568. As to sources, see p. 485.

gallons, and of the value of \$36,663,825. In 1897 our total exports were 964,397,757 gallons, valued at \$59,057,547. In other words, our exports increased over 500 per cent in 26 years, but the increase in valuation of the total product was but a little over 61 per cent.

In 1871, 132,178,848 gallons of illuminating oil sent abroad brought \$33,493,851, while in 1898, nearly six times as great an amount, or 771,350,636 gallons, brought but \$48,348,916. The total exports of petroleum for the year 1898 amounted to 966,480,610 gallons, valued at \$52,551,048. The decline during the past year (1898) reached 7,817,147 gallons in amount, and \$6,506,499 in value. For 1896, our exports of petroleum and its products were 931,795,022 gallons, valued at \$63,764,278, and for 1895, 858,126,130 gallons, valued at \$56,224,425.

In 1888, 680,000,000 gallons of petroleum were within \$6,000,000 of the value of nearly a billion gallons exported in 1897.

PRICES OF CRUDE AND REFINED OIL, 1891-1899.

I have another paper which I wish to offer in evidence now, and which is prepared to show the comparative prices for 4 years before Mr. Seep's agency, and for 4 years after.

EXHIBIT III.—*Crude and refined prices compared.*

On the 23d of January, 1895, there was posted in the various offices of the Seep Purchasing Agency throughout the oil regions the following important notice:

"NOTICE TO OIL PRODUCERS.

"The small amount of dealing in certificate oil on the exchanges renders the transactions there no longer a reliable indication of the value of the product. This necessitates a change in my custom of buying credit balances. Hereafter in all such purchases the price paid will be as high as the markets of the world will justify, but will not necessarily be the price bid on the exchange for certificate oil. Daily quotations will be furnished you from this office.

"JOSEPH SEEP.

"January 23, 1895."

This marked a radical departure in the methods of buying and selling oil and determining the price of crude petroleum. It tended to make the deal between producer and refiner a direct one, and to eliminate the speculative broker as a factor in determining values. The price of speculative oil, in the shape of certificates hawked about on the floor of the oil exchanges, was no longer to rule the real market as established directly between the man who had oil that he wished to sell in the lines and the agents of the refiners who desired to buy it. The change was rendered imperative by the gradually diminishing volume of business in the oil exchanges and the practice of some of the larger producers, who, by the purchase of a few thousand barrels of speculative oil on the floor of the oil exchanges, were able to manipulate the market a few cents in their own favor and at the same time dispose of a large amount of credit-balance oil at the advanced figures.

This order put a sudden stop to the frequent practice of establishing a fictitious value for oil by interested parties who desired to effect sales or purchases of the commodity. It, however, did not eliminate the petroleum broker or put a check on speculative dealings in oil. This business is pursued as usual, but instead of the credit-balance price being determined by the price of certificate oil, as in times past, all speculation is based upon the price paid from day to day for credit balances in the direct dealing between the producers and refiners. But the broker has ceased to be longer a factor in the business. The manifest absurdity of basing the price of the entire amount of daily production on the few thousand barrels of oil that changed hands occasionally on the floor of the oil exchange is a thing of the past.

In the following tables are shown the average price of a barrel of oil in the exchanges, from month to month, as compared with the price of a gallon of refined oil in New York, for the four years immediately preceding the time when the new rule of the Seep Purchasing Agency went into effect.

Refined prices are quoted in cents and decimal parts of a cent.

Date.	Average price crude oil, per barrel.	Average price refined, per gallon, New York.	Date.	Average price crude oil, per barrel.	Average price refined, per gallon, New York.
1891.	Cents.	Cents.	1893.	Cents.	Cents.
January	74½	7.42	January	58½	5.83
February	77½	7.43	February	57½	5.80
March	74½	7.81	March	65½	5.84
April	71	7.18	April	68½	5.62
May		7.20	May	58½	5.20
June		7.13	June	60½	5.21
July	66½	7.02	July	57½	5.15
August		6.70	August	58½	5.18
September		6.42	September	64½	5.15
October	60½	6.45	October	70½	5.15
November	59½	6.40	November	73½	5.15
December	59½	6.44	December	78½	5.15
Average	66½	6.93	Average	64	5.25
1892.			1894.		
January	62½	6.45	January	80	5.15
February	60	6.42	February	80½	5.15
March	57½	6.32	March	81½	5.15
April	57½	6.10	April	84½	5.15
May	56½	6.08	May		5.15
June	54	6.00	June		5.15
July	52½	6.00	July		5.15
August	54½	6.08	August	80½	5.15
September	54½	6.10	September	83	5.15
October	51½	6.03	October	82½	5.15
November	51½	5.80	November	82½	5.15
December	53½	5.45	December	91½	5.61
Average	55½	6.07	Average	88½	5.17

It must be remembered that the prices quoted above include the cost of the barrel. Refined oil in bulk is 2.50 cents less than the above figures. For example: In 1891 the producer realized an average of 66½ cents per barrel for his crude product, or 1.59 per gallon, while the refiner, after paying cost of transportation, manufacturing, etc., delivered it on board the tank steamers for export abroad at 4.85 per gallon. In 1894 the producer received nearly two cents a gallon for his crude product, while the refiner realized but 2.07 cents per gallon.

SEEP AGENCY PRICES.

The following table shows the price paid for crude petroleum by the Seep Purchasing Agency, since 1895, with the corresponding price of refined oil on the dates when changes in the price of crude were made:

Changes in price of crude oil by Seep Purchasing Agency and corresponding changes in price of refined oil at about the same date.

Date.	Agency price for crude, per gallon.	Refined, per gallon.	Date.	Agency price for crude, per gallon.	Refined, per gallon.
1895.	Cents.	Cents.	1895.	Cents.	Cents.
January 23	0.99	5.90	April 16	2.25	11.50
January 24	1.00	5.90	April 17	2.50	11.50
February 9	1.03	6.05	April 18	2.60	11.50
March 6	1.05	6.60	April 19	2.40	10.75
March 14	1.07½	6.85	April 20	2.35	10.75
March 16	1.10	6.85	April 22	2.10	10.00
April 8	1.20	7.50	April 23	2.00	9.15
April 9	1.27	8.00	April 30	1.90	8.25
April 10	1.35	8.00	May 1	1.80	8.25
April 11	1.50	9.00	May 2	1.70	8.25
April 12	1.75	9.00	May 3	1.60	8.25
April 15	2.00	11.00	May 4	1.55	7.75
			May 6		

Changes in price of crude oil by Seep Purchasing Agency and corresponding changes in price of refined oil at about the same date—Continued.

Date.	Agency price for crude, per gallon.	Refined, per gallon.	Date.	Agency price for crude, per gallon.	Refined, per gallon.
1895.			1896.		
	Cents.	Cents.		Cents.	Cents.
May 7	1.50	7.75	April 7	1.22	7.20
May 9	1.55	7.75	April 9	1.20	^a 6.90
May 10	1.60	7.75	April 24	1.25	6.95
May 13	1.65	7.75	May 11	1.25	6.80
May 20	1.67	8.50	May 14	1.20	6.80
May 24	1.65	8.50	May 18	1.17	6.70
May 27	1.60	8.50	May 19	1.15	6.80
May 28	1.57	8.00	May 22	1.13	6.80
May 29	1.55	8.00	May 25	1.10	6.80
May 31	1.50	8.00	May 28	1.09	6.55
June 4	1.47	7.85	June 5	1.10	6.65
June 7	1.45	7.65	June 10	1.14	6.90
June 13	1.50	7.65	June 12	1.16	6.90
June 19	1.55	7.80	June 15	1.18	7.00
June 21	1.60	8.10	June 18	1.20	7.00
June 29	1.55	8.10	June 23	1.18	6.90
July 1	1.50	7.95	June 24	1.16	6.90
July 5	1.47	7.80	June 25	1.15	6.90
July 6	1.45	7.80	July 13	1.13	6.80
July 12	1.47	7.65	July 14	1.10	6.75
July 15	1.50	7.65	July 15	1.07	6.65
July 19	1.52	7.65	July 16	1.08	6.50
July 25	1.45	7.65	July 23	1.06	6.60
July 26	1.37	7.65	July 27	1.08	6.60
July 27	1.30	7.65	July 31	1.06	6.65
July 28	1.25	¹ 7.10	August 12	1.04	6.65
November 5	1.30	7.25	August 27	1.06	6.70
November 7	1.33	7.25	August 31	1.08	6.75
November 11	1.38	7.75	September 4	1.10	6.80
November 12	1.40	7.75	September 10	1.12	6.85
November 13	1.42	7.75	September 23	1.15	6.90
November 14	1.45	8.50	September 25	1.18	6.90
November 15	1.48	8.50	October 1	1.16	6.90
November 16	1.50	8.50	October 13	1.14	6.80
November 21	1.55	8.25	October 27	1.17	7.00
November 27	1.50	8.00	November 10	1.20	7.15
November 29	1.47	7.75	November 18	1.17	6.90
November 30	1.45	7.75	November 19	1.15	6.80
December 2	1.40	7.50	November 23	1.13	6.70
December 5	1.38	7.50	November 24	1.10	6.60
December 10	1.43	8.00	November 27	1.08	6.60
December 11	1.48	8.00	November 30	1.05	6.50
December 12	1.50	8.00	December 7	1.03	6.50
December 19	1.47	8.00	December 9	1.01	6.50
December 20	1.40	7.75	December 14	.99	6.40
December 21	1.35	7.75	December 16	.97	6.30
December 24	1.40	7.75	December 17	.95	6.25
December 27	1.45	7.75	December 23	.93	6.25
December 30	1.50	8.00	December 28	.90	6.20
1896.			1897.		
January 2	1.50	8.00	January 1	.90	6.20
January 17	1.47	8.00	January 18	.88	^a 6.10
January 18	1.45	8.00	January 23	.85	6.00
January 20	1.43	8.00	February 1	.87	6.05
January 22	1.40	^b 7.65	February 2	.90	6.15
January 11	1.43	7.60	February 15	.91	^c 6.25
February 13	1.40	7.35	March 22	.92	6.35
February 20	1.35	7.10	March 23	.93	6.40
February 24	1.33	7.10	March 24	.94	6.45
February 26	1.30	7.10	March 26	.95	6.50
March 4	1.28	7.10	March 30	.96	6.55
March 9	1.30	7.10	April 3	.93	^d 6.55
March 10	1.33	7.25	April 5	.91	6.20
March 12	1.35	7.25	April 5	.86	6.20
March 14	1.33	7.25	April 9	.85	6.05
March 17	1.40	7.50	April 15	.84	6.05
March 23	1.37	7.50	April 28	.83	6.05
March 25	1.35	7.25	April 30	.81	6.05
March 26	1.32	7.35	May 3	.83	6.15
March 27	1.29	7.20	May 5	.86	6.25
April 2	1.25	7.30	May 18	.89	6.25

¹ Remained at this figure until November 6.

² Ranged from 7.50 to 7.65 cents.

³ April 17, 6.80 cents.

⁴ On January 20.

⁵ Ranged from 6.25 to 6.30 cents.

⁶ Ranged from 6.40 to 6.55 cents.

Changes in price of crude oil by Seep Purchasing Agency and corresponding changes in price of refined oil at about the same date—Continued.

Date.	Agency price for crude, per gallon.	Refined, per gallon.	Date.	Agency price for crude, per gallon.	Refined, per gallon.
1897.	Cents.	Cents.	1898.	Cents.	Cents.
May 23 .....	.87	6.15	June 24 .....	.89	6.15
June 24 .....	.85	6.15	June 27 .....	.90	6.15
June 28 .....	.83	6.10	June 28 .....	.92	6.25
June 29 .....	.82	6.05	July 11 .....	.94	6.25
July 2 .....	.80	6.00	July 19 .....	.95	6.30
July 13 .....	.79	5.95	July 20		6.20
July 14 .....	.77	5.85	July 21		6.20
July 19			July 22 .....	.90	6.10
July 26 .....	.73	5.75	July 25 .....	.92	6.20
August 2 .....	.71	5.75	July 26 .....	.94	6.30
September 9 .....	.69	5.70	July 27 .....	.96	6.40
September 23 .....	.70	5.80	August 15 .....	.97	6.40
October 14 .....	.68	5.50	August 18 .....	.98	6.50
October 15 .....	.67	5.50	August 22	1.00	6.50
October 18 .....	.65	5.40	September 16	1.02	6.50
1898.			September 23	1.04	6.75
January 1 .....	.65	5.40	September 27	1.06	6.85
February 16 .....	.67	5.40	September 29	1.05	6.85
February 17 .....	.68	5.40	October 4	1.07	6.95
February 23 .....	.70	5.50	October 6	1.08	7.00
February 25 .....	.73	5.60	October 7	1.10	7.10
February 26 .....	.76	5.85	October 13	1.12	7.20
February 28 .....	.80	6.20	October 17	1.15	7.30
March 1 .....	.82	6.05	October 20	1.18	7.40
March 8 .....	.80	5.90	November 15	1.16	7.30
March 9 .....	.79	5.90	November 16	1.15	7.30
March 14 .....	.78	5.80	December 9	1.17	7.30
March 17 .....	.77	5.75	December 19	1.19	7.50
April 2 .....	.75	5.75	1899.		
April 21 .....	.74	5.60	January 1	1.19	7.50
April 22 .....	.72	5.60	January 12	1.17	7.40
April 23 .....	.71	5.60	January 13	1.16	7.40
May 5 .....	.75	5.80	January 30	1.15	7.40
May 6 .....	.80	6.00	February 28	1.13	7.35
May 7 .....	.85	6.00	June 24	1.15	7.20
May 11 .....	.83	6.00	June 30	1.17	7.35
May 12 .....	.82	5.95	July 6	1.19	7.40
May 19 .....	.84	6.05	July 11	1.21	7.50
May 20 .....	.86	6.15	July 14	1.23	7.60
June 7 .....	.87	6.15	July 18	1.25	7.70
June 11 .....	.86	6.15	July 31	1.27	7.80
June 15 .....	.85	6.15	August 29	1.30	7.90
June 21 .....	.86	6.15	August 31	1.35	8.10
June 22 .....	.87	6.15			

¹ These figures prevailed until the close of the year.

² Ranged from 5.70 to 5.75 cents.

³ September 19, 6.65 cents.

⁴ In April dropped to 6.95 cents.

When there has been a large amount of surplus production seeking a foreign outlet, reduced prices have been the invariable result for both crude and refined. Increased consumption is always gained at the expense of price. Foreign competition has been keen, and prices for refined for the four years from 1891 to 1895 were hammered down to the lowest notch. When refined oil gets above a certain price per gallon, its use becomes almost prohibitive to millions of our foreign consumers. The result of higher prices is immediately shown in a falling off in the foreign demand.

A careful inspection of the above tables will show that the relative ratio between the price of refined and crude oil has been better maintained during the years that the practice of basing prices upon the actual conditions of supply and demand has prevailed than during the years immediately preceding the adoption of the new order of things. The speculator devoted his efforts to bearing the market whenever there was any immediate prospect of a temporary increase in new production, without any regard to the foreign demand for refined or the actual value of refined oil in the markets of the world. The producer was absolutely at his mercy.

Taking the year 1899 for illustration, it will be observed that the price of refined oil has advanced from 7.50 cents a gallon at the beginning of the year to 8.10

cents at the present time, a gain of 60 points. During the same period the Seep Purchasing Agency price for crude oil has advanced from \$1.19 to \$1.35 per barrel, or 16 cents. During March and April, when crude oil was \$1.13 per barrel, refined dropped as low as 6.95 cents per gallon. On June 28, when refined had advanced again to 7.20 cents, crude oil was marked up to \$1.15, and a few days later, when refined had advanced to 7.50 cents, the crude-oil price had been raised to \$1.21 per barrel.

HOW THE PRICES OF OIL ARE FIXED.

Q. (By Mr. PHILLIPS.) You say "it tended to make the deal between producer and refiner a direct one;" but does the producer have any part in the bargain? Do they not post the price each day that they will give? Can it be considered a deal when the producer has nothing to do with fixing the value of his commodity?—A. Would you suggest that I say "option"—that the producer has the option? Would you advise me to change that?

Q. Provided he has another place to sell.—A. He is not driven to that necessity. When he becomes reduced to that necessity, it may be as you say.

Q. Do they not fix the prices also of the refined? Do they not post that in New York and Europe, the same as the crude?—A. I believe the prices are posted; they are reported every day and posted somewhere, but whether or not they do it I can not say.

Q. When the Seep Agency advanced prices, as they did lately, did not the Standard advance the refined 10 or 15 hours later, the same day or the day following?—A. I have no knowledge of that, but I dare say refined would go up in proportion to the advance in crude.

Q. They fix both prices, the crude and refined?—A. Mr. Seep states here that the markets or the demand of the world fix it. We are giving Mr. Seep's version of it.

Q. (By Mr. FARQUHAR.) Does Seep post the European market?—A. No.

Q. What market does he post?—A. The crude-oil market.

Q. Of America?—A. Of the United Pipe Lines and the National Transit Company.

Q. (By Mr. JENKS.) You speak of the export price fixing the price of all oil and of the markets of the world fixing the prices when Mr. Seep is purchasing. Is it true that the relation between the regular export price in New York and the price Mr. Seep is paying the producer is a constant one?—A. I believe it is.¹

Q. You think the relation between these two prices is substantially the same all the time?—A. Inevitably. The purpose of this paper is to lead up to that question.

Q. (By Mr. PHILLIPS.) Did not the Standard Oil Company completely control the price of oil 4 years before Seep's Agency? What does the statement that they "would pay what the markets of the world would justify" mean? Was there sufficient business done on the exchange by others to affect the Standard in any way?—A. To affect prices, there was.

Q. To any considerable extent?—A. To an extent sufficient to influence the market one way or the other. I have an instance in mind now of a gentleman coming to Oil City and advancing the market 2 cents by dumping on it a half million barrels of his own oil.

Q. Was that a common practice? Did not a brief period of time elapse in that transaction?—A. It was just an instance of marvelous mention, you might say.

Q. The gentleman only had time to walk from one place to another?—A. He took that time.

Q. (By Mr. KENNEDY.) Who was the gentleman?—A. Mr. Michael Murphy.

Q. (By Mr. SMYTH.) That was a case of pure speculation?—A. Yes. It was possible for anyone with money and nerve and oil to do the same thing any time.

Q. (By Mr. PHILLIPS.) It would be risky for a producer to pursue that course, would it not?—A. I would not want to be the man to try it.

BY-PRODUCTS AND THE PROFITS OF OIL REFINING.

Q. Is it fair to compare the price of crude oil with that of export oil to show what the profits are, without taking into consideration the by-products, such as lubricating oil, which is sold in this country and other places?—A. That question has occurred to my mind a number of times, and the conclusion I have arrived at is that when we have an article of export or commerce the foreigner makes the price; Manchester fixes the price for cotton; Liverpool, for wheat.

Q. Does the foreigner make the price of oil in Denver, Minneapolis, and the southern cities and towns?—A. If oil could be transported by telephone, or placed

¹ See Mr. Lee, pp. 276, 285; Mr. Westgate, pp. 371, 372; Mr. Lockwood, pp. 384, 388; Mr. Archbold, p. 558; Mr. Emery, p. 616.

there without labor, it would be sold as cheap in Denver as in New York; but since labor enters into it, the oil at Denver is produced at Denver and the eastern oil is hardly brought into competition with it.

Q. Does not the Standard make a very large profit out of the by-products—benzine, tar, lubricating oil, etc.—which you do not take into consideration when simply comparing the price of refined oil with what they pay for crude? I may be misinformed or mistaken; what is your view in regard to that?—A. Well, the way it has always appeared to me is this: The by-product is something of a gift of nature. In marketing the by-product labor and capital have been employed; the producer has nothing to do with these by-products; he sells his product as a whole, and they are only created by labor in the process of manufacture or by chemical process. In other words, they cost something; they possibly cost something near as much as they produce in many instances, but that there is a profit is very complimentary to the refiner and to the chemist who has made it possible. There was a time in the refining business when there were no by-products. The only by-product that I knew anything about when I went into the oil business and that had a ready market was benzine. That was sold as a dissolvent for paraffin, went into the wells as benzine, came out and went into the producers' tanks, and was sold back to the refiners as crude oil at 400 and 500 per cent over cost. Now, that is the only by-product that we had in the beginning. Chemistry has advanced the art of refining, and at every step labor and capital are employed in the preparation of by-products, and I dare say there is a profit. There should be a profit in them.

Q. Well, provided there is a profit, and you admit that there is and a large one, in the by-products now, is it fair to take the price of the refined export oil and compare it with the price of the crude? In your opinion are not the by-products the source of one-half of the profits of the Standard Oil Company or other people engaged in shipping oil abroad?—A. Well, it occurs to me that with the profits on oil at export prices, we should have no oil business, because with the production of the present volume no refinery could undertake to carry on the business and run it for the profits on burning oil alone. The oil would necessarily be so high that there would be no inducement for the consumer to buy it. It has been stated here in my presence by some person on the stand that 10 cents a barrel was a fair profit, but he was taking into consideration the by-product.¹ No refiner can take 10 cents profit, and that alone.

Q. (By Mr. FARQUHAR.) Does not the Standard Oil Company dispose of the by-product to other manufacturers? For instance, is not the petroleum residuum which enters into dyes sold at a cheap rate to manufacturers outside of the Standard Oil Company?—A. Yes.

Q. And in the long run it makes very little difference in the tables you have presented here in respect to the crude oil itself?—A. That would be my view of it.

Q. Do you know whether the Standard Oil Company has entered into the manufacture of by-products such as dyes, magenta dyes, and others, or is that done by different corporations and individuals who have taken up the by-product business?—A. By separate concerns.

Q. (By Mr. PHILLIPS.) How about the paraffin or wax that enters so largely into sperm candles; do they manufacture the paraffin or wax?—A. There is a large percentage of wax and they sell wax to other manufacturers.

THE PRODUCERS' PROTECTIVE ASSOCIATION BUILDS REFINERIES.

The volume of matter involved in this subject is so great that I have necessarily skimmed over it. The complete examination of this subject would require more time than the commission can give to any one witness. Therefore, we have jumped from the movement in the 70's to the present time, but I should like to go back now to the shut-in movement and the matters growing out of that. After that period of 12 months' suspension of operations the Producers' Protective Association continued in force, and their next step was to promote the erection of refineries in competition with their benefactor, the Standard Oil Company.

Q. Did you not say that that was a mutual arrangement? Were not the producers at liberty to do as they pleased after that?—A. That agreement was carried out for 1 year; it was limited to 1 year, and at the expiration of that time the parties did as they agreed; their mutuality ceased. They fell apart. The Standard Oil Company pursued its course as a transporter of oil. The Producers' Association proceeded, as I have stated, to promote the erection of refineries, and stated, as an inducement, that there was so much profit in the by-products that

¹ See testimony of J. W. Lee, page 273.

they could afford to give the burning oil away. A refinery was built on that proposition by impractical men and failed. There was no reason why a refinery where it was built should not have succeeded; there is one there now in successful operation.

Q. How many were built after that shut-in period?—A. Only one.

Q. Were there not a large number before, called independent refineries, which united their interests?—A. Yes.

Q. The producers did not spend money in building refineries?—A. They supplied the money to build that one refinery.

Q. No large per cent of it?—A. It was contributing financially.

THE ORGANIZATION OF NEW PIPE-LINE COMPANIES.

Q. Had they a right to do that?—A. They had a perfect right to do it; but, to show the object of the organization still further, they proceeded about 1890 or 1891 to organize pipe-line companies. The first company organized was the Producers' Oil Company, Limited, with a capital of \$600,000. No one questions their right to do that. It was organized at a very opportune time, at the period of the greatest production that has ever occurred—the opening of the McDonald field. They entered the McDonald field, but they got away from the production that was likely to be overwhelmingly large. They kept on the outskirts and limited themselves to such wells as they could handle with their capacity. That was the first point where they entered actively into competition with the United Pipe Lines in the transportation of oil. At this time the McDonald field rose within 3 months from practically nothing to a daily production of 80,000 barrels, and the production was limited to a territory about 6 miles long by 2 miles wide, a very narrow strip for so large a production. That flow continued for but a single day, but the average was above 60,000 barrels a day for months. The Producers' Association, which had been formed for the betterment of the oil trade, did nothing to improve the condition of the McDonald producer. It gave him competition at once useless and expensive—expensive to the extent of \$600,000 of the producers' money embarked in it, which has never paid a cent of interest from that time to this. The one concern was obliged to shoulder the entire responsibility for carrying the oil in that district, and would have done so regardless of the presence of the association of producers.

INTEREST OF THE STANDARD IN THE PRODUCERS' OIL COMPANY, LIMITED.

Q. Did not the Standard Oil Company purchase a large percentage, a majority, of the stock in the Producers' Oil Company, Limited, of that \$600,000 capital of which you speak?—A. I know of some purchases by Colonel Carter.

Q. Did not that find its way to the Standard Oil Company, and in the suit pending was it not proven that the Standard Oil Company furnished the money to purchase the majority of that stock?—A. I did not understand it so, but I do not know.

Q. Did they not pay as much as two for one in order to get control?—A. I have no information on that. The only sales I know of were at par; I know of some few sales at par.

Q. Was that a direct corporation, or what was the nature of the organization?—A. It was a limited partnership.

Q. Mr. Carter attempted to be elected a director in it, did he not? And is it not a fact that the matter was taken into the courts with the result that it was decided that he could not become a director or have the power to vote that stock, and that therefore he failed to secure control of the company?—A. I know there was a suit and a decision.

Q. You do not know that the decision was adverse to Mr. Carter or the persons who stood back of him?—A. I assume that it has been from the subsequent proceedings.

Q. Are they not now appraising the value of that stock?—A. I understand they are now appraising the value of the stock. The Producers and Refiners' Oil Company, Limited, proving ineffectual for the purpose intended, obtained additional capital through a combination with refiners to the amount of \$250,000 and built a connecting line to that one to supply oil to the refiners, making a capital of \$850,000. That has never paid a cent of dividend. It has been in operation nine years and has never paid a cent to the stockholders. The market price of oil has ranged from 1 to 9 cents higher per barrel in that line as compared with the Seep Agency prices.¹ The producers got the benefit of that. Yet the refiners to whom the oil was sold paid the existing market price, or a price less than the one paid to the producer.

¹ See p. 444; Mr. Phillips, 598-600.

THE ASSOCIATION CONSTRUCTS A PIPE LINE TO THE SEABOARD.

Q. Was there another line built after the second one to which you refer?—A. The United States Pipe Line was built to the seaboard.

Q. By whom?—A. By the same association. A m. 'on dollars were embarked in that. Other capital was added to that, probably four or five hundred thousand dollars, making upwards of \$3,000,000 invested in transportation as a result of that movement, and upon which the stockholders have never received a dollar excepting a 5 per cent dividend paid by the United States Pipe Line at a time when it was paying nothing on its fixed indebtedness.

Q. Do you not believe that they would have reaped a large profit had it not been for the opposition of the Standard?—A. Not at all. I believe that investment was useless, the capital wasted, and the producers wronged.

Q. When this company commenced to sell refined oil in New York City did not the Standard put the price down there to less than the cost of refining?—A. Whatever was done there, was a matter of merchandising on both sides. They were not producers or refiners—they were merchants.

Q. Did they not do the same thing in Philadelphia?—A. I believe that to be a common practice wherever there are sales. Each person having a commodity for the market places it at the best advantage to himself.

SELLING AGENCIES ESTABLISHED IN EUROPE.

Q. Did they not obtain a market in Europe and establish a selling agency there?—A. I was leading up to that.

Q. Did not the Standard buy that agency and obtain all the tanks available in Germany and leave the independents without any chance to market their oil? Did they not buy out a man by the name of Poth, who was handling the independent oil abroad?—A. I understand they did.

Q. Was not the agency sold before his death?—A. I know nothing about that; I cannot answer that question.

Q. Have you any knowledge of that?—A. No, I have no knowledge of it.

Q. Do you know that the Pure Oil Company, as it is called, built storage tanks abroad and established agencies of their own? Are they not now doing business in that way, independent of the Standard's opposition, and where they can not be discriminated against in prices?—A. I know of the existence of the concern called the Pure Oil Company.

THE PRODUCERS' ASSOCIATION BECOMES A TRUST.

Q. You do not know then that these companies have established agencies abroad and are now marketing their oil?—A. Oh, yes, that is a matter of common information; but I was about to say that when the Producers' Protective Association started in to protect their business in an associated way I suppose they were incorporated. They started out with the pipe line, under an arrangement in which they could limit their responsibility and say who they would admit to partnership. That being ineffective they formed a combination of refiners and secured \$250,000 additional capital. Then came the construction of the United States Pipe Line, and after that the establishment of the Pure Oil Company. But the Pure Oil Company did not come until after the Oil League was formed and it became necessary to complete the trust. This thing began in a most untrust-like way, but ended up in a trust as complete as could be formed. The creation of the Pure Oil Company was necessary in order to control all these other properties. The Pure Oil Company, with the nominal capital of \$1,000,000, and an actual capital of \$400,000, is trying to swing this \$3,000,000 concern, and will eventually if the voting trustees have the power.¹

Q. (By Mr. JENKS.) Will you explain the evolution of that trust a little more in detail?—A. That is a trust.

Q. Explain just what you mean by that. Do you refer to the method of its formation?

Q. (By Mr. PHILLIPS.) Do you mean a trust or a combination?

Q. (By Mr. FARQUHAR.) With respect to the form of control you regard it as a trust?—A. In that respect I regard it as a trust. It is a combination, a series of combinations, but the properties are all managed by voting trustees. The property is in a trust; three-fourths of the property of the United States Pipe Line, or the proportion which this organization controls, is in a trust.²

Q. (By Mr. PHILLIPS.) Do you know the reason why a voting power was put there? Had not the Standard bought several hundred thousand dollars' worth of

¹ See Mr. Lee, p. 285; Mr. Westgate, p. 365; Mr. Archbold, p. 528.

² See p. 600.

³ See pp. 433, 434, 438, 507, 518; Mr. Phillips, pp. 539-598; Mr. Emery, pp. 657-659.

the stock of the United States Pipe Line and did they not propose to control it? Was it not essential to the existence of the United States Pipe Line that the stock should be put in trust?—A. If we start by admitting that proposition we must indorse all that has been done before in the way of combination; that of itself is a virtual admission that the Standard Oil Company was right.

Q. (By Mr. FARQUHAR.) You mean to say that this action of the company has vindicated the action of the Standard Oil Company?—A. Entirely.

THE PRODUCERS' ASSOCIATION COPIED THE METHODS OF THE STANDARD OIL COMPANY.

Q. (By Mr. SMYTH.) You consider that this company copied in a measure the plans and proceedings of the Standard Oil Company?—A. Not exactly; that was open; this is secret.

Q. (By Mr. PHILLIPS.) Do you mean that the Standard Oil Trust was not one of the most secret organizations in existence in the management of their business and in making statements to the stockholders?—A. I suppose they have not opened the pages of their books to the public.

Q. Have they ever issued any statement to the stockholders?—A. Not being a stockholder, I can not say.

Q. You are a newspaper man?—A. They have never issued any to me; I have never asked for any.

Q. Was suit ever brought by a stockholder in that trust in order to get knowledge of their business and to have a statement made of how the funds were being handled?—A. I think the suit failed, and properly, because the purpose of the suit was to work an injury to the company. It was not brought in good faith.

Q. Then you think that a man holding stock in the company has no right to know anything about the amount being earned or whether or not its means are being squandered? As a rule, do other corporations exist without making a statement to their stockholders?—A. If the act of the Pure Oil Company in excluding Colonel Carter is justified, I do not see how other concerns can be censured for what they have done.

THE INDEPENDENT OIL MOVEMENT HAS NOT REDUCED PRICES OF REFINED OIL.

Q. (By Mr. JENKS.) What has been the effect of the independent oil movement upon the prices of refined petroleum to the consumers? You state that these various independent organizations that were compelled to go into a trust made no profits and declared no dividends, and that you regard the investment of that money as a practical waste, because they had been of no service to the oil producers?—A. Yes.

Q. What has been the effect of this independent movement on the prices of refined petroleum?—A. It has had no effect whatever.

Q. You do not think it resulted in reducing the prices of petroleum at all?—A. None whatever; it only gave members of this company and the independent refiners in the creek regions the opportunity to get immensely wealthy. They are making money faster than ever before. The producers are making a little more money than previously, to the extent of the premium which the producers will not pay the patrons, and the stockholders receive nothing for their investment.

EFFECT OF THE MOVEMENT ON THE PRODUCERS.

Q. Do you know how far the stockholders of these combinations are themselves producers?—A. A very large per cent are producers.

Q. Do you know what proportion of the producers whose oil they are buying are themselves stockholders?—A. I do not.

Q. Then you would say that the general result of this independent movement has been to increase the price of crude oil?—A. Only to a very few, to persons interested in that line and connected with its service.¹

Q. To others, too?—A. To others, no; its effect has not been felt to any extent anywhere.

Q. Does it benefit all of those whom it reaches?—A. To that extent and by this means: It is a method of "robbing Peter to pay Paul." It is taking money out of the pipe line to pay the producer in the way of advanced prices for his oil; it performs its service by piping oil for less than published rates or established rates, whatever they may be.

¹ See p. 442; Mr. Phillips, p. 598-600.

Q. What is the rate?—A. The pipage rate is understood to be 15 cents a barrel.¹ Now, when the premium has been as high as 9 cents a barrel, that would mean as much as 9 taken from 15, leaving the pipage charge 6 cents.

EFFECT OF THE INDEPENDENT MOVEMENT ON REFINERS.

Q. I understood you to say, further, that this independent movement had resulted in making refiners in that region rich?—A. It did.

Q. Will you explain how that was brought about?—A. If I could, I would be in the refining business myself.

Q. You think it has not resulted in the lowering of the price of refined oil?—A. No; they claim that their success has not resulted in lowering the price of refined oil, not in the region, at least, where we are. That oil which goes abroad is restricted in every State of the Union.

Q. (By Mr. PHILLIPS.) That is, both as to the Standard and to the others?—A. Yes; it is necessary by reason of the laws of this country.

Q. Are not these companies now making money?—A. The refining companies?

Q. The independent refining companies? Would not their stock be very desirable at the present time?—A. The refiners' stock?

Q. No; the stock of these various independent companies?—A. It would be if they managed on business principles. I believe there is money in piping oil if the business is run for the benefit of the lines, for the plant itself. There must be money in it.

Q. Did they not establish the first pipe line to the seaboard to handle refined oil?—A. That cuts no figure. Warren, as we have shown here, piped refined oil a distance of 8 miles in 1865, and in tank cars they have taken refined oil from one point to the other. And what is a tank car but a pipe line on a limited scale? If you confine oil in an iron vessel, it makes no difference whether it is a continuous pipe or in a closed tank and agitated, the result is the same.

THE OPPOSITION MET BY THE NEW COMPANIES.

Q. Would not these companies have gained a good deal more if they had not been opposed by combinations in New Jersey and could have gotten through to New York? Would not their profits have been much larger if they had had free pipage through to New York, as the Standard Oil Company had?—A. If there was only the one proposition, a person might answer that.

Q. Have others the same right to go through to New York that the Standard Oil Company has?—A. Undoubtedly they have the right.

Q. And is it fair or just that they should be prohibited from exercising that privilege of equality?—A. Let me answer that by comparison in this way: I think it would be just as fair as for one of two producers bidding for land to outbid the other and take the land away from him. If it is unfair to prevent a pipe line from going into a market already occupied, it is unfair for one producer to compete for land and take it from another if he has, with his neighbor, superior wealth and ability to control it.

Q. One is exercising the right of eminent domain?—A. And he is performing for that right an adequate service to the public.

Q. Would you say, if one railroad could supply the whole market of New York, that all other railroads should be prohibited from going there?—A. If the money to construct those roads was to come from the passengers who were expected to patronize them and then to pay their fare, too, I should say yes.

Q. Do you undertake to say, then, that these independent companies which the Standard is so anxious to control, and in which they have purchased stock which would sell to-day at a very large profit, are robbing the people or doing an injustice?—A. "Robbing" is a hard word, and I do not care to use it in any connection. The fact remains that the money embarked in the enterprise is unremunerative.

Q. You stated they were taking money from some persons and giving it to others?—A. That was only a comparison; just a remark. That is a very common expression: "Robbing Peter to pay Paul."

Q. You have no direct knowledge of these people having done injustice to any of the stockholders, have you?—A. I have no knowledge that they have done full justice to the stockholders in returning them interest on their investment in the pipe lines. I have no knowledge of that kind. There are \$3,000,000 invested in that enterprise.

Q. You have knowledge of the fact that they have been employing every honorable means to get through to the city of New York, and that they have

¹ See Mr. Archbold, p. 553; Mr. Rogers, p. 581.

lessened freight rates a very great deal by getting into New Jersey, have you not?—A. I have; yes.

Q. (By Mr. JENKS.) You have said that you do not think the independent movement has reduced the price of refined oil. What has been the price of water-white oil for the last few years, since the organization of the independent companies, as compared with what it was before?—A. I have no means of knowing; we do not have water-white oil in export. In the sale of water-white or any other class of oil there is a special contract, according to the district or location.

Q. You have no record at all with regard to the price since 1874?—A. None at all.

THURSDAY MORNING, *September 7, 1899.*

THE SEEP PURCHASING AGENCY.

Q. (By Mr. JENKS.) During the session yesterday you spoke of Mr. Seep as being the general purchasing agent. Whom does Mr. Seep represent? Is he the general purchasing agent for the Standard Oil Company?—A. I so understand it.

Q. So he receives his instructions from the New York office?—A. I do not know from whom he receives his instructions; he acts independently so far as my knowledge extends.

Q. He is supposed to represent the Standard?—A. Yes.

Q. Whether he fixes his prices of his own accord or whether he receives direct instructions from some superior official of the Standard Oil Company you do not know?—A. I do not know.

Q. Is he a general purchasing agent with other agents under him?—A. That is the way I understand it.

Q. You understand that he fixes the prices for his different subagents throughout the oil regions?—A. That is my understanding.

Q. Have you any idea as to the number of subagents he has under him?—A. I have an idea; the number is very large, probably twenty or thirty.¹

Q. You do not think the number of agencies runs into the hundreds?—A. Oh, no; I do not think that; 20 or 30 will include them all.

Q. How large a portion of the crude oil produced is purchased through Mr. Seep and his subagents?—A. I should think about 80 per cent.

Q. Is that for the whole field, the Ohio, Pennsylvania, and West Virginia oil?—A. I can testify only as to Pennsylvania oil.

Q. Have you any information with reference to the Ohio oil?—A. I think that estimate would hold good as to Ohio.

Q. The agencies there are under his control also?—A. So I understand.

Q. Mr. Seep, then, in posting prices that he will pay, is practically doing so for 80 per cent of the oil that comes into the market?—A. I think about that.

FLUCTUATIONS IN THE PRICE OF CRUDE OIL EXPLAINED.

Q. In posting the prices he will pay for crude oil from day to day, are the fluctuations by the barrel very large or are they only a cent or two?—A. Well, I do not know as to that; I pay but very little attention to the oil market. The fluctuations are usually a full cent at a time; sometimes a fraction of a cent.

Q. That is a barrel?—A. A barrel. It has been 2 cents; it may have been higher than that at times.

Q. Do you see any satisfactory reason why, on a barrel of oil, fluctuations should be so small as that? Are there any special causes that affect the market in such a delicate way?—A. Now that question has occurred to me, and I think I have spoken to one or two persons about it, and the reason I have heard assigned is this: They have adopted the point system on refined oil, and the point is a very delicate fluctuation; for example, 10 points in oil may represent a fraction of a cent or a full cent, and that would account for the margin on the amount you stated; it is controlled in some way by the movements of refined, and the fluctuation of refined is by points, 100 points representing a cent, and it is the fraction of 100 that controls the prices of the crude.

Q. So in your judgment these minor fluctuations that Mr. Seep makes are controlled by the fluctuations of the refined?—A. Yes.

¹ See Mr. Archbold, p. 571.

HOW THE PRICE OF REFINED OIL IS DETERMINED.

Q. The prices of refined are presumably fixed by the Standard Oil Company in New York?—A. As I understand it, they are fixed by the demand in Europe.

Q. There must be somebody who has oil to sell and who determines the selling price?—A. The parties holding the oil would have the option of relinquishing their holdings at the existing price, but to make the price, as you put the question, would imply that the Standard chalked the price up, and said to Europe: "You must take this or none at all." That is not the situation, as I understand it. The pulse of the market is carefully felt in Europe constantly, and the market is made to suit the demand there.

Q. The point I had in mind was this: Is it some official of the Standard Oil Company who determines what price shall be accepted for the oil they have?—A. There is undoubtedly some salesman connected with their establishment who is in direct connection with the prices at some point. The condition of the market is known to this person, and if he wants to relinquish the oil at that figure it goes.

Q. Then if the price of the crude oil that is bought by Mr. Seep varies with the price of refined oil, would there be a presumption that the two are connected? Would the prices then presumably be fixed by Mr. Seep?—A. The price of crude oil is invariably controlled by the price of refined. When there is a variation in refined, amounting to points enough to make a fraction of or a full cent, it appears in the crude.

Q. (By Mr. PHILLIPS.) Is it not the case frequently that they advance the crude before the refined, or is not the one advanced the same day the other is? Was not that the case with the recent advances, the crude oil being first advanced and the points afterwards named on refined?—A. I am not clear as to that, and I will say furthermore that I am not personally familiar with the movements of refined oil.

Q. (By Mr. JENKS.) Yesterday I asked you with reference to the price of water-white oil, and you said that the regular prices of oil were the prices on export oil?—A. The prices quoted.

Q. Quotations on refined oil are made in Pittsburg, New York, and other places, are they not?—A. Yes; those are local market quotations, and they pay no attention to local markets; the general market is the one that controls the price of crude.

PRICES OF OIL IN CINCINNATI, 1865-1877.

Q. In your paper you pay no attention to these markets, Pittsburg or New York?—A. I pay no attention to them; but in connection with that question I hunted up some figures gathered back in 1865. They consist in a series of reports of the Chamber of Commerce of Cincinnati from the year 1865 on into the seventies. Now, this gives the local market and not the export:

[Report of the Cincinnati Chamber of Commerce for the year ending August 31, 1865.]

The price of this article, owing to the decline in the price of gold, was much lower at the close than it was a year ago, though the average price is higher for the year than that of the previous season. There has been a marked falling off in the production of the article, according to the statistics of the commerce of the country.

The following was the price of refined petroleum, per gallon, duty paid, at the close of each month during the year 1865:

	Cents.		Cents.
September 28	85	March 29	83
October 26	85	April 26	73
November 30	88	May 31	70
December 28	93	June 28	70
January 25	92	July 26	70
February 22	93	August 30	70

The following were the imports of petroleum, including coal oil, of which but little is now brought to market, the last four years:

	Barrels.		Barrels.
1861-62	23,000	1863-64	49,081
1862-63	20,000	1864-65	50,925

The price of this article has been very low during the entire season, but did not undergo much change. The supply has been larger than the previous year, as is shown by the statistics of the trade, there being an increase in the foregoing exports from New York alone of over 7,000,000 gallons. Previous to July, 1868, there was a tax of 10 cents per gallon on refined; since that time it has been free of that tax, so that in comparing the prices given this must be remembered.

Q. Have you facilities for obtaining, conveniently, the prices of water-white oil at Pittsburg or New York, covering the same period as those of export oil?—A. Not any more than the commission itself. These figures, I should say in explanation, were obtained some years ago when I was making an investigation into the movement of oil. The Cincinnati Chamber of Commerce seemed to be the only one that had given attention to it and kept a correct record from 1860 to 1869, and up to the present time.

Q. You think that Cincinnati would be as fair a point as could be chosen in determining the price of water-white oil?—A. It is the only point at which a correct record has been kept, a correct record of the prices of all commodities.

Q. I understand you to say that the prices of water-white oil in these local markets do not vary with the prices of export oil?—A. I said it was a matter of special contract in the various markets where it was offered. I do not know that I can add to that because, in the various cities, the prices have varied according to the quality of the oil; but water-white, as a standard quality, is always water-white wherever it is offered; the elements that enter into that are transportation; it may cost more to sell oil in Ohio than it does at the point of manufacture, if it is manufactured in Pittsburg.

Q. Certainly. If we could find one standard market where they have kept a record of the prices of water-white oil from, say, the early seventies or sixties up to date, would that, in your judgment, show us fairly well what the effect of the combination has been upon the American consumer?—A. It undoubtedly would; it would show you the trend of prices—what the American consumer has been obliged to pay.

Q. You think a record of that kind would be fair to all parties concerned?—A. Yes.

Q. Fully as much so as the record of export prices?—A. Fully as much so as the export prices, taking into consideration the difference in the quality of the oil.

Q. From what you have said I infer that you believe that a great many elements come in to affect local prices that do not affect export prices.—A. Undoubtedly.

Q. For example, home competition?—A. Well, and a better quality of oil; the higher the grade of oil the more the cost in manufacture, transportation, and other things besides competition.

Q. But if we were to take some one market and keep a record, comparing prices there with the price of crude oil, you would consider that a fair test?—A. Yes; and I believe Cincinnati would be as fair a market as you could get.

Q. (By Mr. PHILLIPS.) Would that be a fair test if there was no competition in Cincinnati, and there was no other market?—A. Undoubtedly. Competition has very little effect in regulating prices through a long series of years. You take a series of thirty years and competition has had very little to do with it; it will go down to a stable price, and that must be a remunerative one for people to remain in the business.

Q. Taking a period of thirty years, as you have suggested, do you suppose competition would appear there on the whole, as it would in, let us say, New York and Pittsburg?—A. I have no reason to doubt that it would.

THE ESTABLISHMENT OF OIL EXCHANGES.

Q. (By Mr. FARQUHAR.) When was the first oil exchange established in this country?—A. Well, from the various records we have, it would be about 1871; that is, an oil exchange for handling business, as we now understand it.

Q. (By Mr. JENKS.) That was at Titusville?—A. That was at Titusville in 1871. There were exchanges before that.

Q. (By Mr. FARQUHAR.) What was the character of the exchanges before 1871?—A. The exchanges then were something like the Chamber of Commerce, where persons engaged in the business would call and exchange views. It was a meeting ground.

Q. How many exchanges were established in the country?—A. At one time I think there were no fewer than twenty.

Q. When was the New York exchange established?—A. I think about 1890; but we can determine that exactly.

Q. I want to find out who the speculators were that fleeced the public on oil.—A. On May 2, 1877, I have a record of the petroleum exchange being opened in New York.¹

Q. How long did that exchange exist?—A. That or its successor is in existence to-day.

Q. What is the character of the exchanges in New York now with respect to oil?—A. Oil is dealt in in futures now. They speculate on the value of oil a month or a year ahead.

Q. The same as in cereals?—A. That is the method of speculation now. But dealing in futures is only of recent date.

Q. (By Mr. PHILLIPS.) Is there any considerable amount of speculation now of the kind to which you refer, compared with what there was 15 or 20 years ago?—A. It is very small in comparison.

Q. (By Mr. FARQUHAR.) What is the character of the business in the oil exchanges in the oil country itself, in Oil City?—A. There were two elements in the trade, one interested in high prices and one in low. The bears had a decided advantage. Through the existence of a very large stock of oil it was possible to sell along in the later seventies and early eighties and never cover. Oil could have been sold short there to get the carrying rates; brokers became rich on selling wind and got the carrying rates—all that with wind, and never covering. The effect of that was to depress the prices to producers. The larger producers took a very pronounced stand against that sort of trading in the oil exchanges. It was denounced severely in their meetings and in letters to the press.

Q. Who are the supporters of the oil exchanges?—A. They are generally called "lams"—that means the public, you know; the people who come from the outside and bet on the price of oil and generally lose.

Q. Were the producers, as well as the refiners and all others, interested in this speculation?—A. Undoubtedly they were—producers, merchants, laborers, and clerks.

Q. So it was a free field for a while, in an oil exchange, for people who took their chances in speculating?—A. Yes.

Q. Have you any idea of the losses to the public resulting from that speculation?—A. I have never heard an estimate of that, but if I were asked to make one myself I should think one hundred millions of dollars would not be too high.

POSITION OF THE STANDARD AND THE PRODUCERS' ASSOCIATION WITH REGARD TO SPECULATION.

Q. Was that speculation in oil in 1865, or what was the time?—A. I should place it at a later period than 1865. I should place it from 1870 up to the early nineties. There was very little speculation in oil after the movement known as the Producers' Protective Association. That movement killed speculation in oil.

Q. Now, how was that brought about?—A. That movement?

Q. Yes.—A. It was brought about by an agreement between the Standard Oil Company and the association called the Producers' Protective Association, and we have the agreement here.

Q. Then you give credit to the joint action of the Producers' Protective Association and the Standard Oil Company for the suppression of speculation?—A. In removing the feature of injudicious speculation. Proper speculation is all right. It is proper and just for a person to buy oil and hold it—buy the certificates outright. No one ever raised a voice against that—against the purchase of oil outright. It is the mere gambling on margins that has been destructive to values and injurious to the business standing of the communities in which these exchanges are located.

Q. Since that agreement have the producers, the Producers' Protective Association, or the Standard Oil Company sustained in any way the petroleum exchange in New York?—A. No.

Q. Have they been adverse to it?—A. Well, I cannot say they have been adverse to it; I can simply say that they have let it alone.

Q. In other words, the regulation of prices by the Standard has eliminated the speculation in certificates entirely?—A. Undoubtedly.

Q. At what date do you place Joseph Seep's quotations?—A. January 25, 1895.

Q. Now, does it follow that Mr. Seep's quotations are standard and stable quotations following that agreement?—A. They are.

Q. So we have now reached a market where speculation has nothing to do with the price of oil?—A. Precisely; we have reached the point now where the consumer makes the prices.

¹ Derrick Handbook, p. 280.

EFFECT OF THE SHUT-IN MOVEMENT ON SPECULATION.

Q. (By Mr. PHILLIPS.) Did not the removal of a large amount of stock by the shut-in agreement between the Standard and the producers have much to do with the elimination of speculation?—A. That was an incident or a factor in it. I was about to say that, in connection with the oil exchanges, a habit grew out of the speculation that proved very injurious to all concerned. The speculator on the exchanges along in the early eighties began to influence the market by field conditions at every possible opportunity—that is, by rumors of wells, rumors of big strikes in localities from which facts could not be obtained readily. The effect of these rumors was either to elevate or depress values for the time being, and no matter if they were corrected within an hour or two, the effect would be felt on the market. Out of that movement grew a protective system among the larger speculators, and the prominent producing concerns grew out of that movement. They selected experts who were placed in the fields at points of interest where large wells were coming in or expected to come in. It was their duty to watch developments and report results at the earliest opportunity.

Q. What were they called?—A. They were called scouts.

Q. (By Mr. JENKS.) Did these persons make the information public or keep it for the special use of the Producers' Union?—A. The Producers' Union did not do that. It was the individual producers; the individual speculators had them there for the purpose of speculation. Large producers had them there for the purpose of being informed as to the true state of affairs.

Q. (By Mr. PHILLIPS.) Did you ever act as a scout in those days?—A. I had that honor. I laid down the quill for a period of 2 years and served as a scout on the frontier.

Q. For whom?—A. For the Union Oil Company. I reported to them daily and my reports were accepted at their value at the time.

Q. (By Mr. JENKS.) I understood you to say yesterday that when this Producers' Union was formed one of its chief purposes was to gather trustworthy statistics and information, in order, as I suppose, to check somewhat the speculation on exchanges?—A. Not this particular movement. That referred to the movement in 1865 and 1870. I should like to refer to that later on. I have some data on that subject.

Q. (By Mr. FARQUHAR.) Before leaving the subject, will you state as nearly as you can who the parties were that participated in that movement from 1865 to 1870 and later on? Were they the large or the smaller producers? And will you also give us as complete an idea as you can of who have participated in these speculations?—A. That happens to be a pretty long subject, but if you will bear with what may seem to be a digression, I might start in by explaining what first made oil prices. That will lead to the oil exchanges and the dealers in oil at the stated places and times where and when they did their trading.

ORIGIN OF THE FIRST OIL MARKETS.

The first oil markets were, in my opinion, made by the dump men on Oil Creek. Now, the dump men were the first speculators in oil. A dump is a tank of any capacity from 10 barrels to 600. The dump man developed into a refiner later on, and as a refiner was known as the B. S. refiner; that is, he took B. S. oil, non-merchantable oil, and redeemed the better parts of it and placed it on the market. The dump man visited the small producer in all localities, bought his oil at so much by contract, and if there was 1 or 2 feet in the tank bottom he immediately bought it in lump sum or so much per barrel. He also bought the good oil, the merchantable oil, from small producers, who could not hold their oil long enough to get a full shipment of 50 or 100 barrels, whose wells had declined to such a point that they could not hold for a month at a time, and were obliged to sell from day to day or week to week. The dump man was their market. When the refiners sent their representatives up in the region to purchase oil—and they used to travel up and down Oil Creek like platoons of cavalry, pricing oil at various wells—the usual method of approaching the producer was to say, "Have you any oil to sell?" The answer would be "I have so much." And then the producer would say, "What price are you giving to-day?" If it was thought the producer was not posted on existing prices the trader would probably reply, "What is the dump man paying?" Receiving a reply he might name a figure just above it, just enough to get the oil. The dump man was the first merchant to make prices in the oil field. His price was steady all the time. You could always market with the dump man. After the first few years of the business the market was spasmodic. There were days and weeks at a time, perhaps months

at a time, when there were no quotations or prices from the refiners and agents. Now, in the course of time the dump man was eliminated.

OIL SOLD THROUGH REFINERS' AGENTS.

These refiners' agents during the first 10 years of the business were migratory; that is to say, they moved about through the region making individual contracts with producers and others. Their meetings would occur at night; they would meet in the evening after supper and discuss the trade. That was the origin of the first oil exchange. Later on, as the business became systematized in fewer hands, they began to adopt regular hours for business, and one of their first resolutions was to do no trading after a certain hour in the day, 6 o'clock. Later on they adopted a resolution to do no trading after 4 o'clock; then they adopted banking hours for their trading, but that was when the oil exchange became a permanent factor in the trade. All the trading, say, from 1875-76 up to 1895, was done in the exchange. Trading done outside of the exchange, and known as curb trading, was considered disreputable and classed with bucket-shop operations. The rapid fluctuations in oil in 1876 did a great deal to foster the exchange element and show people that it was possible to make money rapidly by these wide fluctuations; and the sudden advance of \$3 a barrel in 1876 brought the public into speculation with the producers. I can say here and now that producers who remained out of the oil exchanges and away from speculation invariably got wealthy. Those who went into the oil exchanges as invariably got poor, and the number who went into the exchanges outnumbered those who remained out so largely that they formed themselves into a league after a while to combat those organizations that had nothing to do with speculation and shake out of them some of their earnings.

THE SUPPRESSION OF SPECULATION.

Q. (By Mr. PHILLIPS.) Were there not some exceptions in regard to the producers? Captain Murphy, for instance, was a producer and speculator. Did he not make a success of it both ways?—A. I thank you for calling my attention to that; that is one exception. I would thank you for another one.

Q. I think as a rule you are correct. I never speculated as you know.—A. No, I know you never speculated, I am satisfied of that; and you were one of the strongest opponents of the wild-cat speculation that existed, an outspoken opponent. We have letters from you in our newspaper denouncing wild-cat speculation.

Q. Especially the scout and mystery business.—A. That mystery business was the source of the institution of the scout.

Q. (By Mr. FARQUHAR.) Are we to understand, then, that after this era of speculation and the shut down the strong men in the oil region, the Rockefellers and others, resolved to suppress all this speculation in oil and oil certificates; that the bucket shops in oil agreed to make the shut down on a conservative basis, and bring oil up to a paying figure for producers as well as refiners, which system, as a matter of regulation, has existed until the present day; and that the benefit of the whole oil trade that has come to the consumer has come through the great organizations of oil men? Are we to understand by your testimony that the stronger the producers and refiners have been and the more they have been united in finding a stable market, the more the consumer has gained?—A. I believe that is true.

Q. That is your observation?—A. Yes.

Q. And the credit of the suppression of the inordinate speculation in 1876 and later is due entirely to the producer and the refiner, as well as stable rates of transportation and stable and cheap prices to the consumer? Are we to understand that that is the gist, so to speak, of your remarks, or have you something further?—A. Well, the producer is a man of energy and force, and his tendency has usually been in the direction of overproduction; he has been entirely uncontrollable. Show him an oil field and he runs off, wild and excited, and no matter what the conditions are, he will drill as soon as he can get the means, regardless of what others are doing. That is his right; he is injuring himself as much as others.

OVERPRODUCTION AND SPECULATION THE CAUSE OF SMALL PROFITS TO PRODUCERS.

Q. You say you regard overproduction as the cause of small profits to the producer?—A. Overproduction and speculation.

Q. And speculation?—A. Yes, and speculation. But overproduction has been

something that has bothered them for more than thirty years. We noticed yesterday that in 1862 it was necessary to turn the stopcocks on the wells, and every year or two since there have been movements to curtail production, all due to the energy of the producers.

Q. (By Mr. SMYTH.) Has the consumption of oil gradually increased year after year?—A. Yes.

Q. Has it kept pace with production?—A. Yes; I should say it has substantially kept pace with production, but the price at which it was offered has had much to do with that. A reduction of the price always induces consumption.

Q. (By Mr. FARQUHAR.) What effect has the cheap crude oil on the refined oil profits?—A. Well, I can not say whether or not the manufacturer's profits are very largely controlled by the price of crude oil. When he buys crude cheap he can not sell refined very high, because the competition of the refiners is too active for that, and competition among the refiners controls the prices to the producers very much in the same manner. I should say that in a period of very low prices the refiners suffered equally with the producers.

Q. There is a sensitive touch between the two?—A. Yes, there is a sensitiveness between the two. At a medium price they succeeded better; that is, at a price large enough to make it remunerative for the refiner and to induce consumption. There has to be a medium beyond which it is dangerous to go on either side.

Q. Testimony has been given before this commission which indicates a great deal of the dissatisfaction and grumbling on the part of the producer, testimony which goes to show that the producer is the only one that is affected injuriously in the whole business. It indicates that the refiners are making money while the producers are losing. They have to take the rates that the Standard puts as well as their own association, which follows the Standard, as we understand it. Now, as a business proposition, can the producer ever ask to divide the profit with the manufacturer?—A. I should think not.

PRODUCERS HAVE NOT BEEN ABLE TO REGULATE THE PRODUCTION OF OIL.

Q. Does it not legitimately belong to the producers to so regulate their own output, trade, and business that they will conserve their interest in producing the oil and selling it to the refiner? Can they legitimately share in any profit beyond that?—A. I should think not. It has been their constant aim to regulate their supply, but the business is one that is uncontrollable by reason of new producers constantly coming in with new fields. The conditions change continually now. If it were possible to form a combination, as did the men who produced oil on Oil Creek in 1870, when they formed their producers' agency, their corporation, and their limited partnership companies with a subscribed capital and the declared purpose to retire the surplus portion of the oil, a combination so close as to embrace everybody in the business, the same prices might exist to-day, and we might be paying the prices that were current in Cincinnati at the close of 1865. If it were possible to do that, the producers could in that case control their output and ask and receive anything they wanted for oil. The opening of new fields, as I remarked, brings in a class of new producers. Take, for example, the Parkers Landing field, opened entirely by what we now call tenderfeet, farmers, stock companies, persons owning a fraction of an interest. I happened to be present during the greater part of the development of that field, and I believe I am reasonably familiar with operations of that kind.

Q. (By Representative LIVINGSTON.) Do I understand you to say that the producers' organization is distinct from the refiners' organization?—A. Yes.

Q. Why do not the producers refine their own oil and get rid of these refiners?—A. They have attempted that in many cases.

Q. Why is it that they failed?—A. Well, for that I shall have to refer you to the officers of the association.

Q. Do I understand you to say now that the producers are able, that they have capital and brains enough to produce the oil?—A. They certainly have.

Q. Do I understand you to say that they can not refine their own oil independently of that organization?—A. I can answer that in this way: They never have; they have attempted it and failed.

Q. Have they not been able to combine?—A. The failure does not seem to be due to lack of combination; they have combined readily enough.

Q. (By Mr. FARQUHAR.) The combination has never stood?—A. The combination has stood, but it seems to be a matter of experience.

Q. (By Representative LIVINGSTON.) What is the reason for that? Why is it that they are laboring at a disadvantage in the refining of the oil? Why do they not put up their own refineries and refine all they make and get all there is in it?—A. They do not do it; we know that.

Q. (By Mr. SMYTH.) It is usually considered as a separate business?—A. It is a separate business.

HOW THE PRODUCERS ARE HANDICAPPED.

Q. (By Representative LIVINGSTON.) If one-third of the oil producers should organize, could they not control the price? I know that if one-third of the cotton raisers will organize they can control the price of every bale of cotton all over the country; I know it is also true of the wheat raisers. Now, could not one-third of the oil producers organize and thereby get rid of all this handicapping?—A. They could organize up to the point of establishing manufacturing; but the manufacturing talent and experience and the merchandising talent and experience might be wanting among the producers.

Q. Would the railroads stand in the way of their organization? Is that one of the impediments?—A. I agree with what has been said about the early conditions in the oil business. The refiners being able to offer inducements to the railroads in the way of very large shipments, obtained some concessions which enabled them to tide over a time when they needed assistance very much.

Q. It is very important for this commission to know whether the railroads or any other combinations or corporations whose franchises have been granted by the States or the General Government stand in the way of the producers. I do not see why they do not organize. If it is the railroads or any other organizations having franchises or charters that stand in the way of a legitimate profit from their oil it ought to be known?—A. I am leading up to that point in discussing the existing organization of the producers.

Q. (By Mr. PHILLIPS.) Now, is it not a matter of sworn testimony by the present president of the Pennsylvania Railroad that the Standard Oil Company received over \$10,000,000 in rebates in about fourteen months in the early days?—A. I do not so understand it. I understand that certain testimony was given by the present president of the Pennsylvania Railroad, certain figures stated, and that certain deductions have been made from those figures by another person who did not testify. The deductions of this person are given as the testimony of the president.

Q. I think there is a document¹ there—A. (Interrupting.) I am referring to that document. My remarks apply to it. The president did not testify to the figures and he gave no sums. There is nothing stated in the testimony about any sums of money received.

Q. They paid rebates to someone of something over \$10,000,000 in fifteen months?—A. He did not say that; the president did not so testify.

Q. My recollection may be incorrect. It is in that volume there.—A. It is in that volume in the testimony of Mr. Lewis Emery, jr. He testified to that, and it is his own testimony.²

Q. Was it not Mr. Cassatt's testimony?—A. He goes further than Mr. Cassatt. Mr. Cassatt testifies as to the operations of his own road; and Mr. Emery takes it for granted that the three other roads within the pool at that time conceded the same rate, and upon this he checks the entire production for the period of 17½ months. He takes the total production for that period. During that period he was shipping to the seaboard by his pipe line and by water as much as 2,000 barrels a day, and he includes that. The trouble is that his figures cover oil that does not go over any railroad. These roads were from the producing regions to the seaboard. There were shipments westward to which this does not apply, shipments from Pittsburg, and shipments from Huntington over the Chesapeake and Ohio to Norfolk.

THE EFFECT OF OVERPRODUCTION ON PRODUCERS RESUMED.

I have said that the ills of the producers proceed largely from overproduction and from speculation. On the point of overproduction we will read the circular issued in 1870 in connection with the first organized movement for the betterment of the producing trade.

¹ Congressional Investigation of 1888.

² See Mr. Archbold, pp. 514-516; Mr. Emery, pp. 660, 661.

Q. (By Representative LIVINGSTON.) Now, is that on the point of overproduction?—A. On overproduction; yes. (Reading.)

OFFICE OF THE SECRETARY OF THE
PETROLEUM PRODUCERS' ASSOCIATION OF PENNSYLVANIA,
Reno, Pa., April 25, 1870.

DEAR SIR: This association is a voluntary organization "for the protection and promotion of the interests of oil producers." Its objects are declared to be "the collection and dissemination of valuable statistics and information respecting the production of petroleum, the securing of the most advantageous facilities for transportation, the protection of the producing interest against unfriendly legislation and against all unjust exactions by whatever means threatened or attempted, and the general improvement of the methods of producing and handling oil.

Any person actually engaged in the production of crude petroleum may become a member of the association, with the consent of two-thirds of the managers present at a regular meeting of the board, upon subscribing the constitution and paying a membership fee of \$5.

Among other things, the association is engaged in the preparation of a full report every month of the production of oil in Pennsylvania, embracing information of value, not only to oil producers, but to all who feel an interest in the progress of the oil-producing business.

This report is made up by districts from detailed reports of farms and single wells, and its correctness is verified by the personal visitation of all the districts by a special canvasser of ability and integrity, employed for the purpose by the association. The report exhibits monthly, in a compact table, by districts and in the aggregate, the number of barrels of oil on hand at the wells, the amount of oil delivered from the wells, the aggregate production for the month, the average production per day, the number of wells producing, average daily production per well, the number of wells being drilled, the number of wells commenced, the number of wells completed, the number of wells abandoned, the number of abandoned wells resumed, the capacity of iron tankage, the number of barrels of oil stored in iron tankage. These statements afford a concise view of the condition and progress of the oil-producing business essential to an intelligent comprehension of it by operators and dealers in oil. It is designed to extend the scope of the report so as to embrace the local shipments by railroad and river, the stocks of oil in hands of refiners, amount of crude and refined in store at home and abroad, the foreign shipments, etc.

The amount of money realized from adjoining fees of members is wholly insufficient, after providing for the necessary current expenses of the association, to defray the constant expense of preparing and publishing these reports, and at the last meeting of the board of managers of the association the following resolutions were adopted:

"Resolved, That, for the purpose of securing funds to meet the expenses of the association, each member be requested to contribute, as membership dues, \$5 at the beginning of each calendar year; and that the secretary be directed to furnish each member, who shall have paid the annual dues as above provided, a copy of each Monthly Report of Production in circular form.

Resolved, That the Secretary be authorized to regularly furnish at \$5 per year, to all persons who may subscribe therefor, a copy in circular form of the Monthly Report of Production, and that he be authorized to furnish to all members and subscribers entitled to receive the Monthly Report, as above provided, additional copies to their own addresses, for gratuitous distribution only, at such rates as he may prescribe, not exceeding \$1 per copy.

As authorized, extra copies of the report, printed upon good strong paper, of light weight, to cheapen postage, will be furnished to members of the association not in arrears for annual dues, and to regular subscribers to the report, to their own addresses, for gratuitous distribution only, upon the following terms:

One copy each month for the year.....	\$1.00
Two copies each month for the year.....	1.75
Each additional copy for the year.....	.50

All persons engaged in the production of petroleum, either personally or as members of petroleum mining companies, are urgently requested to become members of the association; and those who are not eligible to membership, but who feel an interest in the success of the association, are respectfully invited to subscribe for the report as a means of promoting the objects of the association.

It is suggested to petroleum mining companies that, while they can not as corporations become members of the association, it would be gratifying to receive

from each company such a contribution to the funds of the association as would cover a membership fee for at least each of the officers of the company and members of the board of directors, together with such of its employees as they may see fit to constitute members of the association. In addition to the advantage of having each one who may be engaged in carrying on the operations of the company thoroughly posted in the statistics and facts relating to the petroleum business, the presentation of a membership in the association to an employee would be a judicious method of expressing appreciation of his services and of increasing his intelligent interest in the business.

Please make remittances by post-office order, or by draft when convenient, addressed to F. W. Hastings, esq., assistant secretary, at Franklin, Venango County, Pa., who will acknowledge the same as received, and forward receipts therefor signed by the secretary and treasurer of the association. Be careful to give accurately and fully the name and post-office address of members and subscribers, that no errors may occur in acknowledging receipts and sending reports.

Please favor the association by such subscriptions as you may be able to make or secure.

Respectfully,

C. V. CULVER,

Secretary of the Petroleum Producers' Association.

Q. (By Mr. PHILLIPS.) What date was that?—A. April 25, 1870. As production proceeded the consumption did not keep pace with it. There was a constant increase in the supply above ground. It became apparent that further efforts were required for the betterment of the trade. A concern, known as the Producers' Agency, with a stated capital, was therefore organized to purchase from the producers within this association, a certain amount of oil per day or per month and retire it, or store it and keep it off the market to the disadvantage of the consumer. It will be sufficient to state briefly what they proposed and expected to do by the retiring plan.

Q. Was that ever carried into effect?—A. It was carried into effect to the extent of an organization.

Q. It never had any effect on the market. The money was not subscribed, the plan was not carried out?—A. The money was partially subscribed and the organization effected. I am attempting to show the efforts the producers were constantly making for the betterment of their own condition and that was an effort to put their business on a paying basis.

Q. Was it an effective one?—A. It was not.

Q. (By Representative LIVINGSTON.) Tell us why?—A. The only reason I can assign is the constantly varying condition of the oil trade. With every change in the field new men were brought into the business and they were generally the most energetic and aggressive of producers. They went on regardless of the experience of others.

WHAT IS MEANT BY OVERPRODUCTION.

Q. What do you mean by the overproduction?—A. I mean more than would be consumed at remunerative prices at the time.

Q. You mean more oil than the world would consume?—A. More oil than the world would consume at that time; the facilities for taking care of a large surplus production were not in existence at that time.

Q. How much have the producers and refiners ever had that they carried over 18 months?—A. Forty million.

Q. Forty million barrels?—A. Forty million barrels; yes. They had 40,000,000 barrels that they carried substantially for 10 years. At the end of 10 years, at the point of highest production, there still remained 81,000,000 barrels.¹

Q. (By Mr. SMYTH.) Was that carried by one or more parties or by the trade generally?—A. It was carried by the trade generally but the storage was supplied by one party.

Q. Who was that party?—A. The National Transit Company.

Q. (By Mr. CLARKE.) Is it not a fact that the existence of that quantity of oil in the world available for the market under existing conditions had the effect of preventing the very object they sought to accomplish?—A. By this organization?

Yes.—A. Undoubtedly.

(By Representative LIVINGSTON.) During the time they carried that surplus oil was the price lessened to the consumer?—A. Not materially, but gradually.

Q. Explain why it is that a surplus like that did not lessen the price to the consumers.—A. Are you speaking now of the year 1870 or the time of the greatest production?

¹ See table of stocks, p. 435.

Q. At any time.—A. My reply was on the assumption that your question referred to the period of 1870. There was no material reduction then, but at the point of the greatest production and quantity of stocks there was a very material reduction in price.

Q. Do you catch my question? You say the price to the consumer was not materially reduced. Why not?—A. My answer assumed that your question referred to 1870.

Q. Well, at any time?—A. (Interrupting.) I will change my answer in that event, and say it was greatly reduced.

Q. At any time?—A. Yes, at some time it was greatly reduced.

Q. (By Mr. SMYTH.) Owing to this large surplus?—A. Owing to this large surplus. I did not mean to give an evasive answer. I will state that, at the period of the large surplus, the price to the consumer was gradually lessened.

Q. (By Representative LIVINGSTON.) Is that the time of the forty millions?—A. That was at the time of the forty millions.

THE PRICE OF REFINED OIL HAS BEEN CONSTANTLY REDUCED.

Q. What was the reduction?—A. To the producer?

Q. No, to the consumer.—A. To the consumer from the prices we have noticed at Cincinnati in 1865—

Q. (Interrupting.) No, no, I do not want any dates. I want to know what the reduction was when you had the big surplus of oil?—A. Well, it was reduced to 8 or 10 cents a gallon. I can tell you precisely in a moment.

Q. Take it for granted that it was 10 cents, did you regain that loss?—A. It does not appear that there was a loss. I believe that oil was sold at a profit at the time.

Q. Was the price raised to the consumer later on when the surplus disappeared?—A. I think not.

Q. It remained there?—A. It remained there; kept decreasing.

Q. It is a fact that the price of refined oil has been steadily decreasing for the last 15 or 20 years?—A. Constantly.

MOVEMENTS IN THE PRICE OF STOCK COMPARED WITH MOVEMENTS IN THE PRICE OF OIL.

Q. Did the stock in the companies also gradually decline?—A. The stock of oil?

Q. No; I mean the stock in these corporations. Did the value of the Standard's stock decrease with the decrease in the price of oil?—A. I think not.

Q. (By Mr. SMYTH.) I suppose the cost of handling oil has decreased very much?—A. Yes; very much; great improvements have been made.

Q. (By Representative LIVINGSTON.) Now, if the price of oil has decreased to the consumer on account of the surplus, and the price of the stock has not, will you explain why?—A. Well, I will answer that in this way: If there were any profits in manufacturing then by any particular company, it might be said that it was due to the larger volume handled and manufactured, the reduced rate of profit being made up on a very large quantity. But let me say that the profits are not all with the Standard Oil Company. The producers in the meantime have made enormous profits.

Q. I understand that, although the price of oil decreased and you were carrying a large surplus, the value of the stock of the Standard Oil Company increased?—A. The cost of producing and refining oil decreased very materially in the following years.

Q. It seems as though that did not depend upon the cost of production or anything else. It seems to be continually going up; do you know what it is worth now?—A. I have not heard any quotations of the value of the stock; I am not prepared to express an opinion upon that.

THE OBJECT OF THE PETROLEUM PRODUCERS' AGENCY.

Q. (By Mr. FARQUHAR.) It is a good deal like the Chemical Bank of New York?—A. Now, the purpose of the agency formed by the Petroleum Producers' Association, which was created in 1869 and 1870, is contained in a few words in what is called the practical exhibit. (Reading:)

"The establishment of the Petroleum Producers' Agency is expected to accomplish among others these important things:

"1. It will prevent unwise competition between producers and sellers, by taking advantage of which buyers contrive to depress prices.

"2. It will, as a result, secure a fair price for whatever amount of oil the world requires—unaffected by the fact that there is more produced than the consumption demands.

"3. The surplus oil being kept in the control of the agency, it can not be used by anyone to manipulate or depress the market prices.

"4. The surplus oil placed in tank exactly represents the overproduction and unerringly indicates its extent and increase."

Q. (By Representative LIVINGSTON.) I understand from that that you will make more money by holding oil than you can by putting it on the market?—A. That is it, precisely; that is the whole subject in a nut shell. (Continues reading:)

"5. No concealment or misrepresentation can be made of the stock, or overproduction to unduly affect prices.

"6. Every producer being the holder of a tank receipt representing his share of the surplus oil is doubly interested in restraining overproduction—because he suffers both from the inability to realize upon his receipt for oil in tank and from having to deduct from the value of his production the value of that required to be placed in tank and the cost of tanking it.

"7. The effect of competition and of the lack of it in buying and selling crude oil is shown by the fact that with an established demand for 16,000 barrels of oil a day and a production of the same amount, the advantages of the buyers and sellers are so nearly balanced that \$5 a barrel will be freely paid by the buyer and accepted by the seller—yielding \$80,000 a day for the gross production: but if the production should fall off, say, 1,000 barrels a day, competition between buyers would exist to such an extent that \$6 would be just as readily paid and be readily accepted, making \$90,000 for the whole. If the production should still further decrease so as to not exceed 14,000 barrels a day, the price would promptly advance to over \$7, and realize at least \$100,000 for the total."

Q. Make a little explanation right there. Would that be independent of the surplus carried? Would the price vary notwithstanding the surplus?—A. The surplus would be retired and kept out of the way when the market advanced.

Q. Your answer is yes?—A. Yes. (Continues reading:)

"If, however, the advantage were to turn the other way, as would soon be the case with such stimulating prices, and the production should reach, say, 17,000 barrels, exceeding the demand by 1,000 barrels, the competition would be between the sellers instead of the buyers, and the price would decline to \$4 a barrel, making \$68,000 for the daily production; with less readiness 18,000 barrels would bring at most \$3.50 per barrel, or \$63,000 in the aggregate, while 19,000 barrels would hardly find purchasers at \$3 per barrel, or \$57,000 for the daily product, and a production of 20,000 barrels would not command \$2.50 per barrel, or less than half the amount that a production of 14,000 barrels would readily command, and apparent permanent production in excess of 20,000 barrels would so thoroughly demoralize the market as to make petroleum without a reliable quotation."

Twenty thousand barrels there was considered a very extravagant estimate of the production. If it ever reached that the business would not only be a losing one, but there would be no market whatever. (Continues reading:)

"The logic of this undeniably correct statement has a thousand times suggested that it would be a profitable speculation to buy the entire production at the price which is current when production is largely in excess of demand, and, reserving only so much as the market would actually require, to set fire to the remainder, put it out of existence, and thereby realize twice as much from the remainder as the whole cost."

Q. That would be justifiable, would it?—A. That is what they say here. (Continues reading:)

"Wanton as the destruction of such valuable material would be, but one consideration has prevented its accomplishment long ago as a speculation—that is, the great advance in price which would naturally result from its consummation would so stimulate production as to entail upon the enterprising speculator the possibility of loss by a second stock larger than the first.

"There is, however, a common-sense method of accomplishing a better result by better means. The oil is too valuable to destroy or waste; and to withdraw the supply from competition with the amount which the world requires would enable the producer to realize a fair price for what is sold and retain the surplus without other cost than that of putting it in tank. But who shall do this? If any individual or firm or company were to undertake it they would find their resources, however large, eventually exhausted, only to make a market for an enlarged production stimulated by their enterprise.

"There is but one way to secure a community of interest among producers: By

affording them the advantages of the good prices resulting from selling through our agency without competition, and compelling them to bear uniformly the burdens and losses resulting from excessive overproduction. These ends are sought to be accomplished through the agency, which undertakes to receive all the oil produced, to pay a fair price for what the world will consume, and to tank the surplus at the cost of the producer, for his benefit.

"The following table shows the practical result of selling 16,000 barrels of crude oil a day at \$5 a barrel and storing the excess at the expense of the producer, estimating the cost of tankage at \$1 per barrel.

"Observe, that if the supply is not in excess of the demand, the full market price will be paid for the entire production as fast as delivered, so that there would be no delay in making payment, and no tanking of surplus oil.

"The table is only to show what would be the result to the producer, the demand being for 16,000 barrels a day, and the production steadily rising from 17,000 to 24,000 barrels a day.

"The operation of the plan is to secure the producer a minimum price of \$5 a barrel for all the oil which can be sold—deducting therefrom only the commissions for selling the oil and the cost of tanking the surplus. For his interest in the surplus oil in store and in the tankage he has a receipt estimated in the table at a valuation of \$3 a barrel, at which valuation it is assumed the receipt can be readily sold, if the producer proposes to realize upon his entire production rather than wait for the surplus oil to be marketed at a higher rate.

"The table shows at a glance what the producer will realize from the advance made by the agency, what the proceeds of the sale of the oil in addition to the advance, and what his interest in the stored oil is worth at the estimated value. The right-hand column shows what he may realize per barrel at once on his entire production by selling his interest in the tanked oil with the amount marketed.

"The advantage to producers—resulting from the establishment of the agency, by which the rates indicated can be realized from sales through it—contrasted with sales made in competition between sellers, is so marked and decided that it needs only the simple exhibit to prove that by the operations of the agency, at least from \$1 to \$2 a barrel upon the entire production may be saved to the producers at large—amounting in the aggregate to from \$6,000,000 to \$12,000,000 a year."

Daily product.	Daily payments \$5 per barrel		Daily receipts (sales 16,000 barrels) at \$5.	Surplus oil put in tank.	Cost of tanking, \$1 per barrel.	Daily cash balance.	Cash paid per barrel on certificates.	Total cash paid per bar- rel.	Amount per barrel of tank receipts issued.	Value per barrel of tank receipts, estimating surplus oil, with tank- age, at \$3 per barrel.	Net return to produc- ers, estimating tank receipts at 50 cents on the \$1.
	Cash, \$3.	Certificates, \$2.									
<i>Barrels.</i>											
17,000	\$51,000	\$34,000	\$80,000	1,000	\$1,000	\$28,000	\$1.65	\$4.65	\$0.35	\$0.17 $\frac{1}{2}$	\$4.82 $\frac{1}{2}$
18,000	54,000	36,000	80,000	2,000	2,000	24,000	1.33	4.33	.67	.83 $\frac{1}{2}$	4.66 $\frac{1}{2}$
19,000	57,000	38,000	80,000	3,000	3,000	20,000	1.06	4.06	.95	.47 $\frac{1}{2}$	4.53 $\frac{1}{2}$
20,000	60,000	40,000	80,000	4,000	4,000	16,000	.80	3.80	1.20	.60	4.40
21,000	63,000	42,000	80,000	5,000	5,000	12,000	.58	3.58	1.42	.71	4.29
22,000	66,000	44,000	80,000	6,000	6,000	8,000	.37	3.37	1.63	.81 $\frac{1}{2}$	4.18 $\frac{1}{2}$
23,000	69,000	46,000	80,000	7,000	7,000	4,000	.18	3.18	1.88	.91	4.09
24,000	72,000	48,000	80,000	8,000	8,000	0	.00	3.00	2.00	1.00	4.00

Q. (By Mr. PHILLIPS.) Now, was not that a wild, visionary scheme? It did not cause a ripple in the oil fields at the time it was presented, and there were very large producers that never heard of it.—A. I am not prepared to agree with you in that statement. It seems to me there was a very considerable discussion of it in the newspapers. It was talked over at various points in the region. A fund was subscribed for it at that time. While inoperative it was owing to other causes. It failed to go into operation because of the enormous production at that time in Butler County. Had conditions remained as they were when it was contemplated it would have undoubtedly gone into effect.

Q. It was entirely ineffective and inoperative and was not received generally by the producers?—A. It was inoperative. Here is substantially the same plan, adopted a few years later by the Petroleum Producers' Association. This one was

effective. Agencies were established at various points in the oil regions for the purchase of oil. Oil was bought from the producers and sold substantially on the same plan for the purpose of retiring it, as may be seen by the report of the committee on organization of the Petroleum Producers' Association, Limited, adopted by the general council of the Petroleum Producers' Union, of which Mr. B. B. Campbell was president. That was a partnership affair.

Q. Did that have any material effect on the prices either to the producers or consumers?—A. I can not say that it did. But it was an effort for the improvement of trade conditions at that time. An address by the general council of the Petroleum Producers' Union of the same date states the reasons for the existing depression and urges producers to join the union. To this movement a million dollars was subscribed.

Q. Was it ever paid in?—A. Well, we have only reports of the subscription, acknowledgments of the same, and the fact that it was put into practical operation. Agencies were established at various points in the oil country and they set up opposition buyers.

Q. Did it have any especial effect on the trade?—A. No noticeable effect. It was very shortly abandoned, but it was an outgrowth of the movement inaugurated by D. Armstrong in 1877, 1878, and 1879. Benjamin Campbell succeeded to the chairmanship.

RESTRICTIONS ON DRILLING OPERATIONS.

I have here a drilling contract to which reference was made yesterday that I should like to submit. It is in connection with a movement in 1887 and 1888 for the restriction of operations in interior drilling:

EXHIBIT IV.

BOUNDARY LINE DRILLING CONTRACTS.

Whereas excessive waste has occurred in the past from the prevalent practice of fighting lines, which largely increased expenses without adding permanently to the production, while it caused a spasmodic and temporarily excessive production, with a vicious influence on the market price of petroleum:

Now, therefore, to correct this waste and relieve the industry from the evils in the future, we, the undersigned producers of petroleum, do hereby agree to and with each other, as follows:

First. That hereafter the number and location of wells for the production of petroleum along or adjacent to the exterior boundary line of any producer on either side of said line shall be determined by the agreement of the producers interested in the production along said boundary line, or, in case of their failure to agree, by three arbitrators, one to be chosen by the producer or producers on one side of the said boundary line; one to be chosen by the producer or producers on the other side of the said boundary line, and the third arbitrator to be chosen by the two so chosen by the producers aforesaid.

But no decision of such arbitration shall be permitted to deny altogether the right of a producer to drill when he can not drill at all without drilling within 800 feet of the boundary.

Second. No well shall be drilled on or within 800 feet of any boundary line until its location shall have been fixed by agreement of adjoining producers or by award of arbitrators as hereinbefore provided.

Third. This agreement shall apply to boundary lines between subscribers to this contract, and not then at points where one not a subscriber adjoins and drills within 800 feet of the subscribers hereto.

Fourth. Any subscriber hereto who shall violate this agreement shall pay to the producer or producers owning or operating the territory adjoining his boundary line, who are subscribers hereto, for every well put down along said boundary line contrary to this agreement, such damages as may be awarded by three arbitrators, or a majority of them, to be chosen in the same manner as herein provided for, the fixing of the number and location of wells along boundary lines when producers do not agree. Such award shall be final and conclusive, and for the amount so awarded, respectively, shall have the right to sue and recover against offender or offenders, as if this contract were between such parties only to this contract for this purpose, shall be considered and construed a several contract, of every subscriber to and with every other subscriber hereto.

Fifth. In case of a failure to agree as to the number and location of wells along a boundary line, if any producers, or producers subscribers hereto shall neglect

or refuse to choose an arbitrator, as provided in the first clause of this contract, in that case the executive board of the local assembly of the proper district of the Producers' Protective Association shall, and they are hereby authorized to, appoint a suitable person to act as such arbitrator. And every producer shall, within 8 days after request made by another producer, either agree or appoint his arbitrator as aforesaid, or he shall be considered in default, and the arbitrator shall then forthwith be appointed by the executive board as above provided.

Sixth. Every subscriber hereto further agrees that should he convey any or all territory at any time to other parties, he will make such conveyance subject to all the conditions of this contract.

Seventh. This contract is to take effect on and after September 8, 1888.

INTERIOR DRILLING CONTRACT.

Whereas abundant territory as well as our own experience teaches us that the price of any commodity is mainly dependent upon the relation between supply and demand, and that petroleum is no exception to this rule;

And whereas the excess of visible supply of stocks of petroleum, furnishing an apparent supply largely in advance of the immediate demand, has been and still is the most depressing circumstance which affects the petroleum industry;

And whereas the effect of our "shut in" of production for 8 months, while not as advantageous as we had hoped, has nevertheless put the price on a higher plane than that upon which it had previously rested, and, as we believe, has prevented the commodity from sinking to even lower prices than we had experience of in recent years, and we had, therefore, to limit the production by a moderate restraint of drilling, as demanded by the interests of the producers of petroleum until the stocks are reduced to an amount consistent with the healthy relation between supply and demand, and, as a result, the receipt of remunerative prices to the producers;

Now, therefore, we, the undersigned, producers of petroleum, do hereby agree to and with each other that we will not drill any wells for the production of petroleum on any farm or tract of land owned by us, except along or adjacent to exterior boundary lines of our respective properties, to a greater extent, exclusive of boundary-line wells, than one producing well for each 20 acres and each fractional part of 20 acres; provided that additional wells may be drilled with the consent of the local assembly of the Producers' Protective Association for the district in which the particular property may be situated and of the general executive board of said producers' association, or, in case such consent can not be obtained, upon the allowance of the arbitrators, or a majority of them, one to be chosen by the person or persons desiring to drill, one to be chosen by the local assembly of the Producers' Protective Association for the district in which such property is situated, and the third by the two so chosen.

And we further respectively agree that all conveyances made by any of us of oil territory during the continuance of this contract shall be made expressly subject to all the conditions of this agreement.

This agreement shall continue in force until the 1st day of May, 1889, but may be abrogated before that date by the votes of a majority of the general assembly of the Producers' Protective Association, and such general assembly shall be convened to consider the question of abrogation upon the demand of one-third of the local assemblies of said association.

ATTEMPTS TO IMPROVE THE CONDITION OF THE BUSINESS IN 1887 AND 1888.

We have the various movements known as shut-in or shut-down movements for the betterment of the oil producers from 1870 up to 1887 and 1888, omitting that of 1884, which was only partially successful. I will read a few notes I have made on the subject for the purpose of connecting this association with subsequent enterprises in which the producers' association started new pipe lines and refineries, the Pure Oil Company embracing the whole movement. (Reading:)

The shut-down movement of 1887 and 1888, in which the Standard Oil Company cooperated with the producers and did much to make the movement a success, was no doubt the most successful action ever inaugurated by the producers.

Having its inception among some of the heavy operators in the Washington County field, it extended over the whole region and embraced all but a very few of the operators. Its scope was wider and its effect greater than any similar movement. The mutuality of interest among all branches of the trade rendered its success certain. Thus we find that the producing, refining, land, and working interest all cooperated to make the movement a success and enhance the value of

the product of the producer. The Taylorstown operators, controlling 6,372½ acres of producing territory, early in June entered into an agreement to restrict production. At this period the reduction of stocks was going on quite rapidly, but the market was in the sixties, with the consumption 8,000 barrels a day over the production; hence the conditions were favorable for the inception of the movement. On August 2, at Bradford, there was a meeting of representative producers at the invitation of H. L. Taylor, of Buffalo, at which time it was developed that the organization pending was so nearly completed as to insure a successful undertaking of the work mapped out, and the meeting decided to postpone action for a short time. About the same time the P. P. A. held a few secret meetings in Bradford in the interest of the shut down. The movement became the subject of much discussion in the newspapers, and its probable outcome was very thoroughly discussed.

The sensational press got in its work on this movement early in the game, and among other things given publicity by the Cleveland Leader in connection with the shut-down movement was a series of propositions which implied that the sole object of the movement was a battle against the Standard Oil Company, which allegations were promptly denied by Mr. Kirk. The Derrick criticised the action of one man in Butler County who was alleged to be hustling to get down all the holes he could while the preliminaries of the shut down were being arranged. In Butler County, in the Reibold pool, he had two wells doing 2,900 barrels a day. The Derrick made a couple of attempts to interview him on the subject of the shut down, but he maintained a strict silence upon the subject. Early in September there were meetings of the P. P. A. at Bradford, and a conference of large producers at Pittsburg, which included D. O'Day, of the National Transit Company. The operations in Butler County attracted special attention, and a special to the Derrick from Butler asserted that the operator was a shut-down man in name only. The leading producers, about the middle of September, had another conference at Pittsburg with officials of the Standard, presumably on matters connected with the shut-down movement. It was learned from Washington County that McKeown and Willets, two of the largest operators in the field, had refused to have anything to do with the movement, contending against the shut-down movement as a means of bettering the conditions of the trade, which had been depressed from overproduction for 10 years. Some persons asserted that the shut-down movement would have the effect of bringing in new producers, with the result of defeating the very object of the project. The discussion in the Derrick of the shut-down movement covered a wide scope, and many diversified opinions as to how to better conditions were expressed, but the general trend of opinion was largely in favor of the shut down. The production from the three wells in the Reibold pool amounted then to 5,000 barrels daily, and on September 29 a meeting of the P. P. A. was held at Emlenton, at which matters pertaining to the shut down were considered but not made public. At this same meeting and among the Emlenton producers it is said there was a decided change of sentiment toward the Standard Oil Company, it being asserted that but for the Standard the Pennsylvania oil would be selling at 50 cents per barrel. On October 2 the 4 wells at Reibold were making 5,400 barrels a day, which might be called a pretty strong showing for a man working for the success of a shut-down movement. There is no intention of stating that his actions were contrary to contract; everything was open and understood.

At the middle of October, N. F. Clark, one of the leaders in the shut-down movement, stated that 80 per cent of the producers had joined the P. P. A. and were ready to get into the shut down; he also found that more than two-thirds of the oil was produced by the small producers. During the month of October the executive committee of the P. P. A. made strong efforts to get all the producers of oil into line, but still the gushers continued to arrive on schedule time at Reibold, and on October 20 another was added to the list, making an aggregate production of 5,520 barrels from 6 wells. The first authentic news that the shut down would be a success came out October 23, when it was learned that the movement would go into effect on November 1, and that its essential features were as follows: The shut down was to include the shutting in of not less than one-third of the production of the operators in the agreement, the cessation of drilling operations, and the general cooperation of the producing element. The Standard Oil Company entered into the agreement to help make it successful. The company set aside 6,000,000 barrels of oil. The profits upon 5,000,000 barrels of this, that is, the advance above 62 cents, they proposed to donate to the producers, while the profits on the other 1,000,000 were to accrue to the oil-well workers thrown out of work by the shut in and shut down. This result was arrived at only after prolonged and energetic negotiation on the part of the producers, but

once all the elements of the business were combined it was practically assured that the movement would be successful. This looked like a one-sided proposition wherein the Standard was not likely to be much of a winner, but, that being the agreement brought home by the producers' committee, they returned to the region with the sole idea of organizing the producers and making a success of the movement. How well they succeeded in handling the question is best evidenced by the fact that there were then 14,000 producers, and that they succeeded in enlisting 85 per cent of the number into the movement.

BUSINESS ASSOCIATIONS ORGANIZED BY THE PRODUCERS' PROTECTIVE ASSOCIATION.

That continued in effect until October 31 of the year following, both sides to the agreement faithfully carrying out every condition. The Producers' Protective Association continued their organization, which at the start was secret. I think the restriction extended so far as not to permit the naming of any officer of the concern; anyone holding an office in the association was not allowed to be known by name outside of the organization itself. Altogether it was one of the closest corporations ever organized for business purposes. They continued to hold their meetings and discuss the conditions of the trade, which were not permanently bettered by this shut-in movement, owing to very large developments at McDonald within two years of the termination of the shut-down agreement, where an enormous production took place in a very short time. While operations were progressing in McDonald, the Producers' Protective Association proposed to organize business associations fostered by their own association. They were instrumental in organizing at least three or four, of which the first was the Producers' Oil Company, Limited, which had a capital of \$600,000. This went into business in Allegheny County, in the vicinity of the McDonald oil field, but on the edges of the field, and did not participate to any great extent in relieving the producers of the overproduction existing there. After a period in which no very considerable success was achieved, another company was organized, known as the Producers and Refiners' Company, in which certain refiners, cooperating or combining with the associated producers of the Producers' Oil Company, subscribed \$250,000 additional capital, which was invested in pipe lines furnishing an outlet from the McDonald field, or the terminus of the Producers' Oil Company, Limited, to the refineries at various points in Pennsylvania. The next step in the movement was to combine these companies by a sale of one to the other. The Producers' Oil Company, capitalized at \$600,000, was absorbed by the Producers and Refiners' Oil Company, capitalized at \$250,000; in effect, the weak company took and assumed the property of the greater concern. From this time the Producers' Oil Company practically went out of existence, though I think the organization was maintained and all the property of the Producers' Oil Company, Limited, was not disposed of at that time; some of it remained, and perhaps still remains. This proving unsatisfactory, another consolidation was made about 1894, by which the Producers and Refiners' Oil Company undertook to absorb the United States Pipe Line Company, a company organized with a capital of \$1,000,000, with two systems of pipe lines, and according to the terms of the purchase, the stockholders of the United States Pipe Line Company—the only straight and real corporation connected with the whole concern, because it is incorporated under the pipe-line act of Pennsylvania, and none of the others are—

Q. (By Mr. PHILLIPS.) (Interrupting.) The others were limited partnerships?—A. The others were limited partnerships.

Q. Are you not mistaken about the two first companies undertaking to absorb the United States Pipe Line Company? The United States Pipe Line Company was formed before the Producers and Refiners' Company, and they only worked in harmony with the United States Pipe Line Company at this time. Is not that correct?—A. I am giving this largely from memory, and I may be in error. I have a paper here describing the whole process, and it may be just the other way. It may be that the United States Pipe Line was absorbing the other concerns, but there was an absorption attempted.¹

Q. Are you quite certain there was at that time? Were they not simply making running rates and agreements?—A. I will proceed and then afterwards read the answer of J. J. Carter in a suit in equity. Here is a paper which recites the whole transaction.

Q. (By Mr. KENNEDY.) An official paper?—A. I do not believe it has a seal; it is a copy of the official paper.

Q. (By Representative LIVINGSTON.) A certified copy?—A. No.

Q. (By Mr. FARQUHAR.) Is there a statement to show where the original papers can be found?—A. Oh, yes; the original papers can be found.

¹ See p. 471.

THE ORGANIZATION OF THE PURE OIL COMPANY.

Q. Is there any verification of the correctness of this copy?—A. No; there is no verification of this copy, which is merely a copy of the petition to dissolve an injunction. Whatever the attempt was—to consolidate, or combine, or absorb one of these pipe lines or the other at the time—it failed through the activity of one of their own stockholders, who went into court and prevented this consolidation. That being the case, another company was formed, known as the Pure Oil Company. The Pure Oil Company was formed on or about the 24th of January, 1895, at a meeting of producers at Butler. Subscriptions were received to the amount of about \$50,000 toward the organization of what was called the Pure Oil Company. The stated purpose of this company was to market the products of the refineries and pipe lines. It was to be the commercial organization of the trust then in process of formation, and it has since been sought by a reorganization of that concern which took place about 1897 in New Jersey—

THE PURE OIL COMPANY CALLED A TRUST.

Q. (By Mr. PHILLIPS, interrupting.) Why do you call the Pure Oil Company a trust? Was not that a straight corporation like the Standard and others that have since organized?—A. I quote here from Mr. David Kirk, the first president. He calls it a trust, and it is so called here. It is cited as a trust agreement.

Q. It was organized under the laws of New Jersey as a corporation?—A. Mr. Kirk calls it a trust.

Q. Does Mr. Kirk's calling it a trust make it a trust?—A. I think the organization makes itself a trust by the appointment of trustees for the conduct of the business.

Q. It is only a voting trust, and have not voting trusts existed in all ages, in Europe as well as America?—A. I am not contending against the legality of the trust; it is merely a statement of fact based on information obtained from David Kirk. The reorganization took place at Taylor's Hotel in Jersey City in 1897, and the powers of the organization increased from that moment. They have attempted to take in all the corporations combined with them, to combine into one concern. The attempt was made several times, as I understand it, to absorb all the old interests in which the Producers' Protective Association is concerned, and they are still attempting it with a very considerable show of success, as I am informed.

(The witness then read Exhibit B, filed with a bill in equity in a suit entered by Mr. David Kirk, at Pittsburg, Pa. See below, page 464.)

Q. (By Mr. PHILLIPS.) Did the McCalmont Oil Company have anything to do with this as a company?—A. Possibly David Kirk may have acted as trustee for the McCalmont Company; as president of the McCalmont Oil Company he may have been trustee of that company in some subscriptions of this stock; that is the only explanation possible at this time.

Q. The agreement itself, then, shows that the trust to which you refer is a voting trust for the election directors, does it not?—A. It has a tendency to show that. I believe, if you will indulge me the time, we will accomplish more—

Q. (By Representative LIVINGSTON.) What is the point you wish to bring out?—A. I will get down to that by reading one clause and submitting the rest for your consideration. The clause I particularly wish to call your attention to is one that provides for the dissolution of the trust and the conditions under which it may be done:

"Fourth. This agreement may be canceled, and the trust hereby created dissolved only by the winding up of the Pure Oil Company, or by the consent, in writing, duly executed, of the equitable owners of four-fifths of the shares held in trust hereunder, and of four-fifths of all the other shares of the company, after providing in full for the redemption or purchase at one hundred and ten dollars per share, in cash, of all the preferred and common shares of the company at the time outstanding."¹

The purpose of this clause is in effect to make the trust perpetual; but if dissolved, the shares under that agreement, costing originally \$5, are compelled to be sold at \$110. They agree in this to repurchase at 110 when the shares previously cost 5.

Q. (By Mr. PHILLIPS.) I think perhaps that is a mistake.—A. It is here. It is part of Mr. Kirk's Exhibit B.

Q. (By Representative LIVINGSTON.) Do you mean to say that A and B, two members of the company, turn in \$110 for their own stock or outstanding stock?—A. It states outstanding; it puts the redemption of all stock at 110, the original cost of the stock being 5.

¹ See modified form on p. 511, footnote.

Q. (By Mr. PHILLIPS.) Does not that mean 10 per cent?—A. I am only reading what it states.

Q. Is that a certified copy?—A. Oh, no; it is a copy of the record in Allegheny County, in a suit entered by Mr. Kirk, the retiring president.

PRESENT STATUS OF THE PURE OIL COMPANY.

Q. (By Representative LIVINGSTON.) What is the condition of that company now?—A. It is in existence and largely in control of this three-million corporation. There is an authorized capital of ten million with possibly \$400,000 paid in. It then substantially controls the other combinations, in which upwards of three millions are invested.¹

Q. (By Mr. KENNEDY.) What is the voting power of the five trustees?—A. I have stated that it is the power to vote all the stock represented in the trust.

Q. Not for the transaction of other business?—A. For the election of directors. It is stated in the second clause: "At all meetings of the company for the election of directors or for any other purpose, to cast the entire number of votes which, as holders of said shares, they would be entitled to cast."

Q. That is a true copy of the original?—A. It is a true copy, and the original may be obtained in the court at Pittsburg.

Q. (By Mr. SMYTH.) Your opinion is that the company controls all these companies?—A. Substantially; it has come to be known as the Pure Oil movement.

Q. (By Mr. PHILLIPS.) Were there not more than five trustees?—A. It is necessary to say that there have been some changes in the organization since then. At a meeting not long ago in New Jersey, I am informed, an attempt was made to reconstruct the by-laws, and in this they may have changed the voting power. This represents the condition of affairs in 1897. I submit the whole:

EXHIBIT V.

Trust agreement, and by-laws and rules and regulations of the Pure Oil Trust.

EXHIBIT B.

THE TRUST AGREEMENT IN FULL.

This agreement, made and entered into by the Pure Oil Company, a corporation organized and existing under the laws of the State of New Jersey: David Kirk, Jerome B. Akin, Marcus L. Lockwood, Walter A. Dennison, Charles H. Duncan, Theodore B. Westgate, Wm. L. Curtis, James W. Lee, and David Kirk, trustees for the McCalmont Oil Company, severally subscribers to and owners of the capital stock of the said Pure Oil Company, and Thomas W. Phillips, Lewis Emery, jr., Rufus Scott, Clarence Walker, Louis Walz, James W. Lee, David Kirk, Marcus L. Lockwood, Jerome B. Akin, Charles H. Duncan, Hugh King, Michael Murphy, Adolphus A. Hoch, Ferdinand Reiber, and Walter A. Dennison, parties mutually agreed upon to exercise the trusts created hereunder:

Witnesseth, That whereas the Pure Oil Company is formed for the purpose of engaging in directly and of aiding other companies and parties engaged in the production, transportation, storage, manufacture, and sale of crude petroleum and its products, and in any business incident thereto, and it is desired to enlist therein the cooperation of other parties, and to procure capital to be invested in the shares of its capital stock, and in such other ways as may be desirable, which investments are to be solicited from parties not now interested in the company; and

Whereas it is advisable, equitable, essential, and intended for their safety and advantage of all interests that the control of the said Pure Oil Company shall be secured permanently, as to prevent and render impossible at all times the diversion of its resources and business from their intended use and courses, in opposition to monopoly in the business, and to permanently protect and maintain what are known as the "independent interests" in the petroleum industry, and to maintain the policy agreed on for conducting the business of the company in the interest and for the protection of all rights in the company, created by mutual agreement of shareholders, or by operation of law; therefore the said parties hereto, in consideration of the sum of one dollar by each to the other paid, the receipt of which is hereby acknowledged by each, and in further consideration of the mutual benefits received, to be received, or expected from the agreements, covenants, and trusts hereinafter contained, and from the undertakings and business to be promoted, do hereby agree and consent to the various acts and things hereinafter set forth; provided, however, that no party hereto shall be bound to do any act or

¹ See Mr. Phillips, p. 600.

thing, or be responsible for the results or consequences of any act or thing done or omitted to be done, except so far as relates to such act or thing as he himself expressly undertakes to do and perform; and do further agree as follows:

First. The capital stock of the Pure Oil Company, as authorized in its certificate of organization, is to be one million (\$1,000,000) dollars, represented by two hundred thousand (200,000) shares, of the legal par value of five (\$5.00) dollars each, divided into classes and to be issued, held, and transferred subject and according to law and the by-laws, rules, and regulations adopted and approved by all the shareholders of the company, a copy of which is hereto attached and referred to.

Second. The said David Kirk, Jerome B. Akin, Marcus L. Lockwood, Walter A. Dennison, Chas. H. Duncan, Theodore B. Westgate, William L. Curtis, James W. Lee, and David Kirk, trustee of the McCalmont Oil Company, are the owners of all the shares of the capital stock now subscribed, amounting to three thousand (3,000) shares, of which they hereby transfer to the said Thomas W. Phillips, Lewis Emery, jr., Rufus Scott, Clarence Walker, Louis Walz, James W. Lee, David Kirk, Marcus L. Lockwood, Jerome B. Akin, Charles H. Duncan, Hugh King, Michael Murphy, Adolphus A. Hoch, Ferdinand Reiber, and Walter A. Dennison sixteen hundred (1,600) shares, being more than a majority of the shares of the company now subscribed, and agree that one-half of all the shares hereafter subscribed and issued shall be transferred in like manner to the said parties and their associate trustees, as may be appointed, to be by them held in trust for the uses and purposes herein proposed, and subject to the terms and conditions as follows:

First. The equitable ownership of the trust shares and all interests therein shall be subject to the terms of this trust agreement; such ownership of the shares or interests therein may be sold at the will of the holder, but no sale, transfer, or conveyance of such ownership or interests shall give to the purchaser any right other than are provided for in the by-laws, rules, and regulations of the company and in accordance with this trust; the trustees hereunder shall at all times be recognized as the legal owners and holders of the trust shares to carry into effect the purposes of this trust, and all equitable owners of trust shares or interests therein shall specifically agree in writing to the terms of this trust, and no transfer of any such shares or interests shall be made, or be effective if made, until the transferee of such equitable ownership or interest shall have agreed in writing to receive and hold the same subject to the provisions of this trust.

Second. At all meetings of the company for the election of directors, or for any other purpose, to cast the entire number of votes which, as holders of said shares, they would be entitled to cast.

Third. Each trustee at such meetings shall be entitled to cast an equal number of all the votes which all of the trustees would be entitled to cast in the aggregate, if present, except as hereinafter provided.

Fourth. In case of differences of opinion among the trustees present at any such meetings as to how such votes shall be cast in regard to any matter or thing to be voted on, they shall be cast as the representatives of four-fifths of all the shares held under this trust may direct in writing, if so demanded in writing by any of the trustees.

Fifth. Any trustee unable to attend any meeting of shareholders, and to personally cast the votes he would be entitled to cast if present, may authorize any other trustee to cast the vote which he would be entitled to cast personally present, which authority shall be in writing, approved by three-fifths of the trustees other than himself.

Sixth. When none of the trustees can be present at any meeting of the stockholders, legally held, they may be represented in proxy by an attorney appointed in writing, executed by three-fifths of the trustees.

Seventh. The trustees may execute such consents in writing as in their opinion it may be right and proper for them to do in the interest of the Pure Oil Company and of the owners of the shares held by them in trust, provided that no such consents shall be executed against the objection of the equitable owner of 10 per cent of the shares held by them in trust, unless after the question of executing such consent shall have been submitted in person, or by writing, properly addressed to the several equitable owners of the shares held in trust, and approved in writing by such owners of three-fifths of such shares.

Eighth. The number of trustees may be increased or diminished at any time; or any trustee may be removed, without assignment of cause or reason therefor, by three-fifths of the trustees and the written consent of the equitable owners of three-fifths of the shares held in trust hereunder; and upon such removal, or on filing of such written consent with the secretary of the company and on notice in writing delivered to the party so removed, or sent by registered letter to his proper

address, the rights, duties, and obligations of such party, as trustee, shall immediately cease.

Ninth. In case of death, resignation, or removal of any of the trustees the trust shall be exercised by the remaining trustees until the vacancy be filled by the appointment of new trustees for that purpose, on the nomination of the equitable owners of a majority of the shares previously represented by the trustees, whose place is vacated with the consent, in writing, of the equitable owners of three-fifths of the shares held under this trust and the approval of the three-fifths of the trustees.

Tenth. No trustee has any such beneficial interest in this trust, personally, as to entitle him to maintain any action at law or in equity to enjoin, delay, hinder, or prevent his removal from the trusteeship, or to recover any damages on account thereof from the company or the trustees, or from the individual stockholders by whose action he may have been removed.

Eleventh. The trustees shall appoint a chairman and secretary, and shall keep regular accounts showing the ownership and residence of the various equitable owners of the shares held by them in trust, and shall execute and deliver to such several owners certificates in due form, approved by the directors of the company, evidencing the number of shares held by them in trust for each of such several owners, and shall make such transfers of any of the shares as they may be requested to do by such several owners on the surrender of such certificates representing such shares, properly endorsed, assigned for transfer subject to the terms of this permanent trust, any of the shares thereby represented in the manner prescribed for making such transfer.

Twelfth. The trustees shall immediately advise the company, by writing, addressed to the secretary, of any transfer of ownership of any of the shares held by them; and shall, on written request of the treasurer of the company, certify to him the names and residences of all equitable owners of shares held by them in trust; and shall sign warrants for the payment to such owners, severally, of any dividends to which they may be entitled on the share so held in trust.

Third. This agreement may be changed at any time only with the consent in writing of the Pure Oil Company, three-fifths of the persons at the time acting as trustees hereunder, and of the equitable owners of three-fifths of the shares held in trust thereunder.

Fourth. This agreement may be cancelled, and the trust hereby created dissolved, only by the winding up of the Pure Oil Company, or by the consent in writing, duly executed, of the equitable owners of four-fifths of the shares held in trust hereunder, and of four-fifths of all the other shares of the company, after providing in full for the redemption or purchase, at one hundred and ten dollars per share, in cash, of all the preferred and common shares of the company at the time outstanding.

Fifth. The said Thomas W. Phillips, Lewis Emery, jr., Rufus Scott, Clarence Walker, Louis Walz, James W. Lee, David Kirk, Marcus L. Lockwood, Jerome B. Akin, Charles H. Duncan, Hugh King, Michael Murphy, Adolphus A. Hoch, Ferdinand Reiber, and Walter A. Dennison hereby accept the trust herein conferred and imposed on them.

In witness whereof the parties hereto have severally signed this agreement as of the 6th day of November, A. D. one thousand eight hundred and ninety-five.

PURE OIL COMPANY.
DAVID KIRK, *President*.
C. H. DUNCAN, *Treasurer*.

Incorporators: David Kirk, Jerome B. Akin, Marcus L. Lockwood, Walter A. Dennison, C. H. Duncan, Theodore B. Westgate, James W. Lee, David Kirk, trustee for McCalmont Oil Co., W. L. Curtis, Thomas W. Phillips, David Kirk, Marcus L. Lockwood, Clarence Walker, James W. Lee.

Trustees: Walter A. Dennison, Jerome B. Akin, C. H. Duncan, Adolphus A. Hoch, Ferd. Reiber, Louis Walz, Rufus Scott, Lewis Emery, jr., M. Murphy, H. King.

EXHIBIT A.

BY-LAWS AND RULES AND REGULATIONS OF THE PURE-OIL TRUST.

[Incorporated November 8, 1895. Capital, \$1,000,000.]

The objects of the company are to produce, purchase, transport, store, and sell crude petroleum and its products and to protect and to aid other companies and parties in the production, transportation, manufacture, storage, and sale of the same. The corporation may acquire, hold, maintain, and dispose of any stocks,

shares, bonds, and other interests in or issued by the corporation, joint-stock, or limited-partnership association engaged in or aiding or promoting the producing, transporting, storing, refining, and selling of crude petroleum or its products, or in any business incident thereto.

BY-LAWS.

ARTICLE I.

MEETINGS OF SHAREHOLDERS.

SECTION 1. The annual meeting of the shareholders shall be held at the principal office of the company on the fourth Wednesday of January in each year, commencing at 10 o'clock a. m., standard time.

Notice of the annual meeting of shareholders shall be by written or printed letter addressed by the secretary to each shareholder at his or her last known place of residence, and mailed ten days prior to the time fixed for holding such annual meeting.

SEC. 2. Special meetings of shareholders may be called whenever it shall be deemed advisable by the board of directors, or by the president upon request in writing signed by the shareholders owning collectively not less than one-third of the shares of the company.

Notice of special meetings shall be given in the same way as the notices of annual meetings.

PROXIES.

SEC. 3. Shareholders may be represented at any meetings of the shareholders by proxy, duly authorized in writing, executed within thirty days next preceding the meeting.

QUORUM.

SEC. 4. The legal representatives of a majority of all the shares of the company shall constitute a quorum at any meeting of the shareholders; and without a quorum being present or represented by proxy no business shall be transacted or election held, but a less number may adjourn from time to time until a quorum be present.

SEC. 5. At meetings of shareholders, general or special, all votes upon disputed questions shall be by ballot, if demanded by any shareholder present, and all votes by ballot shall be determined by the number of shares represented by the respective votes cast.

At all meetings of shareholders for the election of directors, each shareholder shall be entitled to cast as many votes as he has shares of the company standing to his name on the books of the company.

The election shall be by ballot, and each ballot shall have endorsed thereon the name of the person casting the same and the number of shares represented thereby.

VACANCIES.

SEC. 6. In case of death, resignation, or removal of any director, the vacancy shall be filled by the remaining directors.

SEC. 7. The directors shall appoint two shareholders as tellers to conduct the election and to certify the result in writing to the parties elected and to the president and secretary of the company. In case of the directors failing to so appoint, the shareholders present shall choose two tellers to conduct the election.

The secretary of the company shall furnish the tellers, for their guidance in conducting the election, a list of shareholders, showing the number of shares standing in the name of each on the books of the company, authenticated by the seal of the company.

TIME OF ELECTION AND TERM OF OFFICE.

SEC. 8. The polls shall be open from two to three o'clock p. m. The terms of office of directors shall commence at noon on the first Wednesday after their election at the annual meeting of stockholders and continue until their successors are duly elected and seated.

ARTICLE II.

DIRECTORS—MEETINGS.

SECTION 1. The board of directors shall fix the time and place for holding its meetings.

Special meetings of the board may be held at any time on the call of the president or any two directors, after due notice given to each of the directors.

ELECTION OF OFFICERS.

SEC. 2. At the first meeting after their election the directors shall organize by electing from their number a president and a vice-president to serve until their successors are qualified, and appointing a secretary and a treasurer to serve during the pleasure of the board.

QUORUM.

SEC. 3. A majority of the directors shall constitute a quorum at any meeting of the board, and no business shall be transacted by the board without a quorum being present.

SEC. 4. The salary of the president and vice-president shall be fixed by vote of the stockholders.

EXECUTIVE COMMITTEE.

SEC. 5. For the more prompt and efficient management of the affairs of the company there shall be an executive committee of the board, consisting of the president, vice-president, and three other directors, who shall be appointed by and hold office during the pleasure of the board. In the intervals between the meetings of the board of directors its powers and duties shall devolve upon and be exercised by the executive committee, subject to the approval of the board at its next regular meeting.

The proceedings of the executive committee shall be duly recorded in the same manner as the regular proceedings of the board of directors.

A majority of the executive committee shall constitute a quorum.

In case of disagreement of the executive committee on any subject, the matter shall be referred to the board of directors.

SEC. 6. The board of directors shall cause to be kept a complete record of their official proceedings and acts of the proceedings of all shareholders' meetings; present to the shareholders at the annual meeting a statement of the assets and liabilities of the company and of the condition of its affairs generally.

ARTICLE III.

POWERS AND DUTIES OF OFFICERS—PRESIDENT.

SECTION 1. It shall be the duty of the president to preside at all meetings of the board of directors, to sign all certificates of stock and warrants for the payment of money ordered by the board of directors, and such other papers as he may be ordered by the board of directors to execute on behalf of the company.

In case of the absence or inability of the president to act, the vice-president shall be invested with all the powers and shall perform all the duties of president. In case of absence or inability to act of both president and vice-president, the board of managers may appoint one of their number president pro tem., who shall during such absence or inability perform all the duties of president.

SECRETARY.

SEC. 2. The secretary shall keep the minutes of the meetings of the board of directors in a proper book provided for that purpose; attend to the giving and publication of all notices of the company, unless otherwise provided for by the board of directors; have the custody of the seal of the company and affix same to all certificates of stock and such other papers as the directors may order; counter-sign all warrants on the treasury for the payment of money, which shall have been previously signed by the president as authorized by the board of directors; attend to such correspondence as shall be assigned to him; act as secretary of all

standing committees of the board, and shall in general, under the direction of the board of directors, perform all the duties incident to the office of secretary of the company.

TREASURER.

SEC. 3. It shall be the duty of the treasurer of the company to receive and deposit or hold and pay, as the board of directors may order, all funds resulting from the sale of shares or any property of the company; and shall sign all stock certificates and obligations of the company created by special order of the board of directors.

The treasurer shall give bond for the faithful discharge of his duties in such amount and with such security as the directors may determine.

RULES AND REGULATIONS.

1. The business of the company shall be the producing, purchasing, transporting, storing, and selling of crude petroleum and its products, and aiding other companies and parties in the production, transportation, storage, manufacturing, and sale of the same. The corporation may acquire, hold, manage, and dispose of any stocks, shares, bonds, and other interests in or issued by any corporation, joint stock company, or limited partnership association engaged in, or aiding, or promoting the producing, transporting, storing, refining, and selling of crude petroleum or its products, or in any business incident thereto. And in addition to the powers hereinbefore provided for, it may also purchase, hold, manage, and sell on commission, or otherwise, such investment securities and other property, real, personal, and mixed, as the corporation may be generally or specifically authorized in writing from time to time, by the owners and holders of a majority in number of the shares of the capital stock of the company, to purchase, hold, and sell.

And the company may exercise such trusts and do such other things, not inconsistent with its charter, as it may from time to time be authorized in like manner to do.

2. The principal office of the company shall be located at Jersey City, in the county of Hudson and State of New Jersey, and branch offices may be established from time to time as may be determined by the consent of the owners and holders of three-fifths of the shares of the company.

3. The shareholders shall make rules and regulations and by-laws for the government of the company and the management of its business and affairs as in their discretion they may deem advisable, which may be amended at any time by the consent of the owners and holders of three-fifths in number of the shares of the company, given in writing, filed with the secretary, and recorded in the minutes of the proceedings, both of the shareholders and directors of the company.

4. The affairs of the company shall be managed by a board of directors, consisting of nine members, to be elected annually by the shareholders at their annual meeting, at which each shareholder shall be entitled to cast, personally or by proxy, one vote for each share of stock in the company held by such shareholder. The directors shall choose annually from their own number a president and vice-president to serve until their successors are chosen; shall appoint all other officers, managers, agents, or employees of the company; prescribe the duties and fix the compensation of each; and may suspend or remove any of them at discretion, and they may make such additional by-laws as may be deemed by them advisable—all subject to the by-laws and rules and regulations adopted by the shareholders for the government of the company.

5. Interests of the company will be represented by shares which may be divided into classes, including preferred, common, and deferred shares, to be issued, held, and transferred, subject to the by-laws and regulations of the company.

The preferred and deferred shares may be each subdivided into various classes, each class having such special rights and limitations as will more particularly adapt them to the uses for which they are intended, subject to such relation to the shares of other classes as may be established in their issue.

The rules and regulations relating to them will embrace the following features:

6. A majority of all the shares of the company shall be held in a permanent trust approved by all the shareholders, to secure the control of the company and the faithful maintenance of the policy agreed on for conducting the business of the company in the interest and for the protection of all concerned in its affairs. The shares so held shall be designated as trust shares.

7. The capital of the company shall be the net amount of cash paid into the treasury of the company for its permanent use as the proceeds of its stock issued and sold for cash for account of capital; and no credit in excess of the amount shall be made to "capital" in accounts or statements of the company.

8. No preferred stock shall be issued except as cash to the extent of one hundred dollars for each share of such stock issued shall be paid into the treasury of the company to the credit of capital, or of surplus, or of the guaranty and redemption fund, to be created as prescribed in section 12 hereof, as may be deemed advisable.

Any of the preferred shares may be converted, at the option of the holder, into common or deferred shares by so stipulating in their issue and distinctly stating the right of conversion in the certificates representing them; otherwise they shall not be convertible.

9. The deferred shares of the company may be issued for cash, investment securities, property, services, payment of expenses, making disbursements of any kind, and in exchange for shares of other classes issued by the company at the discretion of the directors, with the written consent of the owners of a majority of the shares of the company at the time outstanding.

10. The holders of preferred stock shall be entitled to receive cumulative dividends thereon of one dollar and a half per share quarterly, in full, before any dividend shall be payable on the common stock.

11. A guaranty and redemption fund shall be created and maintained by crediting thereto all of the cash received by the company from the following sources:

(a) The proceeds of all shares of the company sold for cash by the company when issued, in excess of the amount credited to capital.

(b) The cash proceeds of all shares, securities, or other property of whatever kind acquired by the company in exchange for its shares of any class, as such proceeds may be realized, at any time, by the sale for cash of any portion of such shares, securities, or property.

(c) The proceeds of all shares, of whatever class, purchased by the application of the guaranty and redemption fund, as authorized, and resold for cash by the company.

12. The guaranty and redemption fund shall be applicable to the general uses of the company, but may be applied to buying shares of all classes, in the order of their priority or right to dividend, as stipulated, at the lowest rates at which any shares of the same class can be bought, not over one hundred and ten dollars per share, on demand of the several owners and holders of shares, respectively, made within a prescribed time after the payment of dividends; provided, notice of the intention to make such demand shall have been given to the secretary of the company thirty days before the time fixed for the declaration of dividends; and provided further, that no part of the guaranty and redemption fund shall be applied to buying, at any price, the shares of any class, so long as there may remain unsatisfied any demand made by the owners and holders of the shares of any prior class to have the same redeemed at not over one hundred and ten dollars per share.

All shares so purchased shall be placed in the treasury, to be used for the benefit of the company in such form and manner as may be determined by the directors, with the consent, in writing, of the owners and holders of a majority of the shares of the company.

13. When no shares of any class can be purchased at one hundred and ten dollars per share, the guaranty and redemption fund shall be applicable, at the discretion of the directors, to the purchase of the shares of the several classes, other than the trust shares, at such rates above one hundred and ten dollars per share as may be approved by the owners of a majority of the shares of the capital stock.

The shares of any class so purchased may, when authorized by the owners of a majority of all the shares of the company, be resold at any time, at the discretion of the directors, at any price not less than that at which they were severally purchased; or they may be retired from the classes to which they belong, and be placed in the treasury of the company, to be held, reissued, and sold for its use and benefit, subject to such conditions as the directors may prescribe, in accordance with the regulations of the company.

14. When the dissolution of the company shall be determined on, voluntarily or otherwise, the trustees, acting under the permanent trust, created and prescribed in section 6 hereof, shall be trustees to convert its assets and wind up its affairs. The proceeds of all assets received by them shall be applied by them absolutely, as the guaranty and redemption fund is required by the rules and regulations to be applied, preceding, and as may be further prescribed hereinafter.

Any portion of the guaranty and redemption fund remaining after providing for the purchase and retirement of all shares, as herein prescribed, shall be distributed to the owners of the trust shares, and of any other shares then outstanding, equally per share.

15. The owners of a majority of the trust shares, acting together, shall have the right to convey to the company, absolutely or in trust, permanently or temporarily, and subject to such conditions as may be stipulated in such transfer, any securities regularly yielding net income; provided, that the receiving and holding of such securities shall not subject the company to any prejudice, or embarrassment, or legal liability to pay any money on account thereof; and no such temporary transfer in trust shall be terminable until the well-established net income of the company from its regular business and other sources of permanent revenue shall be equal to the maximum amount to which it may be raised by such temporary transfer in trust.

16. Each holder of shares standing in his name on the books of the company shall be entitled to a certificate or certificates therefor, duly signed by the president and treasurer, with the seal of the company affixed and attested by the secretary of the company, and each owner of an interest in any of the trust shares shall be entitled to a certificate of the fact, signed by the chairman and attested by the secretary of the permanent trust, showing the extent of the interest, which interest shall be assignable and transferable on the surrender of the certificate representing it, properly indorsed, as may be prescribed by the trustees, with the approval of the directors and the owners of a majority of the trust shares.

THE UNITED STATES PIPE LINE NOT ABSORBED BY THE PRODUCERS AND REFINERS' OIL COMPANY.

I want to correct some testimony given in connection with the proposed consolidation of the pipe-line interests and which referred to the Pure Oil Company and its allied concerns.¹ Refreshing my memory, I find that it was not proposed to buy the United States Pipe Line Company. From correspondence here in this document, it seems that the facts are just the reverse, and that the United States Pipe Line Company proposed to buy, with the consent of the Producers' Oil Company, Limited, the property of the Producers and Refiners' Oil Company, the payment therefor to be made in stock of the United States Pipe Line Company, the stock of that company having been increased for the purpose from one to two millions of dollars, or it having been proposed to increase it to that amount.

THE NATIONAL TRANSIT COMPANY IN THE McDONALD FIELD.

The commission having indulged me in a wish to read a description of the conditions existing throughout the McDonald field during the time when the original company and the association were in existence, in 1891, I desire to do that before taking up the consolidation of the various interests. This is taken from the Pittsburgh Commercial Gazette, and is reprinted in the Oil City Derrick of May 5, 1892. It is entitled "A history of the manner in which the National Transit Company handled the output of oil at McDonald."

"A few days ago the superintendent of the National Transit Company's tank department made an official report, in which he said: 'A retrospect of the work done proves conclusively that vast resources are required to cope with floods of oil such as were poured forth by the Cherry Grove and McDonald fields, and that nothing short of the experienced and well-equipped organization that did the work could have accomplished it.

"In round numbers, 10,000 tons of iron, rivets, lumber, and other building material were shipped into the McDonald field by one department alone—the tankage department—and the tankage provided for at the rate of one for every ten working hours, requiring the handling, on an average, of 150 tons of material per day to keep the large force of workmen employed. Special trains were run for the accommodation of the men and no expense spared to meet the demands of the field. Rolling mills and tank shops were pressed to their utmost capacity, in many cases running night hours to meet the extraordinary demands made upon them, and second-hand tankage, wherever it could be spared, was cut down and made to do service again in the new field. Men skilled in the special work of tank building were sought for and transported to building points from Chicago, Brooklyn, and all the cities and towns of olddom, east and west, until their name was legion. More than a score of sawmills were drawn upon to furnish the lumber at the rate of thousands of feet per day to roof the huge oil receptacles.

¹ See p. 422.

"In addition to this force were the graders, turning out two and more tank grades per day. The Chartiers Valley presented a scene of activity rarely witnessed since the days when armies were similarly engaged throwing up temporary fortifications. For miles teams, laden with iron, rivets, sheet iron, etc., were seen hurrying in seemingly endless confusion, and yet all were under proper direction, each going to a designated point, arriving in such order as to prevent loss of time from want of material, for there was no surplus, no reserves. Everything was used on arrival, and special agents, laboring over overtaxed railroad officials, to hurry forward supplies, others seeking belated cars on side tracks; the wires brought into requisition; the express companies shipping rivets, plate iron, and many other articles, which ordinarily were shipped by freight. It was no longer a question of expense, but simply a question of securing supplies as fast as required, by whatever means. Scarcely time for sleep, none for recreation; it would come later, as it did. Besieged everywhere by the owner, or expected owner, of a flowing well, with the ever-present and ever-recurring question, "When will you complete the next tank?" "To-morrow," the answer came uniformly, and so did the tank, but only to be filled at once and the necessity for another equally great pressing upon us.

"This vigorous, graphic, and conservative statement is fully borne out by the facts, and gives an excellent pen picture of the excitement and fierce activity attending the development of that prolific territory. This was the work of but one department and involved merely the building of the iron tankage, which still stands in the McDonald field to show for itself what was done. But it does not involve that still mightier work of moving into the McDonald field the pipes for the miles of lines required to run this oil from the wells of the producers to the markets of the world, or where it might be fitted for such markets; it says nothing of the great pump stations which were erected at both McDonald and Greggs stations, on the Panhandle Railroad, to care for this enormous output of nature's wealth, or of the pumps in every valley of that field; the boilers and engines necessary as motive power to all this machinery needed to move into the flood of oil which poured forth from this, the most prolific white-sand field ever developed on this continent.

"The McDonald field is about 6 miles long by 2 miles wide, or contains in the vicinity of 12 square miles, yet the pipe-line company has shipped into that field 55 miles of 2-inch pipe, 41 miles of 3-inch pipe, 25 miles of 4-inch pipe, and 32 miles of 6-inch pipe, a total of 153 miles of pipe, or over 11 miles of pipe for every square mile of territory, and all this merely to carry the product from the wells to the mains of the company, which had been previously laid from the Washington field to the grand depots at Olean, in New York, on the trunk line to New York, and to Colegrove, connecting with the trunk line to Philadelphia. Neither do these figures include 70 miles of 6-inch pipe from Greggs station to Bear Creek, as an additional outlet deemed necessary, owing to the possibility that the increasing production might become greater than the capacity of these two main lines to carry.

"The field itself is but about a year old, and all this work, or by far the greater part of it, was done between the middle of July and the beginning of November, 1891. The plant is completed, with the exception of laying such lines as may be necessary to connect new wells as they come in; the pipe-line business has assumed its usual routine under the facilities provided by the gigantic system established; and while the output of the field is still large, it is handled without the slightest ripple of excitement. Not only the iron tankage with a capacity of 3,000,000 barrels of oil stand there, but the mighty pumps at the stations at McDonald and at Greggs are living and pulsating evidences of the achievement.

"There was much accomplished, however, which can not appear to the mere observer in the field. Superficial examinations in the erection of a plant of this size within such a brief period of time, a plant that is as permanent as the field itself, working with the smoothness and perfection of one which might have occupied years in its construction. Neither can a superficial observer see the expensiveness of certain features unless he be an expert in the handling of oil.

"The field itself is one succession of hills several hundred feet in height, with correspondingly deep hollows. There are wells on the hills as well as in the hollows. Very large producers were so situated that there was no advantage to the pipe lines from gravity whatever; everything had to be forced by pumps, a result of some wells being so much lower than others and the high pressure at which the lines were used, requiring the use of a pump station in every productive valley.

"The haste with which construction had to be prosecuted is faintly indicated by the growth of production in the oil field. The first well completed was the

Royal Gas Company's well, in February, 1891. It was drilled for gas, and the field has accordingly been not only a surprise, but is also an accident. This was followed by Sauter's No. 1, which wells were connected with the main discharge line of the National Transit Company by 2-inch pipes. The next well of any importance was the Matthews, situated about midway between the McDonald and the McCurdy field, already developed. It got some oil in the Gordon sand in the spring of 1891, and was a small well, say 10 or 12 barrels daily. This was connected in the usual way.

"To the beginning of July there had been no such volume of production as to cause any unusual effort to care for, or to transport. But in the early part of the month of July the Clark & Bannister well, on a town lot in McDonald, struck the fifth sand and started off at 30 barrels per hour; the Matthews, already referred to, more than 2 miles distant, struck the same sand about the middle of the month, and was credited with 40 or 50 barrels per hour. Sauter's No. 3, as if envious that McDonald should be outdone by that out-in-the-country well, went to the fifth sand also and came in with a jump at 120 barrels per hour.

"This was not a theory, but a condition that had to be faced. The production must be cared for. A pump station was begun at McDonald without delay. Transportation had to be forced. The capacity of the lines at the beginning of July was but about 3,000 barrels daily. This evidently would have been inadequate to run such an outpouring of oil as was going on. The production of oil by the middle of August was up to about 15,000 barrels per day. By the 1st of September the lines could handle 26,000 barrels per day. The production increased and exceeded that amount. By the 1st of October the lines could handle 40,000 barrels per day. The petroleum still increased; the race between production and the capacity of the company to handle it became fast and furious. By November the production on some days was up to the vicinity of 80,000 barrels per day, but by the 1st of December the capacity of the pipe line had been increased so that it was able to handle 90,000 barrels per day, if necessity should arise.

"That day has not come. The production began growing less after November, but the plant of the pipe-line company is none the less. It not only erected a plant capable of handling, but actually received and run such a volume of oil as can scarcely be comprehended. The amount of oil carried away from the McDonald field in November, if carried in cars, would have required a train of 25 full loaded cars to have been run more than once every hour, day and night, to have carried it. More than 750 cars would have been required. The plant able to move such a weight is necessarily large as well as powerful, and much machinery is necessary.

"But keeping the machinery in motion was one of the difficulties encountered in that field and successfully overcome which might have been a fatal obstacle to a less thoroughly equipped organization. The water available in the vicinity of the operations was so bad, owing to coal-mine drainage, that it could not be used for the boilers. It became necessary to pipe all the water from the Ohio River and Montour run. The injury to the boilers before the water-pipe system was completed caused the expense of a large number of boiler makers for 10 weeks. The water system from the Ohio River and Montour run covered about 7 miles, but it was subsequently found that a saving in distance could be effected by building a water station in Bridgeville, from which a 3-inch main was run and is now supplying that field.

"The conditions under which this plant was erected also involved the difficulties, delays, vexations, and additional expense of the means of transportation of material being in pressing demand by all manner of interests in the newly-developed field. Operators were anxious to get their machinery and tools to their leases at the earliest possible moment; well-supply companies were making demands for transportation with all the vehemence possible to exercise; merchants and craftsmen attracted thither added their mite to the pressure, not only upon the railroad company to various stations adjacent to the field, but also for teams to transport their boilers, engines, rig timbers, and building material, stocks of goods, supplies for man and beast, teams were brought into requisition to the number of many hundreds; the movement of teams was necessarily slow, and accident to one was the concern of all, as the delay stopped the procession of loaded wagons for miles; a single car on a switch might delay the whole train; but one side track was available at any of the stations on the railroad near the field; a veritable army of men was employed; the work went on night and day under competent direction; as one gang quit for rest and sleep another went on, gas furnishing the electric light by night, so there was no pause from the beginning of the line or of a pump station until it was completed; the whole plant including 64 boilers, some of them 80 horsepower; 145 pumps of various sizes, from the small ones in the val-

leys to the powerful works at the pumping station, with appropriate engines, all brought in, set up and put in running order, supplied with water brought through miles of an artificial water system; about 150 miles of pipe lines in the field and 70 miles of large main out of it; iron tankage, with a capacity of 8,000,000 barrels, all erected and completed within the brief period of 4 months. It is a triumph, whether viewed as an achievement of American enterprise, or the result of business organization which enables such vast resources to be placed at the disposal of productive industry so promptly, skillfully, and advantageously to the development of natural resources."—*Industrial edition of the Pittsburg Commercial-Gazette*.

At this time the Producers Oil Company, Limited, owned only a private line on the margin of the field probably sufficient to handle 2,000 barrels a day, and during the 4 months it did not increase beyond five to six thousand barrels a day. If that production had been dependent upon that one line, it would have gone to waste or not have been produced.

POSSIBLE EFFECTS OF A FREE PIPE-LINE LAW.

Q. There might have been a free pipe-line law in Pennsylvania, which was opposed by the Standard Oil Company for years, and finally granted. Do you not think that there would have been pipe lines of sufficient capacity to have taken care of the oil, if the producers had had the right to build them in our State, if they had had the right of eminent domain? Is it fair, therefore, to instance the capacity of a single pipe line, just starting up, to care for the whole field?—A. To begin with, we will have to assume that the producers, or the persons engaged in constructing the pipe lines, under a free pipe-line law, previous to 1877, would have been willing and satisfied to form a compact organization, to put in sufficient capital, and to continue to act as a unit, as the persons owning the existing pipe-line interests there have done. If all these things could have been brought about, then I believe it would have been possible to have had enough lines there, but the constant cooperation of all the parties interested would have been necessary. They would necessarily have been obliged to be united on every proposition, and that was something that was never accomplished before; nor has it been since.

Q. Do you not believe that the pipe-line industry would have held out just such inducements as the railroad industry has to the country, that there would have been two or three large competing lines in the field, and that the burden of taking care of that oil would not have been self-imposed by the Standard Oil Company?—

A. All we can judge is by what did occur at the time, when there were a great many competing organizations. There were one or two strong pipe lines, and they were owned by one or two strong railroad companies, and managed, in part or in whole, either openly or by agreement.

Q. It was then a growing industry—away back before it was monopolized?—A. It was not a growing industry. It was overproduction. There was no pipe line in the business previous to the organization of pipe lines in 1877 that had made a dollar.

Q. That was in the infancy of the business and you could not expect to have the kind of capacity you have described. Do you maintain that one company, be it the Standard or anybody else, would be better for the oil country, for producers and consumers, and all, than several large responsible competing companies, which undoubtedly would have been formed if there had been the right of eminent domain, and if the builders of pipe lines had not been opposed in getting it by the Standard Oil Company itself?—A. I never understood that the Standard Oil Company directly opposed it. The Standard Oil Company was not in the pipe-line business until the time of the great opposition and agitation for free pipe-line laws. They did not go in until 1877.

Q. Was there not a great effort made in Pennsylvania to get the right of eminent domain, and did not the Standard Oil people, or the National Transit Company, which you say is controlled by the Standard or is a part of their system, oppose the giving of the right of eminent domain? Had they not secured the right of way by purchase through the State and across railroads, and when other companies undertook to do that, did they not lease and purchase ground in front of their right of way, and did not the railroads oppose the other companies passing under or over their ground? Was it not impossible for a number of years for other people to get to the seaboard after the Standard or the National Transit Company had secured their right of way?—A. I do not so understand it. I never knew of but one instance of the right of way being secured.

Q. (By Representative LIVINGSTON.) May I ask what this testimony about the

pipe lines is leading up to, simply a history of well digging?—A. It is to show the manner in which it is done, and the uselessness of the opposition attempted by the Pure Oil Trust—its uselessness and inability to do any business where it was required.

Q. You want to show then that the oil company could not do any business on account of their being hampered by the pipe company?—A. No; they were not hampered by the pipe company. They were not able to do anything after they had taken it, and then bought a charter and were not obliged to do anything that they wanted. It was a limited concern; it was not organized under the pipe-line laws of the State; it was a private company. Its purpose was, in other words, to establish the later movement of the Petroleum Producers' Association, and was a dog-in-the-manger policy—a going into business for the purpose of annoyance, without rendering any useful service to the State.

Q. (By Mr. PHILLIPS.) I wanted to get at the reason why there were not other large companies in opposition.—A. I never knew of the Standard Oil Company placing obstructions in the way of the construction of any pipe line. I have known of individuals obstructing the Standard Oil Company's operations. I have known of that.¹

Q. After the Standard Oil Company, or rather the National Transit Company, had assumed control, were there not some twenty-odd pipe-line companies formed to supply the refineries from various local fields? It has been stated here by other witnesses that there were some twenty-odd. Now, do you admit that there were a number that went into local fields?—A. Oh, yes.

Q. After the National Transit Company had control?—A. Yes.

PREMIUMS PLACED ON OIL BY THE NATIONAL TRANSIT COMPANY.

Q. Now, is it not the rule of the National Transit Company to place a premium on oil in all those fields in order to add to the price of oil, so that the local men can no handle it? Has that been their rule or not?—A. Some instances have come under my own observation of pipe lines being constructed into new and prolific fields for special purposes. I have one in mind in Oil City. It started, I think, as the Peerless or Keystone pipe line. It changed its name so often that I could not keep track of it. That line did not come in as a competing line in the field, and the condition upon which it entered was a guaranty of a certain amount of oil at a fixed rate of pipage. The pipage rate was fixed at 5 cents below the existing rates of the National Transit Company, which was virtually a bid for that oil—a bid of 5 cents—and was in itself a premium of 5 cents. The competing company then necessarily went out and bid the same figure; the premium was a bid to get the oil.

Q. You know a few years ago there was quite a line started in the Washington field, to which you have referred. It is known, I believe, as the Craig-Elkins Line, or the Western and Atlantic. Did the Standard not put a premium on Washington County or Butler County oil while that line was in existence?—A. For the reason I have stated the oil was bid away from them by these so-called independent companies coming in.

Q. I do not so understand it?—A. That is as I understand it.

Q. Did not the National Transit Company eventually purchase that line?—A. That is the assumption.

Q. Then did they not take off the premium?—A. I do not believe there is any premium on that oil now.

Q. But did they not reduce the price of oil 7 cents per barrel to the producer the day or the next day after the purchase was made?—A. If you will give me the dates, I will refer to this book here. I can not state it from memory.

Q. I can not at this time. You have no knowledge?—A. I have no knowledge on that subject.

Q. There has been a new field, called the Scio field, opened up in the last two years. Is there not an independent pipe line in that field?—A. I have heard there were some people bidding for oil there.

Q. Is there a premium placed on that oil?—A. I believe there is.

Q. Is that oil better than any other oil?—A. It is said to be; it is said to be equal to the Clarendon oil.

Q. Has there not very frequently been a premium put on oil, it being claimed that it was better, which was afterwards taken off when the opposition ceased?—A. I have knowledge of premiums being placed on oil, and I have knowledge of premiums being taken off; but I have no knowledge of the purpose of those premiums.

¹ See p. 486.

PIPE LINES WHICH HAVE PAID REBATES.

Q. (By Mr. FARQUHAR.) What pipe lines have paid rebates to producers, and when and how did they pay them?—A. The Mutual Pipe Line paid a rebate of 5 cents a barrel.

Q. (By Mr. SMYTH.) Is that an independent pipe line?—A. They were all independent pipe lines in those days. They entered into a contract. I have some figures here on the subject. These rebates to which I refer now were a matter of common knowledge so far back as 1878. Some time after the close of that movement one of the persons connected with it made a demand upon the Union Pipe Line for a rebate and gave his reasons, which will appear from the following correspondence. I am reading now from a letter head of the Bear Creek Refining Company, Limited:

REBATE.

B. B. Campbell, chairman. R. P. Crawford, treasurer. Bear Creek Refining Company, Limited, refiners of petroleum. City office, corner Etna and Eleventh streets. Pittsburg, Pa., October 22, 1884.

The following correspondence demanding rebates on pipage passed between R. P. Crawford, treasurer of the Bear Creek Oil Refining Company, and Mr. O. P. Swisher, of the United Pipe Lines Company. Then the correspondence was transferred from Mr. Swisher to Mr. Henry McSweeney, solicitor for the United Pipe Line:

Letter No. 1. Under the above letter head, with a Pittsburg date line, on the date above mentioned, Mr. Crawford writes:

MR. O. P. SWISHER.

DEAR SIR: I am informed that your former attorney, Mr. Hancock, has been superseded by Mr. McSweeney. I wish the latter to get the inclosed. If not addressed properly, please see that it gets in the proper hands.

Yours, sincerely,

R. P. CRAWFORD.

Letter No. 2, written under the letter head of the Bear Creek Refining Company, on even date with the above. Mr. Crawford writes:

H. MCSWEENEY, Esq.

SIR: I met Mr. J. R. Campbell three weeks ago on a train to Oil City. I told him I was anxious to get an old unsettled matter fixed upon a matter of over-charge of pipage on oil from some small producing wells near the mouth of Clarion River. Mr. Campbell told me to write you on the subject. In the days of the old Mutual Line (G. R. Harms, manager) we found oil on a lease obtained from Hon. Thomas Mellon and R. Galey, sr., about one mile from the mouth of Clarion River. We had completed our arrangements to lay our own pipe lines to the railroad. Mr. Harms came to see me, and he agreed to 15 cents pipage for all the oil from the lease above referred to, but not to extend to any other leases. The pipage at that time was settled monthly. I have the papers to show such settlement. The Union, Empire, United, and National Transit have, in succession, fallen heir to the arrangement. It has been investigated several times—by Mr. Hatch for and in behalf of the Union (afterwards the Empire) Line, by the pipe lines when operated in the pooling arrangement, and by Mr. Waller in behalf of the United, after the purchase by the latter of the Empire Line.

The wells are called Mellon (or Andes) and Brett. The last paid by the United was, up to and including the runs for April, 1879, as follows:

April runs, Mellon, 908.66 barrels, at 5 cents.....	\$45.18
April runs, Brett, 133.01 barrels, at 5 cents.....	6.65

The charge of 20 cents pipage being in excess, we claim an allowance of 5 cents per barrel on all oil runs since that date, and to continue as long as we produce from that particular territory. The wells have run down to a small business, but small as the claim may appear I must get it settled, either amicably or by law. I much prefer the former, but one of my partners is a lawyer (B. B. Campbell), and, like all lawyers, is ready for the job. I write this in a spirit of kindness and fairness, as one business man should to another, and trust it will receive your prompt and careful consideration.

R. P. CRAWFORD, *Trustee*.

To which Mr. McSweeney makes reply under date of Oil City, October 23, 1884.

R. P. CRAWFORD, Esq., *Pittsburg, Pa.*

DEAR SIR: Your letter of the 22d instant claiming overcharge of pipage is received. Please send me copies of all papers upon which you base your claim, as well as a full and specific statement of the amount alleged to be due you, etc. As soon as I hear from you I will carefully examine your claim and advise you as to the result.

Yours, truly,

H. MCSWEENEY.

Letter No. 4, written on the letter head of the Bear Creek Refining Company, Limited:

PITTSBURG, PA., *November 14, 1884.*

Mr. H. MCSWEENEY,

DEAR SIR: I answer yours of 23d ultimo as follows: I inclose sheets marked Nos. 1 and 2, showing runs from Mellon or Andes wells (two numbers), and from Brett wells, upon which there is due 5 cents per barrel:

Andes or Mellon, 25,199.65 barrels, at 5 cents.....	\$1,259.98
Brett, 2,061.84 barrels, at 5 cents.....	103.09
Total	1,363.07

I also inclose sheet No. 4, showing a few runs from each Mellon and Brett, running backward of runs upon which the 5 cents per barrel overcharge was paid, to give you a start toward tracing it. As to the contract, I refer you to Charles P. Hatch, Roanoke, Roanoke County, Va., formerly manager of the Empire Pipe Line, also John T. Galey, who was stockholder in the contemplated pipeline from these wells. Thomas F. Galey, Pollock post-office, Clarion County, Pa., can give John's address. I do not know where G. R. Harms is at present. The last I heard from him he was at Cincinnati, Ohio. There is no doubt about this claim being a just one. It is just what Mr. Hatch called it, "an overcharge," and knowing all about it, I say the same thing. I think Mr. O. P. Swisher could tell you something about it, if he will be kind enough to freshen his memory.

Hoping to hear from you soon, I am, yours, respectfully,

R. P. CRAWFORD, *Superintendent.*

Letter No. 5, on letter head of Bear Creek Refining Company, Limited:

PITTSBURG, PA., *November 15, 1884.*

H. MCSWEENEY.

DEAR SIR: In making up the account for overcharge pipage, which I mailed to you yesterday, I left out the old Galey well, which was included in the contract. It is a very small producer, and if the others are settled I will let it go. I sold it last spring and have nothing to do with it now.

I wish to say to you frankly that we made a mistake agreeing to 15 cents per barrel pipage from those regions, as we should have built the line, which would have been but a fraction over 1 mile, and pumped our oil to the railroad at less than 5 cents per barrel. But the contract was made, complied with for years, and now I only ask for compliance and continuance of same.

Respectfully,

R. P. CRAWFORD, *Superintendent.*

Letter No. 6, on letter head of the Norfolk and Western Railway Company, Charles F. Hatch, general freight agent:

ROANOKE, ROANOKE COUNTY, VA., *November 24, 1884.*

H. MCSWEENEY, Esq.,

Solicitor National Transit Company, Oil City, Venango County, Pa.

DEAR SIR: I have your favor of 20th, referring to the matter of the claim of R. P. Crawford against the National Transit Company on account of alleged overcharge on pipage of oil produced from wells drilled on lands leased from Hon. Thomas Mellon and Robert Galey, on Clarion River, about 1 mile from the mouth.

When the Empire Transportation Company purchased the Mutual Pipe Line in 1872, we found among others was a contract, entered into by Messrs. Martin

and Harms, owners of the Mutual Pipe Line, and R. P. Crawford and others upon the subject mentioned, by which the Mutual Pipe Line agreed to transport the oil from the wells mentioned at a rate of 15 cents per barrel.

This agreement was an oral one and there was no written agreement embodying it, but the facts were conceded upon the representation of Mr. Crawford, as well as Mr. Harms, representing the respective interests. Following this the Mutual Pipe Line and its successor, the Union Pipe Company, continued to transport the oil mentioned at the 15-cent rate. The Union Pipe Company was the name given to the pipe-line interests in the lower country belonging to the Empire Transportation Company. When the Empire Transportation Company sold its pipe-line property in 1877, all papers and agreements were turned over to the representatives of the Standard Oil Company, or the United Pipe Lines, and, if my recollection serves me right, I gave their representative a statement showing the special contracts and rates for the transportation of oil, among which, I think, was the one to which you refer.

There is no doubt that the agreement referred to was made between Mr. Crawford and Messrs. Martin and Harms, and that it was fully observed, as they owned the pipe line, and that this oral agreement was fully respected by their successors up to the time of the sale of the pipe interests of the Empire Transportation Company in 1877. The reason for this contest rests upon the fact that, at the time Messrs. Martin and Harms had built their pipe lines, the parties owning the wells on the Clarion River, mentioned above, projected the construction of a short line from the wells to the railroad, and the agreement entered into, establishing a 15-cent rate, was a compromise under which Mr. Crawford and others abandoned their project of constructing the Clarion line.

Yours, very truly,

CHARLES P. HATCH.

Letter No. 7, dated Oil City, November 20, 1884:

R. P. CRAWFORD, Esq.

DEAR SIR: Your favor of the 14th instant, in relation to the alleged overcharge of pipage, was duly received. I will investigate the matter and advise you of the course this company will pursue as early as possible.

Yours, truly,

H. MCSWEENEY.

Letter No. 8, on letter head Standard Oil Company, 44 Broadway, S. C. T. Dodd solicitor, dated New York, September 15, 1884:

H. MCSWEENEY, Esq., *Oil City, Pa.*

DEAR SIR: About the year 1879 R. P. Crawford, B. B. Campbell, and others caused a quo warranto to be filed against the United Pipe Lines, asking for a forfeiture of its charter upon this ground, among others, that it had made discriminations in its pipage charges. About the same time actions were brought in the supreme court of the State against the Standard Oil Company and the United Pipe Lines and various railroads, the burden of the complaint in each case being discrimination. A criminal action was begun in Clarion County against J. J. Vandergrift, J. D. Rockefeller, and others upon the charge that they had conspired with the railroads to give and receive discriminations in freight. R. P. Crawford was a leading man in all these proceedings. When I investigated the facts, so far as the United Pipe Lines were concerned, I discovered that the only discrimination of which it had been guilty was in reference to several contracts which it had inherited, one of which was the contract to which you refer, between R. P. Crawford, or the Bear Creek Oil Company, and the Mutual Pipe Line Company. The parties who were making all this fuss about the discriminations were the only parties receiving any benefit from the discrimination. They claimed that the discrimination was not only contrary to public policy but was absolutely criminal. I agreed with them so far as the public policy was concerned, and I directed the United Pipe Lines to repudiate all such contracts. R. P. Crawford applied to me frequently in relation to this matter, and I always gave him the same reply, that we would charge the same rate of pipage to every man, and would recognize no contracts whatever for a less rate. I do not think that we ought to depart from this line of policy, and particularly not in favor of R. P. Crawford. I would be glad to have him bring suit. If such contracts are good in law I would like to have it so established at the suit of R. P. Crawford or B. B. Campbell, the parties who so few years ago were endeavoring to put us in the penitentiary for the very thing for from which they now claim the benefit.

Yours, truly,

S. C. T. DODD.

Letter No. 9, dated Oil City, Pa., December 17, 1884:

R. P. CRAWFORD, Esq., *Pittsburg, Pa.*

DEAR SIR: After a careful consideration of the matter I have decided that this company must decline to recognize the claim made by you on account of alleged overcharges of pipage.

Yours, truly,

H. MCSWEENEY,
Solicitor United Pipe Line.

PREMIUMS AND REBATES COMPARED.

Q. What is the difference between putting a premium on a given field when the oil is sold and allowing a rebate to another? Was that done to evade the law?—A. I think I have already given my view of the question of premiums. I have stated that they are of the nature of a bid when there is competition for a particular grade of oil.¹

Q. You do not know of your own knowledge, then, of any premiums being paid where the oil was not any better in one field than another?—A. Oh, as to the quality of the oil I am not competent to speak. I am a producer only in a very small way, and I do not care to testify as to the quality of the oil; but I know that the practice of paying a premium was at one time general over the whole region.

Q. (By Mr. SMYTH.) Who paid those premiums?—A. The purchasers of the oil.

Q. It was the custom of the trade at that time?—A. Yes; anyone buying oil was obliged to pay a premium.

Q. (By Mr. PHILLIPS.) Did the National Transit Company or the Standard purchasing agency pay this premium on all credit balances? Have they not made it a rule to buy all credit balances at the market value, whatever it was, on the exchange?—A. I think that rule was abandoned in 1895.

Q. Well, for a great many years previous to that it was the custom?—A. Previous to 1895 they did buy at the ruling price of the exchange.

PRICE OF CRUDE OIL DETERMINED BY THE PRICE OF REFINED.

Q. Now, they fixed the price themselves, but the time to which we alluded there was this great discrimination?—A. If I am expected to answer as to my understanding of the point of their fixing the price, I will say that I do not understand that they fixed the price. The price was fixed by demand, the price of crude oil being reflected in the price of refined.

Q. Who reflects both the price of crude and refined?—A. The consumer makes the price. He is the man who states what he will pay.

Q. (By Mr. SMYTH.) You stated that it was largely caused by the export demand?—A. Yes; wherever the consumer is.

In your judgment the price is fixed by the foreign demand?—A. Yes.

(By Mr. PHILLIPS.) Then, when the Standard Oil Company marks refined oil up 10, 15, or 20 points, that is fixed by the consumer, is it?—A. My reply was to a different question entirely. I think it is taking advantage of a witness to put it in that way. I have not testified on that branch of the question.

Q. I do not wish to take any advantage of you.—A. I stated a little while ago that in my opinion the premium is the result of a bid for oil where there is a demand. In districts where there is a demand for oil a premium is usually placed on it just as a premium is placed on leases where there is a demand for land. The producer is carrying out the same idea in competition.

Q. For 15 or 20 years past has there been any special demand by outside refiners? Have not the Standard Oil Company and the National Transit Company handled the great bulk of it?—A. You have just mentioned a great line in the Washington field, the Western and Atlantic; that was a demand. It brought capital in large quantities. It employed several millions of dollars.

PRICE OF OIL DETERMINED BY THE DEMAND AND SUPPLY.

Q. (By Mr. SMYTH.) Do you think that the fluctuation in the market price of oil is caused by the demand for oil, or is it the result of manipulation on the part of the refiners?—A. It is unquestionably the demand for oil.

Q. A larger demand for oil, in your judgment, causes an advance in prices?—A. Yes.

Q. And when the demand slackens the production decreases?—A. The supply

¹ See pp. 576, 577, 582.

and demand regulate the price. In the documents which I read this morning the complaint of the producers, from the first movements down, has been overproduction, and it has been generally admitted that the price is determined by supply and demand.

Q. (By Mr. PHILLIPS.) Has that law worked well in the case of the Standard Oil Company? Have their profits gone down on account of overproduction? Has the business not been continually profitable to them, regardless of this law of supply and demand? Do you know any one year, of your own knowledge, in which they have lost money?—A. I know nothing about their commercial business at all.

Q. (By Mr. SMYTH.) I do not suppose they would admit it.—A. I do not suppose anybody would.

Q. (By Mr. FARQUHAR.) It would simply be a matter of rumor?—A. Yes.

Q. Have you, of your own knowledge, ever known of a single statement issued, giving away their business to anybody?—A. If it were generally known that any company was losing money its stocks would tumble very rapidly.

Q. Have you ever known of any statement being given out by the Standard under any of the three organizations in which they have been?—A. I never have.

THE VALUE OF THE STOCK OF THE STANDARD OIL COMPANY.

Q. (By Mr. PHILLIPS.) What was the capital stock of the Standard Oil Company 6 or 10 years ago? Was it more or less than \$100,000,000?—A. I think a little less.

Q. How much less?—A. Three or four millions, possibly.

Q. Do you know the highest point or about the highest point that stock ever reached on the market?—A. I have heard it stated that it was very close to 500.

Q. Five hundred millions of dollars?—A. Yes.

Q. Then the law of supply and demand has not affected them very materially in a great many years?—A. Is that for the purpose of showing profits in their business?

Q. I presume that the stock would not be there unless it was earning that; it would not reach that price without having the earning capacity.—A. I might say in the same connection that opposition companies show even a greater increase in values. The stock of the Tidewater Pipe Line Company is quoted at from 1,000 to 2,000, I think.

Q. (By Mr. SMYTH.) Will you give us the particulars there? What is the capital stock?—A. The capital is \$10,000,000.

Q. What is the market value?—A. Two thousand.

Q. (By Mr. PHILLIPS.) Is not that absolutely under the control of the Standard Oil Company?—A. No.

Q. Have they not running rates or agreements with the Standard Oil Company?—A. There may be agreements, but it is controlled by themselves.

Q. Are they not limited as to the amount of oil shipped through their lines?—A. By agreements—possibly there are agreements there.¹

Q. Without an agreement with the Standard have you any idea, from your knowledge of the business, that the stock would have gone to that price?—A. Well, that involves an opinion that I do not care to express. I have no knowledge on the subject.

SUITS AGAINST THE PENNSYLVANIA TRANSPORTATION COMPANY.

Q. (By Mr. KENNEDY.) You stated yesterday that you knew of one particular pipe line that had been sued on account of misrepresentation in regard to the quantity of oil on hand. Will you now state the name of that pipe line and the circumstances surrounding that suit?

Q. (By Mr. PHILLIPS.) And the date of it?—A. The pipe line was the Pennsylvania Transportation Company, and it was some time in the summer of 1876. The suit was brought in connection with the gauging movement, in which false reports had been made about the quantity of oil in the storage tanks, a discrepancy of some 50,000 barrels. The examination of the gauging tanks was a public one. It was a test or an examination of the integrity of the pipe lines at the time, and all lines were examined by agreement of the oil exchanges. A statement was issued by the gaugers of the Pennsylvania Transportation Company that it had 50,000 barrels in excess of the actual quantity on hand, making a misrepresentation to that extent to the trade. Suits were entered against the gaugers, involving the president of the line and the superintendent. Criminal action was brought, I think, in Kittanning, but the case was never tried. But it was common in those days, the early pipe-line days, under the wildcat pipe-line systems, for pipe lines

¹ See Mr. Emery, p. 630; Mr. Rice, p. 738.

to be short. Subsequently to 1874, when the pipe-line law, requiring the publishing of statements of the condition of the line and its responsibility, went into effect, a great number of them were caught. One was the Atlantic Pipe Line which was found short 6,000 barrels on one occasion.

Q. (By Mr. KENNEDY.) Do you know of any such shortages in recent times?—A. No; there have been no such shortages. There have been suspected shortages. There have been several gauge movements organized by the oil exchanges to verify the statements of the National Transit Company. There was one very prominent one in 1884, when the stocks amounted to nearly 40,000,000 barrels. An examination of the thousands of tanks in which this oil was stored in various parts of the region proved the correctness of their statement. The report of the gaugers was accepted by the various oil exchanges, and the public mind quieted as to the rumors of shortage.

THE CAPACITY OF THE NATIONAL TRANSIT PIPE LINE.

Q. (By Mr. PHILLIPS.) Have you any knowledge of what it requires to fill the National Transit Line, and of the residuum in the bottom of the tanks which would not be called merchantable oil?—A. No. My knowledge of that would be hearsay and estimation altogether. I doubt if that experiment has been conducted. There have been estimates based on the capacity of the line.¹

Q. Would it take three million or four million?—A. I have heard it estimated higher than that.

Q. Higher than four million?—A. I have heard the quantity required to fill the line estimated at more than four million barrels.¹

Q. Do you know about how much oil was in the United Pipe Lines when oil took such a sudden advance, about two or three years ago?—A. Well, I think the capacity of that line was fully represented in transit.

Q. Do you know about how much oil they had on hand at that time?—A. We ought to be able to show it to you.

Q. We should be very much obliged for that information for about April, 1895.—A. The amount of the stock in April, 1895, was 4,545,784 barrels.

Q. Do you know how many certificates of the Standard were outstanding at that time?—A. I can not tell that.

Q. Do you know the amounts that were on hand at that time belonging to other people?—A. I can not state that. Only the monthly pipe-line report will show that.¹

Q. Have you not the pipe-line report there for that month?—A. I am reading from the stocks. This book runs by shipments.

Does it not show the credit balance for each month?—A. I do not think so.

Are not the certificates shown?—A. I think not; simply runs, shipments, and stocks.

Q. Well, you stated that you have heard it estimated at between four and five million barrels. Could that and the indifferent oil in the bottom of the tanks be delivered to the purchaser, if there were a purchaser?—A. If all production were stopped at a given hour and everything entirely shut off they would probably not be able to continue operation beyond a day or two at the outside; but the production at this period was upward of 85,000 barrels a day, and that going constantly into the line equalled the shipments required to meet the demands of the trade.

Q. To meet the demands?—A. That going into the line constantly, day by day, met the demands of the trade.

SHORTAGES IN PIPE LINES.

Q. Did the Standard own all that went in day by day at that time?—A. As I stated before, we have no means of showing that except by the statement published every month. To return to Mr. Kennedy's question, I will say that reports of this kind were not at all infrequent in the days of wildcat pipe lines, but they were not alarming to the trade when made. It was a condition that was met with anywhere, but it shows at the same time that the pipe lines then ran very close to shore. They used oil wherever they had it and expected to make it up in the future. A report of the Atlantic Pipe Line was posted in Titusville, March 17, and quoted by the Oil City Derrick, March 18, 1876, under the head of "Titusville Doings. Pipe Line Returns." (Reading:)

From our special reporter. Titusville, March 17. The Atlantic Pipe Line, with headquarters at St. Petersburg, and no connection with the associated lines, makes substantially the subjoined report in round numbers. It will be seen that

¹ See pp. 563, 564.

a shortage of 6,000 barrels appears, the actual loss in handling over and above the 2 per cent deducted for this cause by each line in the regions.¹ This, however, is amply covered by the purchase from reliable parties of 15,000 barrels, paid for and ready for delivery when required. Notwithstanding the very large percentage of certificates in proportion to the total stocks, the line is in the most prosperous condition, and by the 1st of May is expected to be entirely free of debt, with the whole cost of construction fully liquidated. During February the receipts were above the usual average, footing up to 55,000 barrels. The statement for the month is as follows:

	Barrels.
Total amount of crude oil in the pipes and tanks of the company, February 29, 1876.....	84, 045
Total amount of crude oil for which the company was liable on the 29th of February, 1876.....	90, 000
Represented by certificates.....	78, 000
Represented by credit balance.....	12, 000
Purchased from reliable parties and paid for oil to be new from the wells.....	15, 000
Total amount of crude received during the month.....	55, 500

Then follows a line of figures showing that there was an existing shortage at that time of about 6,000 barrels on less than 2,000 barrels a day of business. And that was a very common experience in the days of wild-cat pipe lines.

"IMMEDIATE SHIPMENT" EXPLAINED.

Q. (By Mr. PHILLIPS.) Have you anything else to say?—A. There are other points of interest upon which the public mind has been befogged that I should like to discuss. The question of premiums has already been discussed. Now there is another one which occurred during the period of the Bradford development that created a great deal of discussion, and that was immediate shipment.

Q. (By Mr. SMYTH.) What was that?—A. Immediate shipment.

Q. Immediate?—A. An order known as "immediate shipment." Oil was produced so rapidly at one period in the Bradford field that the tankage system of all the pipe lines, as well as the private tankage of the country, was insufficient to take care of it; and the clamor to have their oil cared for compelled the pipe lines to issue an order for immediate shipment. That is, they would take oil for immediate shipment, and then the purchaser might come into the market owning tankage and having cars to ship his oil to market, and would be able to purchase it at a lower price than the regular prices offered in the oil exchanges. That was called an immediate shipment order. And the point upon which the public mind was befogged at this time, is the supposition that it was the only time when immediate shipment ever went into effect. The first immediate shipment went into effect in the fall of 1873, following the 30-day shut down, or very close upon the heels of the 30-day shut down. Epizootic, which was then a new disease among horses in our region, was epidemic, and there was a compulsory shut down of almost 30 days more following the shut down by agreement. It was during this period that the Empire Pipe Line established the order of immediate shipment. The field gaugers were instructed by orders from the general office at Parkers Landing what oil to ship and the quantity, regardless of the practice customary at the time; the office directed the quality, the quantity, and the time the oil should be taken, precisely as was done 6 years later in the Bradford field and also in Butler County.

WHY 2,000,000 BARRELS OF OIL WAS SET APART FOR THE BENEFIT OF LABOR BY THE STANDARD.

Q. (By Mr. KENNEDY.) You spoke yesterday about several million barrels of oil having been set apart by the Standard Oil Company and the producers for the benefit of the drillers, I believe?—A. For benefit of the oil-well workers, the drillers and tool dressers, etc.

Q. Was that the natural result of a philanthropic impulse on the part of the Standard Oil Company and the producers, or was it for the purpose of keeping those workers from engaging in work in other fields and developing them? A. Well, I might say that both motives suggested in your question operated. The purpose was to do justice to labor on the one hand, and give it an inducement—

Q. (By Mr. PHILLIPS.) And to have cooperation on the other? A. Yes, for their cooperation.

Q. (By Mr. KENNEDY.) There was an idea though of keeping them out of the other fields? A. Oh, yes; that was the central idea.

¹ See p. 334.

Q. That was the central idea?—A. Yes, because the practical men can always obtain the necessary capital where there is any inducement for the drilling of wells.

Q. That, rather than philanthropy, was the motive?—A. The idea was to prevent labor engaging in other employment to their detriment. But I will say this for the producers in the oil regions, that labor is nowhere better cared for than it is there, or more loyal to the producers; that is true of both the producers and the Standard. Labor has no kick there.

Q. Are they organized?—A. Yes, there is a well drillers' organization. I believe it is in existence, but I do not think they hold meetings very often.

Q. (By Mr. PHILLIPS.) Was it not generally stated that it would be a great injustice to labor to shut down for a period of a year without any compensation, leaving them out of work?—A. That was stated; but I will say furthermore that it was the custom in previous shut downs to take care of labor.

Q. (By Mr. KENNEDY.) Your testimony is that the central idea was to keep these men from engaging in the work of developing wells elsewhere?—A. Well, if placed upon their own resources without the means of livelihood, nothing would be left but to engage in the first movement that offered. The laborers shared in this entire movement, as a matter of justice to labor, I think, as much as anything else. That is the view that I have always taken.

NUMBER OF MEN AFFECTED AND THEIR WAGES.

Q. (By Mr. RATCHFORD.) Are we to understand that labor received compensation during the period that it was thrown into idleness by the shut down?—A. They received compensation, yes.

Q. Equal to their wages?—A. Well, I shall have to answer that by an explanation. The labor in the oil country is for the most part contract labor. While the drillers receive so much per day, the competition is so great that they are rushed with their work. The aim is to drill a well in as short a period as possible. The interval between wells is often extended, so that it is very difficult to arrive at any estimate of what the drillers' year would be. It might be estimated at 200 days, and wages at the prevailing prices for first-class men at about \$1,000 a year.

Q. (By Mr. PHILLIPS.) At that period it was about \$3 to \$3.50?—A. Yes.

Q. And when it closed it was advanced to \$4.50?—A. An advance took place.

Q. (By Mr. RATCHFORD.) Are you prepared to state how much they got, what the average pay offered them was?—A. I believe it will appear in the testimony of the secretary of the Well Drillers' Union, in connection with the report of the committee of Congress in 1888. That subject is fully gone into there, and I believe some figures are to be found in that report.

Q. Will you state the number of men involved?—A. The number of men, as stated in that report, was, I think, about 2,000. I think it was more than 2,000. The testimony of Henry Webster will throw some light on that question.

Q. (By Mr. KENNEDY.) It is so extraordinary for corporations to care for the interest of workmen in this way that I should like to have a better understanding in regard to it. You say that the motive of philanthropy on the part of the Standard and the producers was one consideration and that keeping the men out of work in other fields was another consideration. I should like to ask you which you consider overbalanced the other, the matter of philanthropy or the matter of self-interest on the part of the oil interests?—A. Inasmuch as it was a business arrangement, I think that the business consideration had a great deal to do with it. It was purely a business consideration, and you might call it a selfish one in that respect and to that extent.

Q. (By Mr. FARQUHAR.) Have not the parties taken credit for sympathy and philanthropy in granting the terms that they proposed to the drillers?—A. Oh, yes; there is some credit taken in that way.

LABOR ORGANIZATIONS NOT PROMINENT IN THE OIL INDUSTRY.

Q. (By Mr. KENNEDY.) Do the Standard Oil Company and the independent companies look with favor upon labor organizations?—A. So far as I am informed on the subject, I believe they do, although so far as labor organizations apply to the oil industry, we have very little of it. It is a matter of individual contract, and the wage is dependent usually upon the skill of the operator. For that reason we have very little of the union of labor there. The question of uniting enters less; perhaps, in the oil industry than any other, because all men are not placed exactly upon the same plane. Now, in drilling, you can take a firm employing a dozen drillers, and half a dozen may receive 50 cents a day more than the other half. It

is a matter of skill, but when it comes to the operation of lifting oil, the wage is pretty generally uniform on that. The pumpers receive uniformly from \$40 to \$55 a month.

Q. (By Mr. CLARKE.) You have stated that, when there was a curtailment of production, through a cessation of drilling new wells, labor was the one interest which suffered?—A. In that connection, yes.

Q. Do you mean the labor that would have otherwise been employed in drilling new wells?—A. In drilling new wells.

Q. Or all the labor in the oil industry?—A. I mean to say it was the labor employed in drilling 800 fewer wells than were drilled the year previous. In that connection I said there were 800 fewer wells drilled during the year 1888 than there were the year previous. The labor suffered to the extent of the wage involved in drilling 800 wells.

Q. (By Mr. PHILLIPS.) Less what they received in the sale of the oil?—A. In the sale of oil?

Q. I believe you said yesterday that they received more than the producer did in the way of profit?—A. Well, it was my impression that they received considerable more; their oil sold at a higher rate; it was sold at different times.

Q. (By Mr. CLARKE.) If then, that curtailment was for the interest of the oil producers, it benefited certain portions of labor as well as injured certain portions?—A. It certainly benefited the producers. Labor was benefited equally with the producers, in my opinion, because drilling did not entirely cease, and drillers could get permission from their union to engage in drilling on gas wells and wells outside of the prescribed territory. The prescribed territory was limited to the oil produced from the sedimentary rocks—that is, New York, Pennsylvania, southern Ohio, and West Virginia. In the oil produced from the Trenton rock was not included that of Ohio and Indiana. I presume during this period 50 wells a month were drilled in the country at large for gas, furnishing constant employment, 4 men to a well, for 200 men. I think that is not overestimated.

PRESENT CONDITION OF THE OIL INDUSTRY.

(By Mr. SMYTH.) What would you say was the present condition of the oil industry?—A. I should say that it was exceedingly satisfactory to the oil producers.

Q. Both to the independents and the Standard?—A. Both to the independents and the Standard; all the interests together are satisfied with existing conditions.

Q. (By Mr. RATCHFORD.) How is it as compared with some periods that we might name, say, for instance, 3 or 5 years ago?—A. There was a brief period 4 or 5 years ago when it was better. Oil temporarily ran up to \$3 a barrel.

Q. You say that was 2 or 3 years ago?—A. Well, it was equally favorable 2 years ago.

THE OIL INTERESTS IN COLORADO.

Q. You made a statement yesterday that I should like to have you explain. The statement was, I believe, that were it not for the cost of transportation, oil might be sold by the Standard Oil Company in Denver, Colo., as cheaply as at the initial point of production, or the refinery.—A. Yes.

Q. Are you familiar with the oil interests of Colorado and their relation to the Standard?—A. Only in a general way.

Q. Are you aware of the operations of the Standard in that State?—A. No.

Q. The commission has testimony bearing upon that subject to the effect that the producers of Colorado have found it to their advantage to sell all of their crude product to the Standard Oil Company. Do you wish to say anything on that?—A. Well, I have not understood that the Standard were manufacturing oil in Colorado.

Q. (By Mr. FARQUHAR.) They are the producers of the manufactured oil?—A. I understood them to be the purchasers of the manufactured and the distributors of the oil. I am not familiar with the prices of crude oil in Colorado. The field is so distant that there is no relation between their product and ours. There is no intercourse between the oil fields of the east and those west of the Mississippi River. One does not enter into any consideration with the other, so far as I am aware, and therefore we pay no attention to the product of that region. If it entered into competition with us in the east, we should have reporters there and know all about it, but until it does that there is no occasion to be at the expense of getting reports.

Q. (By Mr. PHILLIPS.) Are they not prohibited, in a sense, from refining oil in the western field? Is not oil confined to fuel products, sold for fuel, and seldom refined?—A. I do not know as to that. I am not familiar with the operations west of the Mississippi River.

SOURCES OF STATISTICS OFFERED IN EVIDENCE.

Q. (By Mr. JENKS.) I wish to ask one or two questions with reference to the sources of the statistics, etc., that you have submitted, so far as that does not appear on the papers themselves. Have you been actively engaged in the oil business either as a producer or a refiner?—A. I am a producer now to a small extent.

Q. How long have you been in the business as a producer?—A. In and out of it always.

Q. So that a part of the information you have given is your own personal experience?—A. My own personal experience and observation.

Q. Have you been associated with any of these different producers' associations of which you have spoken?—A. Never with any of them.

Q. You have always been entirely independent?—A. I was never a producer to the extent that would entitle me to belong to them, because most of these associations elect their members.

Q. You have not been a refiner of oil at all?—A. No.

Q. As regards the statistics we find in this book,¹ from what sources in the main are they? For example, the export prices come from where?—A. They come from the Government reports here.

Q. And what is the source of the figures you submitted with reference to the profits of the producers of oil, the amount produced, the price, etc.?—A. They are deductions made from the figures given in these reports.

Q. That is, you have taken the official Government figures and made your deductions from them?—A. No; we get no official figures on crude oil from the Government.

Q. The figures you get from the Government are on the export oil?—A. Yes.

Q. Where do the figures on the crude oil come from?—A. From the pipe-line statement. Since 1874 the statistics have been posted. Every transportation company is required by legislative enactment to post their statements.

Q. Then, the information that is given concerning profits is really a deduction based upon these figures of the pipe lines and upon the official prices?—A. And upon the official prices; yes.

Q. Have you any other papers whose sources are different from those you have mentioned?—A. Different in what respect?

Q. I mean coming from different sources.—A. Oh, yes; in arriving at the conclusions here.

Q. At the conclusions you have given in your testimony?—A. We have ransacked every source of information—the trade journals and State Geological Survey, the State made an exhaustive research into the early development.

Q. You have cited them?—A. These papers were made up from the daily press at the time—the daily publications of eastern cities.

Q. In every case in each of these documents do the sources of information appear? That is the special point I wish to get at.—A. Oh, we might cite them from the Derrick Handbook. They all come from the Handbook.

Q. So if the Derrick Handbook is cited we can find the original sources, can we?—A. Yes.

Q. And the Handbook itself will tell where you got the figures?—A. On crude oil you will get it from the statistics of prices in the daily press, which gives the annual price and the average price.

Q. When you cite the Derrick Handbook, however, that will give us the sources from which the Derrick Handbook got its information?—A. Oh, yes; we can furnish the information.

METHODS OF COMPETITION EMPLOYED BY THE STANDARD.

Q. With reference to the question of special cuts made by the Standard Oil Company for the purpose of selling its oil in certain localities, I believe you said yesterday that you had no specific knowledge at all excepting your observation in your immediate locality?—A. We have information as to the periods when the cuts were made and the amounts; we know of that; we have all that.

¹ The Derrick's Handbook of Petroleum, Oil City, Pa., 1898.

Q. I refer to special cutting of rates to drive out competitors?—A. Do you refer to crude oil?

Q. No; refined.—A. I have no further information whatever on that. Refined oil enters into our calculations in the oil country to a very small extent.

METHODS OF THE STANDARD'S COMPETITORS.

Q. Have you any specific information with reference to the methods employed by the Standard Oil Company for obstructing the completion of the independent pipe line to the seaboard?—A. I never understood that; but I have information on the other side concerning the stopping of operations by the Standard Oil Company. In 1874 the National Transit Company undertook to lay a pipe line from Parkersburg to Macksburg, and they were stopped at several points by Mr. George Rice, who obtained a lease across the track of their right of way; that is, Mr. Rice employed a man to take rights of way across the track of the pipe line, a man by the name of Ogle.

Q. What is the source of your information—Mr. Ogle himself?—A. No; I was present. Mr. Ogle first informed me that he was engaged in the work and he showed me his contract.

Q. With Mr. Rice?—A. No, with the farmers; he made contracts with the farmers for getting these exclusive rights. An exorbitant sum was named for this exclusive right, when the pipe line was to be laid. He had the exclusive right of it, but no consideration passed to him until the work was done.

Q. And he himself informed you that he was doing this work for Mr. Rice?—A. Yes; he informed me that he did it in Mr. Rice's name. The work was done in Mr. Rice's name.

Q. The special purpose being to shut off the National Transit Company?—A. To shut it off from its destination.

Q. Did Mr. Rice intend to build a pipe line?—A. No; not under those contracts. He built a pipe line, but not under those contracts.

Q. (By Mr. KENNEDY.) Did Mr. Rice succeed in preventing the building of that pipe line?—A. No; the line was laid; Mr. Rice was outbid. That is the only case that has come under my observation.

Q. (By Mr. JENKS.) It has been stated here that the Standard has sold different grades of oil at the same price. Have you any knowledge of the methods of the Standard in selling refined oil?—A. No; that would come within the domestic trade department; it does not enter into our business at all.

INVENTIONS AND IMPROVEMENTS IN PRODUCTION.

Q. You mentioned a number of very valuable inventions that have been made in developing the oil regions.—A. Yes.

Q. In your judgment, have the most important improvements been made by men working with the Standard or the independents?—A. Well, so far as the Standard and the independents are concerned, neither has a monopoly on genius. Everybody buys from inventors wherever they can. The Standard is undoubtedly entitled to more credit than it has received for its achievements in refining Lima oil.

Q. The chief movements along that line have come from the Standard?—A. They have come from the Standard in the manufacture of Lima oil.

Q. (By Mr. PHILLIPS.) Did not George Van Vleck and some others make very good oil?—A. I am very glad you asked that question; their process was not a new one; it was a very old one.

Q. It was not used by the Standard prior to that time?—A. No; it was used by other people. Allow me to explain that the process of Van Vleck was applied by some professor in Buffalo. That metallic oxide process has been used by gas men in the purification of gas ever since the manufacture of gas began; but as early as 1861 Homer T. Yaryan used that same process in the manufacture of Canadian oil. The Standard's process is very different from that and far more successful.

Q. That enters largely into it, does it not?—A. Oh, yes; those appliances enter into it very largely.

NO KNOWLEDGE OF RECENT RAILROAD DISCRIMINATIONS.

Q. (By Mr. JENKS.) Statements have been made concerning the railroad discriminations in favor of the Standard Oil Company in the early days. You have yourself made some statements of the kind. Have you any knowledge of discrimi-

¹ See Mr. L. 397; Mr. Phillips, p. 503; Mr. Emery, pp. 650-655, 662; Mr. Archbold, p. 529.

nation in freight rates, say, within the last 15 years?—A. No; but I have some records here to show where railroads went into contracts with pipe lines to furnish them rebates of 10 cents a barrel on all oil shipped except shipments on a certain line.

Q. Within what period?—A. Oh, that was 30 years ago.

Q. You have matters of record of that kind in general?—A. Yes.

Q. Have you any instances different from those brought out before the Congressional committee?—A. All I have is the averments of the Pennsylvania Transportation Company in its litigation with the Oil Creek Railroad.

Q. You have not anything in that line within the last 10 years?—A. No.

Q. In your judgment, have there been any special discriminations made in favor of the Standard Oil Company or in favor of the independent refiners, particularly within the last 10 years?—A. I am told there is not; I do not know anything about it. I am told there are no discriminations anywhere.

THE STANDARD OIL COMPANY AND THE NEWSPAPERS.

Q. You have heard the charge, of course, that the Standard Oil Company has at different times used its influence with the press to further its own interests, by having special articles put in as editorials, for example, that were paid for as advertisements and matter of that kind. Have you any knowledge on that subject?—A. Yes; I have some knowledge of such a business arrangement with certain newspapers in Pittsburgh.

Q. Can you give us some information?—A. Only concerning existing contracts for advertising their products. The Standard has at various times been viciously attacked by persons associated with the Producers' Association, and they have replied, and the replies have been paid for while the attacks were received free.

Q. By what papers?—A. By all of them. Not one of them will receive a line from the Standard Oil Company except at advertising rates. I do not know of a single paper in Pittsburgh that will receive a line in contradiction of the most outrageous and infamous lies.

Q. You mean to say, if I understand you, that the Standard instead of buying up the papers is practically blackmailed?—A. I have not said so; no.

Q. You did not intend to make any charge?—A. No; but I make this assertion: The Standard does not receive the same courtesy from the press that other corporations and individuals do.

Q. With respect to your own paper—it is, perhaps, a fair question—does the Standard receive the same courtesies that the other producers do, the other oil interests?—A. Exactly the same. I have rendered a bill to no man for a courtesy since my connection with it.

Q. Both parties were treated the same?—A. Both parties have been treated alike.¹

WITNESS PROSECUTED FOR LIBEL.

Q. Have you been attacked legally in your paper?—A. Oh, yes.

Q. Can you give us some account of that?—A. Some little account, I guess. [Witness produces bulky package of papers.]

Q. You can, perhaps, state the substance of that and put in the exhibits. [Laughter.]

Mr. SMYTH: No; let us have the whole thing.

A. I have a great many records here, gentlemen.

Q. (By Mr. PHILLIPS.) Court records?—A. Yes; they are all court records.

Q. (By Mr. JENKS.) Can you make a brief statement as to these legal proceedings?—A. If you ask me a particular question concerning any particular suit, at a given time, I can, but to go into the general question—

Q. How many suits have you had for libel?—A. Oh, half a dozen, I suppose. All by the same persons and the same influences.

Q. Who are those persons?—A. Well, the officers and members of the Producers' Protective Association.

Q. What has been the result of those suits?—A. Conviction was obtained in two of them, in two others there was a confession of judgment, and in one other a failure to convict. Those suits were all taken into a foreign county where their own element was the strongest, where prejudice was the greatest. I do not think anything more infamous was ever practiced on the press since the first newspaper was published than the proceedings of these men who call themselves gentlemen in trying to muzzle the press by dragging it before hostile courts and juries. They did not possess the decency to give me a trial at home in my own courts where I could stand up with my neighbors and be judged by them according to

¹ See p. 404; Mr. Monnett, pp. 312, 321; Mr. Lockwood, p. 399; Mr. Rogers, p. 587.

my own merits. The very judge in one instance who attempted conviction was a partner of at least two of the men who brought suits, and yet he had the hardihood to sit there in judgment, just filled with prejudice, poisoned with it.

Q. (By Mr. PHILLIPS.) Will you name that judge?—A. No, I do not care to name that judge. No, I will not name anybody in connection with these suits, except where it becomes necessary.

Q. You can perhaps give us a citation of the cases?—A. I have not the citations here. Senator Lee, in his capacity as president or director or officer of one of these companies, sued me for some expressions in my newspaper. In that case there was a confession of judgment. A. D. Wood, an officer, treasurer of all these companies, sued me for expressions in the newspapers, and on the first trial of that case before a hostile court and before a packed jury, I was convicted, but obtained a new trial on the judge's charge. Upon the second trial there was a failure to convict.

STANDARD OIL COMPANY A BENEFIT TO THE COUNTRY.

Q. (By Mr. SMYTH.) Are we to understand from your testimony that you do not consider the existence of the Standard Oil Company detrimental to the development of the oil industry in Pennsylvania, Ohio and other States?—A. It certainly has not been; it has been very beneficial to the industry as a whole; the organization effected by the Standard Oil Company could not be duplicated in the whole world.

Q. Do you consider the existence of the Standard Oil Company to be a marked benefit to the American people?—A. It has been a very great benefit in the development of an industry that requires organizing capacity and great mercantile ability. I give them no credit for manufacturing. Others manufacture just as cheaply and as well; but where others fail is in their organizing ability and their mercantile capacity. The Standard Oil Company are the greatest merchants on earth.¹

Q. Do you not consider the Standard Oil Company a trust?—A. Not now.

Q. Why not now?—A. The trust has been dissolved and the companies have gotten back into their original positions. The trust agreement under which they operated prior to 1892 has been dissolved and a number have returned to their individual organizations and are operated as separate concerns.

Q. Is there any trust in existence now in kerosene oil?—A. The Pure Oil Trust is a step in that direction, not wholly accomplished, but then it is hoped to be accomplished.

Q. That is the company that you were talking about before?—A. Yes.

THE STANDARD OIL COMPANY HAS MANY COMPETITORS.

Q. That is the only organization in opposition to the Standard Oil Company?—A. Oh, no; there are several. There are a great many companies in opposition to the Standard Oil Company, but it is the only one that copies the Standard's organization from beginning to end, even to the trust. After the Standard relinquished the last, the Producers' Protective Association picked it up where they left off and are attempting to carry out, under various nom de plumes and pretenses and fictions of the law, just what the Standard did in a public, open way.

Q. I understood you to say that the Standard Oil Company controlled about 80 per cent of the output?—A. Well, I should think that would be a very liberal estimate for them.¹

Q. The other 20 per cent is controlled by how many companies?—A. I should think 50 or 60.

Q. Fifty or 60?—A. Yes.

Q. Independent and selling their products?—A. Yes.

Q. Both in this country and abroad?—A. Yes.

Q. Have they rivals in selling their oil for export?—A. Well, the Pure Oil Company is selling in rivalry.

Q. Any others?—A. I am not familiar with that branch of the business.

WHY THE STANDARD IS SUPERIOR TO OTHER CONCERNS.

Q. You think the great profits of the Standard Oil Company have come from its superior organization?—A. That states the case precisely; from their great mercantile ability, their commercial ability.

Q. In other words, in putting their oil on the market they have hired the best brains they could find?—A. Yes; they have experience of their own to start with, and they keep adding to their mental talent right along.

¹ See Mr. Archbold, p. 540.

Q. (By Mr. PHILLIPS.) Do you not think, if the oil fields had been opened to competitors without monopoly and without discrimination, that talent equal to what is exhibited by the Standard now would have been developed? Do you not believe that the difficulty with the region was too much competition—overcompetition?—A. Competition, in fact, resulted in what the Standard has accomplished; it was a weeding out, a survival of the fittest, that made the Standard. Darwin's theory of the survival of the fittest was never better illustrated than in the organization of the Standard Oil Company; it represents the best element in all branches of the trade.

Q. Since it was organized have they kept the best element or have they proscribed men of equal ability by their methods?—A. Well, there are men in the oil business who have superior abilities to any men in the Standard Oil Company for certain purposes. There are men who can beat them in producing; but your question leads to but one answer. What they have done answers you. What you ask has been done by the Standard Oil Company. If there were others who could do that, the only reply is others did not. It is a case of Columbus and the egg over again. Lots of people could sail the ocean and do now, but only Columbus sailed in 1492.

Q. Now, do you want to inform this commission that 20 years ago the fittest got together and that there would not have been competition equal in ability if it had not been for the monopoly of pipe lines and rates?—A. Can you tell me why the others did not go in together? That is the best answer to your question; if you can tell me why they did not get together I will answer your question.

Q. Before the free pipe-line law was passed did they have an opportunity to get together?—A. Exactly the same opportunity that the Standard had.

Q. I mean after they got to the seaboard?—A. I am stating why they did not before that time when the region was in a state of chaos. Transportation was in a topsy-turvy condition, the Standard came in with three millions of capital and organized one pipe line that did the business of 15 or 20. That was all that was represented in the transportation department at that time.

Q. (By Mr. SMYTH.) Was there any risk—was it considered experimental in any sense?—A. It was considered a very great risk.

Q. Was the risk such that other people did not go in?—A. That was the very reason why other people did not go in, the amount of money required, and the risk involved.

Q. The Standard Oil Company has blazed the way there?—A. They blazed the way; they had energy and courage and ability.

Q. (By Mr. PHILLIPS.) Did they start the pipe-line system, which has become the mode of transporting oil?—A. They merely developed it; others started it.

Q. And when others got there they controlled the line to the seaboard and control it now and limit its output?—A. Oh yes, they do it, but that is merely an incident in the business. It cuts no figure; it is a source of vexation even to its stockholders; they are not agreed in matters of policy.

THE STANDARD AS A PRODUCER OF CRUDE OIL.¹

Q. (By Mr. A. L. HARRIS.) I wish to know what per cent of the 80 per cent which the Standard Oil Company consumes in refining is produced by it.—A. Well, in Pennsylvania, I think 25 per cent is conceded to them.

Q. Where do they get the other 75 per cent?—A. By purchase from the producers.

Q. In the market from the producers?—A. In the market from the producers.

Q. Is the price satisfactory to the producers?—A. It seems to be satisfactory. There is no complaint now on the question of price; the price is higher now than it has been for a year or two.

Q. They are open competitors with others?—A. Oh yes, there are other buyers in the field.

Q. (By Mr. PHILLIPS.) What part of the Ohio field do they control; that is, the crude oil of Ohio?—A. What proportion?

Q. What proportion, about, in Ohio?—A. Well, I should think it would be 50 per cent, at least.

Q. They control therefore much more of the Ohio field than they do of the Pennsylvania and West Virginia fields?—A. The Ohio oil does not come in competition to a very great extent with West Virginia.

Q. You stated a moment ago that the original trust had been dissolved. Have they reorganized under the New Jersey laws recently?—A. I believe they are in process of reorganization; that is the opinion at the present time.

¹ See Mr. Archbold, pp. 560, 561.

Q. At the present time where do they get their corporate powers?—A. From the individual companies.

Q. Organized in different States?—A. Organized in different States for different purposes and with different managers.

PRICE OF CRUDE OIL NOT CONTROLLED BY THE STANDARD.

Q. (By Mr. SMYTH.) You do not agree, then, that the Standard Oil Company controls the price of crude petroleum?—A. No.

Q. Have they any means of controlling prices and forcing producers to sell?—A. The only means to force the producers is by increasing their price.

Q. Paying over what seems to be the market value?—A. Paying over what seems to be the market value at the time.

Q. Do you believe that has been done?—A. It has been done.

Q. They buy crude oil in the open market?—A. Yes.

Q. (By Mr. PHILLIPS.) Is there any purchaser of crude oil in the Standard lines to-day excepting the Standard themselves?—A. Well, I can not answer that question; I am not familiar with the Standard's business; I do not know from whom they buy or to whom they sell. In a general way, I know they buy all oil offered to them, but I do not know to whom it is sold.

THE PRODUCERS OF CRUDE OIL ARE PROSPEROUS.

Q. (By Mr. SMYTH.) Is there any complaint from the producers of crude oil of lack of buyers?—A. No; none whatever.

Q. Are they making money to-day?—A. The producers are prosperous to-day.

Q. Are they satisfied with the price they are getting?—A. They are satisfied with the price so far as we have observed.

Q. Then the fact is the Standard is the only buyer and you maintain they are paying a fair, legitimate price for the oil?—A. I think they pay all it will bear, and that condition has existed since 1895, as I have submitted the figures to show.¹

Q. Since the Standard Oil Company is the only buyer, what would become of the product if they did not buy?—A. It would mean failure.

Q. Insolvents by hundreds?—A. On every hand.

Q. Great want?—A. Great want would undoubtedly result from it.

THE STANDARD HAS MADE THE OIL INDUSTRY WHAT IT IS.

Q. You want this commission to understand that in your judgment the Standard Oil Company has been a large factor in developing the oil business, and that without the Standard it could not have attained the present enormous proportions?—A. I do not wish to be understood as saying anything different. But for the Standard Oil Company you would not have the oil business that exists to-day.

Q. It would be on a smaller scale?—A. On a smaller scale, with competition such as existed 80 years ago.

Q. (By Mr. PHILLIPS.) Was not that in its infancy? If one railroad had control of all the business they could bring disaster and ruin by stopping?—A. I do not know what you call infancy in a business 20 years old.

Q. The pipe-line business did not come into existence for quite a number of years after the discovery of oil, as explained yesterday?—A. The pipe-line business cuts a very small figure in the general success of the Standard Oil Company; it is only one of the lines upon which it has been successful.

Q. Could it exist without the pipe-line system?—A. Oh, no; but it is only one of the means of their success. Their great success is due to their capacity to find markets.

Q. Is not the transportation the principal factor in their great success?—A. I do not know that it is. I am not going to split hairs and express an opinion on that ground. The principal result is that to-day the business is greater than any other business in any other country. It is due to the organization of capital and the intellect and industry of the persons who manage it.

Q. (By Mr. SMYTH.) You think brains come in there too?—A. Brains come in more than anything else. That is what I mean to say. The Standard Oil Company was unknown when the pipe lines were organized; they came as strangers into the business.

¹ See pp. 437-440.

WASHINGTON, D. C., September 8, 1899.

TESTIMONY OF B. A. MATHEWS.

At a meeting of the Industrial Commission, held at its offices in the Bliss Building, on September 8, Vice-Chairman Phillips presiding, Mr. B. A. Mathews appeared, at 4.25 p. m., and, after being duly sworn, testified concerning the oil industry:

Q. (By Mr. JENKS.) Kindly state your name and address.—A. B. A. Mathews, Columbus, Ohio.

Q. What business are you engaged in?—A. I have charge of the marketing of the products of the Standard Oil Company in a portion of Ohio.

Q. What is the official statement of your position?—A. I bear no official title.

Q. General manager for the State of Ohio, you are ordinarily called?—A. I am what is generally understood as a manager, but bear no title.

Q. How long have you been in the position you now hold?—A. I have been in Columbus about six years.

Q. Have you been in your present position, managing the business, for that time?—A. I have been managing the business for central and southern Ohio for six years. I have been engaged as manager in other departments previous to that.

Q. I understood you had some statement to make with reference to certain statements that Mr. Clark made regarding your actions with him and the business. You may make that statement as you please.

CONNECTION OF W. H. CLARK WITH THE STANDARD OIL COMPANY.

The WITNESS. Mr. W. H. Clark, of Newark, Ohio, who has given testimony before this commission,¹ was hired, when a youth, to work at Marietta as office and warehouse boy, at a salary of \$15 per month to learn the business, and as fast as he became proficient in the work was promoted in salary and position, until he became local agent at Newark, at a salary of \$2.25 per day. While at Newark he became short in his accounts, was discovered and discharged, which is the only incentive that I can discover for the series of untrue and malicious statements made by him before the commission.

I have looked over his testimony carefully and desire to answer his statements seriatim.

THE "FARMER STORY"—TESTIMONY OF WILLIAM EBRIGHT.

His statements about competition and variation in prices at Marietta are untrue.² His position of office and warehouse boy did not bring him in contact with the trade; he could not be informed; therefore would know nothing about methods of marketing oil or prices. Davis, the peddler referred to, has never been in the employ of the company, and the "farmer story" has been refuted by Mr. Ebright. I have a certified transcript of his testimony, which I submit.

EXHIBIT 1.

Certified transcript of portions of testimony of William Ebright, selected by B. A. Mathews, taken in the case of The State of Ohio, ex rel. F. S. Monnett, v. The Standard Oil Company.

Q. Didn't you play the farmer there?—A. No, sir.

Q. Didn't you have a barrel and a wagon and play the farmer?—A. I had a barrel and got a wagon until I got my cans.

Q. Didn't you sell the oil as an independent dealer—as a farmer?—A. No, sir.

Q. What were your instructions about selling oil? Where were you to sell?—A. I was to sell to everybody I could.

Q. Were you not to cut the prices?—A. There was no cut in the prices; they were the same.

Was you not there to run out Curtiss, the colored man?—A. No, sir.

When you drove him to buying oil of the Standard Oil Company, then you left?—A. No, sir; the wagon was still there—I sold out to another man.

Q. That was after Curtiss was buying from the Standard Oil Company?—A. I don't know this man.

¹ See p. 331.

² See p. 231.

Q. You knew after you got there who you was running out?—A. I didn't see that I was running out anybody.

I hereby certify that the above is a true and correct copy of portions of the testimony of William Ebright, selected by B. A. Mathews, taken before me, the undersigned, in the case of *The State of Ohio, ex rel. F. S. Monnett, v. The Standard Oil Company.*

[SEAL.]

L. R. PUGH, *Notary Public.*

UNTRUE THAT EIGHT GRADES OF OIL ARE DRAWN FROM TWO TANKS—THE FACTS.

His statements that we market eight grades of oil at eight different prices from two storage tanks at Marietta, and that the manager (meaning me) gave him such instructions, are false.¹ Not being agent, no instructions would be given him concerning prices. The facts are, we have three grades of oil at Marietta and eight names—Ohio State Test and Prime White are two names for the same grade of oil, both sold at the same price. Ohio State Test is a brand adopted by some of the trade when Ohio passed its inspection law, while others adhered to the previously well-known trade name, Prime White, thus creating two brands for the same oil. Water White, Red Star Water White, Silver Light, and Crystal, are four names for the same grade of oil, and are sold at the same price. These four brands are trade names, having been established by custom in different localities to meet the requirements of the local demands. Eocene and Hyperion are not the same oil, but are two different grades of oil; Eocene being manufactured in Cleveland and Hyperion at Parkersburg, the Eocene being sold at one-half cent per gallon above the price of Hyperion and kept in storage at Marietta, while Hyperion is shipped direct to the trade from Parkersburg refinery. There are a few points near Marietta where it pays better on account of saving in freight to give the buyer Eocene (a better oil) under the Hyperion brand, rather than make the shipment of Hyperion from Parkersburg at a lower cost for the oil. Water White was furnished to one of the jobbers at Marietta under the brand of "Crystal Oil," and sold to him at the Water White market, and was his trade-mark brand.

UNTRUE THAT THE WITNESS ADULTERATED TURPENTINE WITH GASOLINE.

His statement about mixing gasoline with turpentine¹ is absolutely false and malicious. Instructions to all my people have been to give the purchaser what he buys, both in quality and quantity. The officers of the company have always impressed me with the importance of this principle; further, a buyer can determine adulteration of turpentine with gasoline in a variety of ways.

Illeged "trick" I taught him is emphasized by the position I and office boy, the agent being the only one who received instructions. I have the affidavit of W. A. Reed, local agent at Marietta at the time Clark was there, which I submit, marked Exhibit 2. Mr. Reed is not in our employ at the present time.

EXHIBIT 2.

THE STATE OF OHIO, *Washington County, ss:*

W. A. Reed, of lawful age, being duly sworn, upon his oath says:

I was local agent for the Standard Oil Company of Ohio, at Marietta, during the entire time that W. H. Clark worked there. He was an office and warehouse boy, and not in a position to know how the business was carried on.

Referring to the testimony of Clark before the Industrial Commission, given in Washington on June 8, 1899, I would state that it is not true that Mr. Frank Davis was ever in the employment of the Standard Oil Company. Davis wished to go into the oil-peddling business, and we sold him a wagon. We sold Davis his oil outright at the ruling market prices, and he sold it at retail in competition with other peddlers and retail grocers at Marietta, and at the prices fixed by himself, the Standard Oil Company having nothing whatever to do with regulating his or the retail price. Davis continued this business until his death, when his father sold the wagon to a man named Twiggs, who soon after sold it to the Producers' Refining Company, which ran the wagon until it discontinued business.

¹ See p. 381.

Curtis was also a peddler, buying and selling oil in the same way at Marietta. It is not true that he purchased his supplies from the Argand Refining Company. He bought his supplies from the Producers' and the Rice companies until those companies shut down, after which time he purchased his oil from the Standard Oil Company.

It is not true that we played the farmer or any other racket with Mr. Ebright. Ebright was another peddler, who bought and paid me for his oil supplies the same as any other peddler, and sold the oil thus purchased at retail in Marietta.

I had nothing whatever to do with retail prices of oil in Marietta, which were regulated entirely by the competition between the peddlers and the retail grocers of that city.

The statement is absolutely false that we sold oil from the same tank at different prices, representing it to be of different grades, or that we mixed gasoline with turpentine, or practiced any deception of any kind whatever with regard to the quality of our products in selling the same.

W. A. REED.

Subscribed and sworn to by said W. A. Reed before me, this 31st day of August, 1899.

[SEAL.]

FRANK PANHORST,

Notary Public, Washington County, Ohio.

STATEMENTS AS TO DECEPTION OF CUSTOMERS.

His statements about instructions given George Blazer, and cause of his leaving Springfield,¹ are malicious falsehoods. I have the affidavit of Mr. Foley and Mr. Foutz, which I submit, marked Exhibits 3 and 4. Mr. Foley was the local agent at the time Mr. Clark was there, and he is still the local agent at Springfield.

EXHIBIT 3.

THE STATE OF OHIO, *Clark County, ss.*

C. W. Foley, of lawful age, being duly sworn, upon his oath says:

I am local agent of the Standard Oil Company at Springfield, Ohio, and was while W. H. Clark was employed there. It is not true that I ever had any conversation with Mr. Cragin, who is now dead, or anyone else with reference to informing Blazer or any other person about drawing different grades of oil from the same tank and charging different prices for it. It is not true that we ever sold any oil at this station in that manner. All our grades of oil were sold for precisely what they were, and no deception of any kind was practiced upon our customers as to the quality or price of the oil furnished them. It is not true that Blazer quit the employment of the company because he was required by that employment to deceive customers as to the quality or price of the oil sold. The only reason given by Mr. Blazer when he quit, was that the work was too hard for him.

C. W. FOLEY.

Subscribed and sworn to by said C. W. Foley before me, this 29th day of August, 1899.

[SEAL.]

W. R. HOMER,

Notary Public, Clark County, Ohio.

EXHIBIT 4.

THE STATE OF OHIO, *Washington County, ss.*

R. A. Fouts, of lawful age, being duly sworn, upon his oath says:

I reside in Marietta, Ohio, and went to Springfield and had an interview with George Blazer. He stated that he resided at Springfield, Ohio, and worked for a short time for the Standard Oil Company while W. H. Clark was there. He stated that he never said to Mr. Clark or anyone else that if he could not work for an honest company he would quit, and for that reason must leave the Standard Oil Company's employment; or that he was leaving or had left the Standard Oil Company's employment because he could not conscientiously draw different grades of oil from the same tank. He also stated he left the employment of the Standard

¹ See p. 322.

Oil Company because he did not like the tank-wagon work, and for no other reason. He made the above statement to me, but declined to make affidavit.

R. A. FOUTS.

Subscribed and sworn to before me this 4th day of September, 1899.

[SEAL.]

O. C. MIDDLESWART.

Notary Public, Washington County, Ohio.

His statement that we drew four different grades of oil out of the same tank, and charged four different prices,¹ is absolutely false. Mr. Clark, as well as all other tank-wagon drivers, was not allowed to discriminate between one buyer and another, but was to charge all customers the same price for the same grade of oil. The proof of this: In making his returns at night to the cashier his total sales had to be accounted for on the basis of the ruling market. Therefore he could not cut the price to any buyer without paying it out of his own pocket, and it goes without saying that no retailer would pay more than the market. I have the affidavits of Mr. Toland and Mr. McMahon, both tank-wagon drivers at the time Clark was at Springfield, the only two men who were doing the same kind of work that Clark did at Springfield, showing their method of conducting the business, which I submit, marked Exhibits 5 and 6.

EXHIBIT 5.

THE STATE OF OHIO, *Lawrence County, ss.*

W. W. McMahon, of lawful age, being duly sworn, upon his oath says:

I worked for the Standard Oil Company as tank-wagon driver at Springfield during the time that W. H. Clark worked there as tank-wagon driver.

I never had any instructions from Mr. B. A. Mathews, manager, C. W. Foley, local agent, Mr. Cragin, or anyone else connected with the Standard Oil Company, to deceive any customers by turning the faucet in different directions to draw different grades of oil out of the same tank.

All of our grades of oil were sold for precisely what they were, and no deception of any kind was practiced upon our customers as to quality or price of oil furnished them, and all customers paid me the same price for the same grade of oil.

W. W. MCMAHON.

Subscribed and sworn to by said W. W. McMahon before me, this 31st day of August, 1899.

[SEAL.]

W. D. HENRY, *Notary Public.*

EXHIBIT 6.

THE STATE OF OHIO, *Clark County, ss.*

C. M. Toland, of lawful age, being duly sworn, upon his oath says:

I am now and was in the employ of the Standard Oil Company as tank-wagon driver at the time W. H. Clark worked as tank-wagon driver for the Standard Oil Company at Springfield, Ohio.

In accordance with instructions received from B. A. Mathews, manager, my prices have always been uniform, selling one grade of oil at the same price to all dealers, and I have never deceived my customers by turning the faucet in different ways in order to draw different grades of oil from the same tank.

C. M. TOLAND.

Subscribed and sworn to by said C. M. Toland before me, this 29th day of August, 1899.

[SEAL.]

GEO. S. DIAL, *Clark County, Ohio.*

REBATES—HOURS OF LABOR.

His statement with reference to rebates² at Springfield is untrue. We did not allow Mr. Clark, while at Springfield, to make rebates.

His statement concerning hours of labor³ is misleading and untrue. Our tank-wagon work is planned with the view of a day's work constituting ten hours. In making drives to country towns, from 8 to 14 miles, it is understood that when a driver returns his day's work is completed.

QUALITY NOT DETERMINED BY FIRE TEST.

His statements about fire test governing the quality of oils⁴ are not true. One hundred and twenty degrees of fire test, by Ohio law, is the equivalent of 150°

¹ Compare pp. 331, 332.

² See pp. 333, 343, 349.

⁴ See p. 333.

by the Tagliabue open cup. Concerning our three grades, there is no difference in the fire test of the same. His statement that there is 10° difference is false. They are all 150° fire test by the Tagliabue open cup, or 120° fire test by the Ohio State test Foster cup, which is the State test required by Ohio.

The fire test of oil required by Ohio statutes does not represent quality, but simply safety. Oil may be exactly the same fire test, but different in illuminating power.¹ The quality of an oil is distinguished by its illuminating quality.

His statement that he was promoted to the position of cashier at Columbus and had charge of the work around warehouse is false and absurd, for the reason that his position was simply shipping clerk, under a superintendent, who had entire charge of everything around the works.²

BOILED LINSEED OIL NOT ADULTERATED.

His statement concerning boiled linseed oil³ is false and malicious. The dryer used in boiling was a pure linseed oil dryer, which cost 10 cents per gallon more than linseed oil, and increased the cost, instead of decreasing it, and improved the quality, instead of adulterating it, as testified by Clark.

MINER'S OIL; ITS COMPOSITION—LUBRICATING OIL.

His statement that miner's oil is made by compounding cotton-seed oil with 40 per cent petroleum⁴ is false and malicious, because the Ohio law prohibits such a large percentage of petroleum being used. The law is rigidly enforced on gravity and smoke qualifications, which would absolutely prevent more than 14 per cent of petroleum. Miner's oil is known to the Ohio State officials to be cotton-seed oil compounded with petroleum. The price of miner's oil is regulated by the price of cotton-seed oil, and runs about 2 cents per gallon below. It was malicious for Clark to state that a dealer would pay 34 cents for miner's oil, when the dealer could buy cotton-seed oil for 24 cents.

His statement that lubricating oil is received in blank heads at Columbus and shipped out to meet the requirements of the trade without regard to contents⁵ is untrue and absurd, because if the barrels came unbranded it would be impossible for the warehouseman to tell the contents, and an order for cylinder oil might be filled with a barrel of sewing-machine oil, or vice versa, if Clark's statement were true. I have the affidavit of Adam Paulus, referred to by Clark as "mixer," which I submit. (See Exhibit 7.)

EXHIBIT 7.

THE STATE OF OHIO, *Franklin County*, ss:

Adam Paulus, of lawful age, being duly sworn, upon his oath says:

I am in the employment of the Standard Oil Company of Ohio, and am the person referred to in the testimony of W. H. Clark before the Industrial Commission at Washington. While Mr. Clark was employed at Columbus I did the mixing of linseed and cotton-seed oils.

It is not true that our lubricating oils came from Cleveland in blank heads, but all barrels were branded to designate the contents of the package. In preparing boiled linseed oil it is not true that we used a cheap japan dryer, but we did use a pure linseed oil dryer, which improved the quality of the linseed oil. Heated the oil to 225° instead of 125°, as stated by him.

In compounding miners' oil it is not true that we used 8 barrels of cotton-seed oil to 2 barrels of miners' stock, being a percentage of 40 per cent of the latter. We only used 1 barrel of miners' stock to 6 barrels of cotton-seed, or about 14 per cent.

It is not true that Mr. Clark had charge of the stock from which these compounds were made, or that I had to go to him to get it. The warehouse and stock were in charge of a superintendent, from whom I received all my instructions. The stock I got out myself, as directed by the superintendent.

ADAM PAULUS.

Subscribed and sworn to by said Adam Paulus before me this 29th day of August, 1899.

[SEAL.]

W. A. MARSH,

Notary Public, Franklin County, Ohio.

¹ See Mr. Emery, p. 638.

² See p. 334.

CUT PRICES AND REBATES.

In reference to his statement concerning cut prices and rebates at Columbus,¹ as he was only a shipping clerk (and absolutely without knowledge regarding marketing matters), his statements are purely malicious. On the general question of competition we always seek to protect our trade, and when any competitor makes a cut price for the purpose of taking our business away from us (quality considered) we do not hesitate to meet it.

DAILY DELIVERIES FROM TANK WAGONS.

The statement that Mr. Gradwohl took in as high as \$200 a day with his tank wagon² is untrue.

The largest delivery made by any tank wagon is about \$100 per day, and would not average over \$50 per day. To deliver 3,000 gallons, or \$200 worth, a day would average one 5-gallon bucket every minute, ten hours per day, which would be a physical impossibility. I have Mr. Gradwohl's affidavit, which I submit. (See Exhibit 8.)

EXHIBIT 8.

THE STATE OF OHIO, *Franklin County*, ss:

Moses K. Gradwohl, of lawful age, being duly sworn, upon his oath says: I am a tank-wagon driver in the employ of the Standard Oil Company at Columbus, Ohio, and was there at the time Mr. Clark was shipping clerk, and am the "Mose Gradwohl" referred to in his testimony before the Industrial Commission at Washington. It is not true that I ever took in \$200 a day from my wagon. The largest day's delivery I ever made was about \$100, and my average daily deliveries about \$50.

MOSES K. GRADWOHL.

Subscribed and sworn to by said Moses K. Gradwohl before me this 30th day of August, 1899.

[SEAL.]

CHARLES S. M. THRUMM,
Notary Public, Franklin County, Ohio.

STATEMENTS AS TO ARRANGEMENT WITH COMPETITORS AT COLUMBUS, COMPETITIVE BRANDS, AND PRICES OF EMPTY BARRELS.

His statement with reference to having an arrangement with competitors to advance markets at Columbus³ is false. Strong competition still exists, which in itself contradicts his statement. He had no knowledge on the subject, being only shipping clerk at the works, located a mile and a half away. Therefore he would know nothing of what was going on in the office.

His statement naming competitive brands of oil at Columbus is untrue,⁴ their brands being Ohio State Test, Prime White, People's Headlight, Suncene, Water White, and Diamond Light—not Penoline, Safety Light, and Electric Light, as stated by him. Ohio State Test, Prime White, and People's Headlight cover one grade of oil; Suncene and Water White another; Diamond Light a third, showing clearly their trade requirements.

His statements concerning the hiring of a boy to watch tank cars and being paid by him⁵ are false.

His statement that we took empty barrels at an exorbitant price in order to hold trade on oil⁶ is false. He had nothing to do with the purchasing or handling of empty barrels, and had no knowledge whatever about empty-barrel prices. Our price at Columbus is strictly uniform on empty barrels to all customers.

His statement that he was manager at Urbana⁷ is untrue. His position was simply local agent, three-quarters of his time being occupied in driving a tank wagon. He did not have full charge of all the business as stated.

THE CASE OF WILLIAM HELMICK.

His statement about William Helmick at Urbana is untrue.⁸ Mr. Helmick bought only one carload of competitive oil, and after he had sold about half the car he became satisfied that he would lose money on account of leakage and poor quality. We helped him out by purchasing the other half of the car, and he dis-

¹ See pp. 324, 325.

² See p. 325.

³ See pp. 325, 326.

⁴ See p. 326.

⁵ See p. 327.

continued jobbing oil, but remained in the oil business as a peddler for about two years thereafter. We did not at any time drop the price while he was in business. On the contrary, what little oil Helmick marketed was sold by him at a cut price. No threats were made by Mr. Hollingsworth or Mr. Welsh as stated by Clark. I have their affidavits, which I submit, and also the affidavit of W. H. Hurley.

EXHIBIT 9.

THE STATE OF IOWA, *Louisa County*, ss:

H. S. Hollingsworth, of lawful age, being duly sworn, upon his oath, says:

I am in the employ of the Standard Oil Company, at Columbus, and have been for several years. It is not true, as stated by W. H. Clark in his testimony before the Industrial Commission at Washington, that I ever made any threats of any kind to William Helmick, either alone or in company with Mr. Welsh and Mr. Clark, or either of them.

H. S. HOLLINGSWORTH.

Subscribed and sworn to by said H. S. Hollingsworth before me, this 30th day of August, 1899.

[SEAL.]

W. H. HURLEY, *Notary Public*.

EXHIBIT 10.

THE STATE OF OHIO, *Champaign County*, ss.:

William Welsh, of lawful age, being duly sworn, upon his oath says:

I am agent of the Standard Oil Company of Ohio at Urbana, and am the person referred to in the testimony of W. H. Clark before the Industrial Commission as a cooper man from Springfield, Ohio, where I did formerly work for the company in the cooper shop.

It is not true that I ever made any threats of any kind to William Helmick, of Urbana, Ohio, either alone or in company with Mr. Hollingsworth, or Mr. Clark, or either of them, but the statement of Mr. Clark in that respect is absolutely false.

WILLIAM WELSH.

Subscribed and sworn to by said William Welsh before me, this 28th day of August, 1899.

[SEAL.]

W. M. ROCK,

Notary Public, Champaign County, Ohio.

EXHIBIT 11.

STATE OF IOWA, *Louisa County*, ss:

I, W. H. Hurley, a resident of Wapello, Louisa County, Iowa, on oath state that I am a notary public in and for Louisa County, Iowa, and at the instance of H. S. Hollingsworth did request one William Helmick to make a deposition in regard to his relations and transactions with the Standard Oil Company of Ohio, at Urbana, Ohio. He was shown a copy of the testimony given by W. H. Clark before the Industrial Commission at Washington, D. C. He declared that the testimony, as shown him, in reference to himself was false and untrue, and particularly referred to the causes as therein set forth in regard to his going to the poor-house, and that it was not brought about through any agency of the Standard Oil Company, but declined to make affidavit as to said falsity until he had communicated with the above referred to W. H. Clark. I state further that he made the above statement in the presence of myself and H. S. Hollingsworth.

The copy of testimony referred to as having been shown to the said William Helmick is hereto attached and marked "Exhibit A."

W. H. HURLEY.

Subscribed in my presence and sworn to before me by W. H. Hurley this 1st day of September, A. D. 1899.

[SEAL.]

J. DON. DARROW,

Notary Public for Louisa County.

[Here follows a copy of the part of Mr. Clark's testimony in question.]

STATE OF IOWA, *Louisa County*, ss:

I, H. S. Hollingsworth, first being duly sworn on oath, state that the above is a true copy in part of the stenographer's report of the testimony of W. H. Clark

before the Industrial Commission at Washington, D. C., and is the copy that was shown Wm. Helmick when he was requested to make a deposition as to truth or falsity of the statements therein contained.

H. S. HOLLINGSWORTH.

Subscribed in my presence and sworn to before me by H. S. Hollingsworth this 1st day of September, A. D. 1899.

[SEAL.]

W. H. HURLEY, *Notary Public*.

EXHIBIT 12.

THE STATE OF OHIO, *Franklin County, ss:*

H. S. Hollingsworth, of lawful age, being duly sworn, upon his oath says: I reside at Columbus, Franklin County, Ohio. I have read the testimony of W. H. Clark before the Industrial Commission at Washington, D. C., in which he states that Wm. Helmick, formerly of Urbana, Ohio, has been unable to earn a livelihood in consequence of having been driven out of the wholesale oil business at Urbana, Ohio, about four years prior to the present time. Deponent further saith that said Wm. Helmick, after quitting the wholesale oil business, continued in the retail oil business for a period of about two years, to the best of his knowledge and belief, and bought his supplies from the station of the Standard Oil Company, at Urbana, Ohio. Subsequently, said Wm. Helmick retired from the retail oil business, and removed to Louisa County, Iowa, where, on or about August 31, 1899, I found him employed in the canning factory of Baxter Bros., at Wapello, Iowa, at his trade, that of a tinsmith, working at hard labor from ten to eighteen hours per day. I was informed by said Wm. Helmick and by Mr. Colby, the superintendent of the factory, that he, said Wm. Helmick, had first been employed in his present capacity in 1898.

Further deponent saith not.

H. S. HOLLINGSWORTH.

Subscribed and sworn to by said H. S. Hollingsworth before me this 4th day of September, 1899.

[SEAL.]

H. N. STANDART, *Notary Public*.

Helmick's so-called warehouse that Clark refers to was simply a temporary shed made of refuse, old car lumber. It had no value except for kindling wood, and Helmick afterwards used it for that purpose. I have Mr. Thomas Powers's affidavit, which I submit. (Exhibit 13.)

EXHIBIT 13.

THE STATE OF OHIO, *Champaign County, ss.*

Personally appeared before me, a notary public in and for said county, Thomas Powers, of lawful age, who, being duly sworn, deposes and says that he is a resident of Urbana, Champaign County, Ohio, and has been engaged in the business of draying for the past seventeen years; that he was acquainted with William Helmick, of Urbana, Ohio; that about three years ago he hauled a part carload of oil to a shed belonging to said Helmick, situated in the north part of the city of Urbana, near the city limits. The said shed was built of refuse lumber and material, and in his opinion said shed was not worth more than ten dollars.

THOS. POWERS.

Subscribed and sworn to by said Thomas Powers before me this 28th day of August, 1899.

[SEAL.]

W. M. ROCK,
Notary Public, Champaign County, Ohio.

Mr. Helmick did not lose any money during the few days he was trying to wholesale oil, therefore it is absurd and malicious for Clark to state that any action of ours drove Helmick to the poorhouse. The loss of his money was due to an entirely different cause. I have the affidavit of N. P. Cone, which I submit. (Exhibit 14.)

EXHIBIT 14.

THE STATE OF OHIO, *Champaign County, ss:*

N. P. Cone, of lawful age, being duly sworn, upon his oath says: I am a township trustee of Urbana Township, Champaign County, Ohio, and have been for

eight years. I am acquainted with William Helmick, formerly of Urbana, Champaign County, Ohio, and have been for twenty-five years past. I knew of his domestic troubles, having been informed of them by himself, and have frequently heard him complain of the extravagance of his family. On March 26, 1898, I signed an order committing said William Helmick to the county infirmary of Champaign County, Ohio, upon the report of several reputable citizens of Urbana, Ohio, of his destitute condition. The affiant further makes oath and says that he believes the cause of destitution of said William Helmick to have been the extravagance of his family and other domestic troubles as complained of by him, and due to no other cause.

N. P. CONE.

Subscribed and sworn to before me by the said N. P. Cone this 29th day of August, 1899.

[SEAL.]

W. M. ROCK,
Notary Public, Champaign County, Ohio.

AMOUNT OF OIL SOLD AT URBANA AND AT NEWARK.

His statement that the business at Urbana ran about 40,000 to 50,000 gallons per month¹ is false, the average being only about one-half.

His statement that he held the position of manager at Newark¹ is false. His position was that of local agent, same as at Urbana, three-fourths of his time being occupied in driving tank wagon and dray.

His statement that the average monthly output at Newark was 80,000 gallons¹ is not true, the correct figures being less than one-half that amount.

AS TO SELLING GASOLINE AND OIL AT DIFFERENT PRICES TO DIFFERENT CUSTOMERS.

With reference to variation in prices at Newark on stove gasoline,¹ the same situation was true elsewhere on account of the marked advance in price of gasoline. Many dealers at the time of the advance were under contract for a period of time; consequently the advance only applied to those who were not under contract, but as contracts expired the advance in price was charged to them as well as others.

Answering the general statements made by Clark relative to selling refined oil at cut prices at Newark,¹ all dealers were treated alike. His statement that at Newark we charged Mr. Rankin 6 cents for oil and Showman Brothers 7½ cents is false. The facts are Showman Brothers bought their oil in bulk from the tank wagon, while C. C. Rankin bought oil in barrels and paid 1½ cents per gallon more than Showman Brothers paid for the same oil; but we allowed Rankin 75 cents when he returned the empty barrel, the equivalent of 1½ cents per gallon, which made the net cost to both dealers the same.

His statement that Hagmeier, a dealer at Newark, was rebated 1 cent per gallon on gasoline and 2 cents on oil¹ is false. Clark was given special permission to pay a rebate which was one-half cent per gallon on both oil and gasoline, under a contract. Mr. Clark paid the one-half cent himself, and then testified here that he paid 1 and 2 cents. He also presented a letter from George J. Hagmeier stating that he had received rebates, and I have an affidavit from Mr. Hagmeier showing how that letter was procured. (See Exhibit 15.)

EXHIBIT 15.

STATE OF OHIO, *Licking County*:

Before me, a notary public in and for said county, personally appeared George J. Hagmeier, who is well known to me, and being first duly sworn, deposes and says, that he has read the testimony of William H. Clark, given before the Industrial Commission at Washington, D. C., wherein said Clark read a certain note or statement purporting to be signed by him. That on or about the 18th day of February, 1898, said Clark came to him with a certain note or statement, which said Clark had previously prepared, and which said Clark requested affiant to

¹ See p. 336.

sign. That to the best of this affiant's recollection, said note or statement was in the following language and figures, to-wit:

"Feb. 18th, 1898.—Mr. Clark, Ag't Standard Oil Co., has paid me a great many rebates on goods which were receipted for when given."

Said Clark thereupon said to this affiant, and assigned as his reason for requesting affiant's signature thereto, that he, said Clark, was short in his accounts with said Standard Oil Company, and that said shortage had been occasioned, in fact, by the payment of the rebates in said statement mentioned to this affiant, and that he desired to use said statement in accounting to said company for said shortage in his accounts. That said Clark assigned no other reason for desiring affiant's signature to said statement, and thereupon, and in order to assist said Clark in straightening his accounts with said company, affiant signed said statement as presented to him by said Clark, and in substance as above set forth. And further affiant saith not.

GEO. J. HAGMEIER.

Sworn to before me and signed in my presence by George J. Hagmeier this 2d day of September, A. D. 1899.

WALTER A. IRVINE,

[SEAL.]

Notary Public in and for Licking County, Ohio.

I have another affidavit from Mr. Hagmeier regarding rebates, which I submit. (See Exhibit 16.)

EXHIBIT 16.

STATE OF OHIO, *Licking County*, ss :

George J. Hagmeier, of lawful age, being duly sworn, upon his oath says:

I am a merchant operating the Pittsburg grocery stores, at different points. At the Newark branch I have had numerous business dealings with the Standard Oil Company through its former local agent, W. H. Clark. Under contract for a large quantity (my entire consumption for a certain period), I have received a rebate of $\frac{1}{4}$ cent per gallon on both oil and gasoline. It is not true that I ever received a rebate of 1 cent per gallon on gasoline and 2 cents per gallon on oil. I never received more than the $\frac{1}{4}$ cent per gallon as per contract as aforesaid.

GEO. J. HAGMEIER.

Subscribed and sworn to by said Geo. J. Hagmeier before me, this 30th day of August, 1899.

[SEAL.]

DAVID M. KELLER, *Notary Public*.

NO FRAUDS OR TRICKS IN LAMP TESTS.

His statement that we used a trick in making lamp test is untrue.¹ Competitors marketed an oil from Ohio crude, which was full of sulphur, at a reduced price; and as the dealers mixed this high-sulphur oil with our oil in their storage tank, and as the consumers were complaining about the quality, we were compelled to ask the dealers to keep our oil separate, that they might know whose oil was producing the trouble when their customers complained. It seemed impracticable in some cases for the dealers to have two storage tanks, so we were compelled, at a very large expense, to put on canvassers to visit the consumers and prove to them, by actual demonstration, that the standard quality of our oil had not been changed. Similar tests were made with the retail storekeepers, and it is the height of folly for any man to say that the people could be humbugged by the turning up of one flame higher than the other. That you gentlemen may fully understand the falsity of the statement made by Clark in relation to the drawing of several grades of oil from one tank by a "twist of the wrist," I wish to say that we have a tank wagon at Newark with three compartments, showing conclusively that we carry three grades of goods.

He states that D. J. Hull, H. S. Hollingsworth, E. G. Mathews, W. W. Hughes, and W. A. Reed, all employees of the Standard Oil Company, had knowledge of frauds as testified to by him in making lamp tests.² Mr. W. A. Reed is not in our employ and was not at the time Mr. Clark testified. I submit the affidavits of all these gentlemen to prove the falsity of Clark's statements.

¹ See p. 346.

² See p. 347.

EXHIBIT 17.

THE STATE OF OHIO, *Champaign County*, ss:

D. J. Hull, of lawful age, being duly sworn, upon his oath says: I am in the employment of the Standard Oil Company of Ohio, and have been for several years. I have read the statement of the testimony of W. H. Clark before the Industrial Commission at Washington with reference to testing Ohio and Pennsylvania oils, and giving my name as one who could corroborate his statements. I desire to say that his statements as to the method of these tests are absolutely false. I never heard of any instructions or any practice of the character stated by him. When these comparative tests are made, lamps of the same size, burners of the same kind, wicks of the same make, and chimneys of the same make are always used, and at the beginning of the test the height of the flame in each lamp is precisely the same. I never knew of any deception being used in these tests.

D. J. HULL.

Subscribed and sworn to by said D. J. Hull before me, this 28th day of August, 1899.

[SEAL.]

W. F. RING, *Notary Public*.

EXHIBIT 18.

THE STATE OF OHIO, *Franklin County*, ss:

H. S. Hollingsworth, of lawful age, being duly sworn, upon his oath says: I am in the employment of the Standard Oil Company of Ohio, and have been for several years. I have read a statement of the testimony of W. H. Clark before the Industrial Commission at Washington with reference to testing Ohio and Pennsylvania oils, and giving my name as one who could corroborate his statements. I desire to say that his statements as to the method of these tests are absolutely false. I never heard of any instructions or any practice of the character stated by him. When these comparative tests are made, lamps of the same size, burners of the same kind, wicks of the same make, and chimneys of the same make are always used, and at the beginning of the test the height of the flame in each lamp is precisely the same. I never knew of any deception being used in these tests.

H. S. HOLLINGSWORTH.

Subscribed and sworn to by said H. S. Hollingsworth before me, this 28th day of August, 1899.

[SEAL.]

ERNEST T. HARE,
Notary Public, Franklin County, Ohio.

EXHIBIT 19.

THE STATE OF OHIO, *Franklin County*, ss:

E. G. Mathews, of lawful age, being duly sworn, upon his oath says: I am in the employment of the Standard Oil Company of Ohio, and have been for several years. I have read a statement of the testimony of W. H. Clark before the Industrial Commission at Washington with reference to testing Ohio and Pennsylvania oils, and giving my name as one who could corroborate his statements. I desire to say that his statements as to the method of these tests are absolutely false. I never heard of any instructions or any practice of the character stated by him. When these comparative tests are made, lamps of the same size, burners of the same kind, wicks of the same make, and chimneys of the same make are always used, and at the beginning of the test the height of the flame in each lamp is precisely the same. I never knew of any deception being used in these tests.

E. G. MATHEWS.

Subscribed and sworn to by said E. G. Mathews before me, this 28th day of August, 1899.

[SEAL.]

ERNEST T. HARE,
Notary Public, Franklin County, Ohio.

EXHIBIT 20.

THE STATE OF OHIO, *Licking County*, ss:

W. W. Hughes of lawful age, being duly sworn, upon his oath says: I am in the employment of the Standard Oil Company of Ohio, and have been for several

years. I have read a statement of the testimony of W. H. Clark before the Industrial Commission at Washington with reference to testing Ohio and Pennsylvania oils, and giving my name as one who could corroborate his statements. I desire to say that his statements as to the method of these tests are absolutely false. I never heard of any instructions or any practice of the character stated by him. When these comparative tests are made, lamps of the same size, burners of the same kind, wicks of the same make, and chimneys of the same make are always used, and at the beginning of the test the height of the flame in each lamp is precisely the same. I never knew of any deception being used in these tests.

W. W. HUGHES.

Subscribed and sworn to by said W. W. Hughes before me, this 30th day of August, 1899.

[SEAL.]

FREDERIC M. BLACK,
Notary Public.

EXHIBIT 21.

THE STATE OF OHIO, *Washington County*, ss:

W. A. Reed, of lawful age, being duly sworn, upon his oath says: I was in the employment of the Standard Oil Company of Ohio, as its agent in Marietta up to November 1, 1898, but since that time have not been connected with the company. I have read a statement of the testimony of W. H. Clark before the Industrial Commission at Washington with reference to testing Ohio and Pennsylvania oils, and giving my name as one who could corroborate his statements. I desire to say that his statements as to the method of these tests are absolutely false. I never heard of any instructions or any practice of the character stated by him. When these comparative tests are made, lamps of the same size, burners of the same kind, wicks of the same make, and chimneys of the same make, are always used, and at the beginning of the test the height of the flame in each lamp is precisely the same. I never knew of any deception being used in these tests.

W. A. REED.

Subscribed and sworn to by said W. A. Reed, before me, this 31st day of August, 1899.

[SEAL.]

FRANK PANHORST,
Notary Public, *Washington County, Ohio*.

LUBRICATING OILS.

Concerning his general statement on lubricating oils,¹ he refers to our trademark brands on which there is no competition and for which we have a regular schedule, the price varying only in accordance with the quantity used and the cost of delivering same to customers. Inasmuch as no competitor can sell these oils, there is no necessity for our making any different price other than our schedule.

THE ALLEGED PURCHASE OF A WAREHOUSE TO DRIVE A COMPETITOR OUT OF BUSINESS.

His statements concerning the purchase and removal of an alleged warehouse at Newark, in order to drive out a competitor,² are false. After the so-called warehouse was purchased, Donaldson, the person whom Clark claimed we drove out of business by the purchase of a shed from its owner (without Donaldson's knowledge), continued in business by renting a barn. Further, Clark purchased the shed unknown to and unauthorized by me or Mr. Hollingsworth, and moved the building to his (Clark's) own private lot, for his own private use, and paid for by him, and not by us.

We derived no benefit from the transaction, and I criticised Clark severely when the subject came to my notice. This so-called warehouse, emphasized so largely by Clark, was only an old shed, about 4 feet by 4 feet, with capacity for

¹ See pp. 339, 504, 505.

² See p. 340.

simply one barrel of oil. I have photograph of shed and Mr. Hollingsworth's affidavit, which I submit.

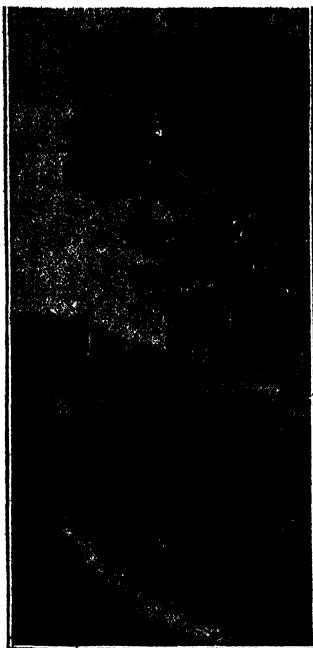


EXHIBIT 22.

THE STATE OF IOWA, *Louisa County*, ss:

H. S. Hollingsworth, of lawful age, being duly sworn, upon his oath, says: I am in the employ of the Standard Oil Company of Ohio, and have been for several years. With reference to the purchase of a warehouse at Newark, which W. H. Clark, in his testimony before the Industrial Commission, mentions, I desire to say that I did not authorize this purchase, nor did I know of it before it was made, and it is not true that I offered Mr. Clark a two-weeks vacation on salary, or any consideration of any kind whatever, if he would get Donaldson out of the business. The first I knew of the transaction, Clark had purchased the building for \$2.50, and moved it on to his own private lot, and Clark stated to me that he bought the shed on account of needing it for an outhouse. The so-called "warehouse" was about 4 feet by 4 feet, with a capacity for storing a single barrel of oil, and in my judgment \$2.50 was an excessive price for it. The purchase of the shed did not drive Donaldson out of the business, for he rented a barn afterwards in which to store his barreled oil.

H. S. HOLLINGSWORTH.

Subscribed and sworn to by said H. S. Hollingsworth, before me, this 30th day of August, 1899.

[SEAL.]

W. H. HURLEY, *Notary Public*.

Referring to his statement concerning Mr. King, and others at Newark, running tank wagons,¹ it is very misleading because the term generally applies to our method of delivery to the retail trade, whereas they were peddlers who ran their own wagons, bought their oil from us and made whatever price to the consumer they desired and were practically regulated by the price made by retail stores. We had nothing whatever to do with fixing such prices—these peddlers all working for themselves.

¹ See p. 342.

CIRCUMSTANCES UNDER WHICH MR. CLARK LEFT THE STANDARD.

Mr. Lockwood was not a manager¹ nor a special inspector, but simply a traveling auditor, whose duty it was to visit stations, check up stocks, balance cash, check accounts, and see that our agents were conducting the business honestly. Mr. Clark's reports were not received regularly, and after I had requested him repeatedly to give the matter prompt attention (and he had failed to do so), at my request Mr. Lockwood was sent to Newark to check Clark up. He did so, and after balancing the cash (which is the first thing an auditor does) he found it short. This was reported to me and I suspended Clark until Mr. Lockwood had completed his examination. Further investigation disclosed the fact that collections had been made by Clark and not reported. Some of these items were made good by Clark from day to day by payments to Mr. Lockwood on the theory that they were errors. They, however, became so numerous that Mr. Lockwood finally refused to receive any more payments until he had completed his examination, when, according to custom, he would make a final report and leave the adjustment to the officers of the company.

From the time I suspended him up to date I have never tried to reengage him, directly or indirectly, through Mr. Fouts or anyone else.² I submit Mr. Fouts's affidavit showing that he has not.

EXHIBIT 23.

THE STATE OF OHIO, *Franklin County*, ss:

R. A. Foutz, of lawful age, being duly sworn, upon his oath says: I am in the employ of the Standard Oil Company, and am the person referred to in the testimony of W. H. Clark before the Industrial Commission. It is not true, as stated by him, that since Clark's discharge by the Standard Oil Company I have asked him to reenter the company's employ, or ever asked him how he would work for the company again. I am a traveling man and have no authority whatever to employ for the company, and I have never had any talk of any kind whatever with Mr. Clark upon the subject.

R. A. FOUTS.

Subscribed and sworn to by said R. A. Foutz before me this 28th day of August, 1899.

[SEAL.]

E. L. PEASE,
Notary Public, *Franklin County, Ohio*.

Nor is there any truth in his statement concerning our methods of deducting from his salary errors which others made.³

The inspector's report referred to,⁴ a copy of which he filed with you, is not a part of the auditor's work, nor did the auditor have anything whatever to do with it, nor was it made out by him at that time, nor at any other time; consequently Clark's statements concerning it are false. The blank referred to is the one that I require filled out by a special agent as occasion requires. Since my arrival in Washington I have examined the inspector's report submitted by Clark, and find that it is signed by H. S. Hollingsworth,⁵ who made the inspection and filled out the blank.

The final report of our auditor showed Mr. Clark's shortage to be \$231.57. He made good \$121.93. The balance, \$109.64, was paid in full by his bonding company after they had examined the report and found it correct.

He was finally arrested by the bonding company, who had signed his bond as agent.

Q. (By Mr. PHILLIPS.) What became of him after his arrest?—A. He was arrested on a charge of embezzling \$109.64, which is a sum largely in excess of the amount, \$35, required under Ohio laws to constitute a felony. He was bound over by the examining magistrate. It appears that the aggregate was taken in small sums, and at different times, no one amounting to \$35, or sufficient to constitute a felony under the Ohio statutes. Therefore, I understand the grand jury failed to indict, on the ground that the offenses could not be joined together, and no felony had been committed; only petty larceny.

DIFFERENCES OF PRICE.

Q. (By Mr. JENKS.) One or two questions as to the general method of doing business. You state in your testimony that wherever you have known of rivals cutting rates you intended to meet them to protect yourself. It is true, I sup-

¹ See p. 342.

² See p. 344.

³ See p. 345.

⁴ See p. 343.

⁵ See Mr. Hollingsworth's signature, p. 344; also date of inspection report, 2 years and 4 months before Mr. Clark was dismissed.

pose, that you had some special contracts, and in that way sold at somewhat different rates to different dealers?—A. Occasionally we have a special contract, the consideration being that the dealer buys his entire supply from us. But these contracts are very limited in number, and the concession very rarely exceeds one-half cent a gallon.

Q. So that it would be possible that Mr. Clark would have received instructions from you to sell the same quality of oil to different dealers at different rates under these contracts you had made?—A. As I stated, we had contracts on stove gasoline, two or three of them, in Newark, at a time gasoline advanced, and the advance did not apply to these dealers until the contract expired. That made two different prices at Newark on stove gasoline at that time.

Q. You would not be likely, then, you think, to have contracts with different dealers in the same place, covering the same time, under which the same grade of oil would be sold at different prices?—A. There might be an exceptional case of that kind.

Q. The different prices being granted, as you have suggested, in consideration of the buyers purchasing their entire supply of you?—A. Yes.

Q. Do you recollect special instances, for example, of instructions to sell Capitol cylinder oil to these different parties, Mr. Lingafelter and the Newark Water Works, at 82 and 81?—A. I do not remember. These contracts on lubricating oil are largely conditioned upon the quantity of oil purchased by the consumer and the expense of delivering.¹

Q. Some slight variation on that account made from time to time?—A. Yes.

Q. (By Mr. SMYTH.) Such a variation as that might arise in any business, might it not?—A. Certainly.

Q. (By Mr. CLARK.) That, you say, is confined to lubricating oil?—A. These are lubricating prices.

Q. (By Mr. JENKS.) The variations in prices, I understand you to say, are much less than 1 cent a gallon?—A. On illuminating oil, I do not recall any case where it is more than a half cent.

WATCHING RIVALS' BUSINESS.

Q. Reference was made by Mr. Clark,² and reference has also been made by other witnesses,³ to the way in which the Standard Oil Company has secured information regarding the business of its rivals. You yourself have referred to it; it is your custom to have reports from your different agents?—A. We ask our salesmen and our agents to keep their eyes open and keep us informed of the situation in their respective fields. We ask our agents, as they visit the trade, to make reports to us of whom the different parties are buying; principally to know whether our agents are attending to their business or not. If they are letting too much business get away from them, it looks as if they were not attending to their business. They get it from what they see as they go around selling goods.

Q. (By Mr. JENKS.) Where competition is fierce do you engage anyone to follow the competitor's wagon about to find out what prices he sells at and to whom he sells?—A. No, sir; I do not recall any case of that kind.

Q. Have you yourself secured reports, or has there been any case that you know of in which reports of rivals' business have been secured from employees of those rivals?—A. No, sir; never.

Q. You instruct your local agents, I infer from what you state here, as to the prices at which they are to sell lubricating oil to different dealers?—A. The prices they are to receive represent either an arrangement or contract made with the different firms for oil at certain periods at these prices, and the arrangement is made with the understanding that we are to have the entire business for a certain period, possibly a year.

Q. (By Mr. SMYTH.) Have you not under these contracts reduced the price during the year when you had a contract, say 82 cents for Capitol cylinder oil—have you not voluntarily reduced the price one-half cent?—A. Notwithstanding the contract, we may have done that on a declining market.

Q. (By Mr. JENKS.) In the selling of lubricating oils to railroads, do you, in the same way, instruct your agents as to the prices they are to charge?—A. I do not have anything to do with railroad oils; they are handled by our people in Cleveland.

Q. You have no knowledge on that subject at all?—A. I have no knowledge on that subject.

¹ See pp. 339, 502.

² See pp. 335, 336, 341.

³ See pp. 313, 319, 356, 368.

⁴ See pp. 315, 341.

⁵ See pp. 316, 356.

Q. (By Mr. PHILLIPS.) Is it your custom to put down oil in one locality, where there is competition, as a rule? Do you make that a rule?—A. No, sir; we never do it unless the competitor makes the cut in price first and forces us to it. When the competitor makes a cut in prices we do not hesitate to meet the price to hold our business.

Q. You do not take the lead in the State of Ohio, under your jurisdiction, then, in cutting prices when there is an independent refinery that ships oil into that locality?—A. No, sir; we do not.¹

Q. (By Mr. RATCHFORD.) In what capacity are you serving the Standard Oil Company now?—A. I have charge of a marketing department of the company.

Q. For the State of Ohio?—A. The central and southern portions of Ohio.

Q. You have presented a dozen or more affidavits from the gentlemen whose names are signed. Are all those gentlemen employees of the Standard Oil Company?—A. Not all of them; probably three-fourths.

Q. Have the affidavits come to you voluntarily from these men?—A. Yes.

Q. Without any solicitation?—A. Simply upon being shown the testimony and being asked if correct, and whether they desired to make affidavit. It has all been voluntary on their part.

Q. I see the affidavits you have read are similar both in language and appearance. Were they gotten up in your office or some office of the Standard Oil Company and sent to the employees?—A. Some of these affidavits—not all of them, but a number of them, were gotten up in my office, covering the points of Clark's testimony, and were then submitted to the person concerned, and he was asked whether the facts contained in the affidavit were true, and if they were, whether he was willing to sign it.

Q. (By Mr. SMYTH.) I suppose that was largely a matter of convenience?—A. Yes.

Q. (By Mr. RATCHFORD.) Were there any affidavits asked from employees who refused to give them?—A. No.

Q. They gave an affidavit in every case?—A. Yes, sir; every one.

(Testimony closed.)

WASHINGTON, D. C., September 8, 1899.

TESTIMONY OF MR. JOHN D. ARCHBOLD.

At a meeting of the United States Industrial Commission, held in Washington, D. C., September 8, 1899, Vice Chairman Phillips presiding, Mr. John D. Archbold, after being duly sworn, testified on the subject of trusts, as follows:

Q. (By Mr. JENKS.) Will you kindly give your name and address to the stenographer?—A. John D. Archbold, New York City.

Q. What is your relation with the Standard Oil Company?—A. I am vice-president of the Standard Oil Company of New York.

Q. How long have you been connected with the Standard Oil Company?—A. Since 1875.

Q. Have you, in anticipation of this examination, prepared any special statement for the use of the commission?—A. I have.

Q. I shall be glad if you will give that first, and then we will question afterwards.—A. The general statement in answer to specific inquiries is not quite ready, and that will be furnished you within a few days.

Q. You mean in answer to the general schedule?—A. Yes.

Q. (By Mr. SMYTH.) I think it would be well to ask Mr. Archbold just at this stage to give us some detailed account of the organization of the Standard Oil Company—its different departments. We do not want the names of the individuals, but your transportation department—how is it managed?—A. That will all be furnished—all a part of the statement just in course of preparation.

Q. (By Mr. JENKS.) You will give a general statement in your own way of the points you care to bring out.

The WITNESS. It would be a matter of preference to me, and I think it would make what I have to say more intelligible to you all, if I might first be allowed to answer the criticisms of the witnesses who have appeared, and so let my answers lead up to a short general statement which I might make at the last.

The CHAIRMAN. Certainly.

The WITNESS. Shall I proceed?

The CHAIRMAN. Yes.

J. W. LEE THE HEAD OF A TRUST.

The WITNESS. I answer first the testimony of Mr. J. W. Lee of Pittsburg. It is rather remarkable, gentlemen, that the first witness to appear before you as a special critic of our business on the ground of its being a trust, should, at the outset, have acknowledged himself to be not only a member of, but the real head of a trust. This Mr. Lee specifically does acknowledge,¹ and I may say for your information, that Mr. Lee and his associates have gone a step further than any other company that I know of, in that they have bound themselves together, not only by the ordinary trust ties, but in a voting trust, made up of a majority of the stock of their principal companies, with a view to perpetuating their faction in power indefinitely, and practically disfranchising the minority. I make this statement, gentlemen, not as a criticism, but as rather a striking evidence of the irresistible tendency toward combination.

VOTING TRUST CONTRACT OF THE UNITED STATES PIPE LINE COMPANY.

I hand you a copy of the voting trust of the United States Pipe Line. The original trustee under it was a Mr. Wood, who has since died. He has been succeeded, under this voting trust, by three trustees, viz, Thomas W. Phillips, L. Emery, jr., and Hugh King.

Agreement made April 26, 1893, is as follows:

"Whereas each of the undersigned is a subscriber to the capital stock of the United States Pipe Line Company, and is now a stockholder thereof, and each is interested pecuniarily in the oil business either as refiner, producer of crude, exporter, owner of terminal facilities at or near tidewater, or dealers in petroleum and its products for domestic consumption;

"And whereas we have each of us entered into the organization of the said United States Pipe Line Company for the purposes expressed in its charter, and with the further intent and purpose to secure and furnish to each of us an independent outlet for our products, both crude and refined, not controlled or influenced by others hostile to our respective business interests, and to secure cheaper and better transportation facilities and available markets for our respective products;

"And whereas, to that end, the owners of several oil refineries located in the interior and at the seaboard, in which said refineries some of the undersigned are owners in whole or in part, have by agreements based upon lawful and sufficient considerations entered into contracts to furnish to the said United States Pipe Line Company the product of said refineries for transportation, and said company has also contracts for crude oil for transportation from the wells, and for furnishing terminal and export facilities at tidewater, as by said contracts and agreements will fully appear;

"Now, therefore, in consideration of the premises and of good, lawful, and sufficient pecuniary and other considerations mutually and severally received, and in order to secure the successful completion of the oil-pipe lines projected and now being laid by the said United States Pipe Line Company, with storage tanks, terminal, transportation and export facilities, and to each of us in his business, the benefits of the several contracts, agreements, plans of operation, secured or being negotiated, made or in contemplation, and to keep the control of the stock of the United States Pipe Line Company in hands friendly to the interests of the undersigned as aforesaid, we the undersigned do bind ourselves, each for himself, severally and not jointly, and each to the others jointly, to the following stipulations, covenants and agreements, each in the sum of one hundred (100) dollars for each share of stock now held by each subscriber, the amount of which is by him now placed opposite his signature hereto, to wit:

"1. We and each of us agree, in manner aforesaid, that all of our interests as subscribers to the capital stock of the United States Pipe Line Company, and our rights under our respective contracts of subscription, and all of our stock as soon as paid up, the certificates therefor and the receipts for the installments paid, be vested in and issued to A. D. Wood, trustee, who shall hold the same for each of us proportionately in trust for the term of five years from the first day

¹ Compare Mr. Phillips, pp. 569, 581, 586.

of April, 1893, at which date, unless this agreement should be extended for a further term, said trustee shall assign and transfer to each of us the stock and certificates so held, unless sooner terminated by a vote of three-quarters of the stock so held in trust.

"2. We further agree and bind ourselves that each of us, not more than 30 days prior to each regular annual meeting of stockholders, or before any lawfully called special meeting thereof, will make and mail or deliver to said trustee a power of attorney or proxy to vote for each of us at such meeting or any adjournments thereof, and in case said trustee shall not receive said power of attorney or proxy, in time for use at the same, each hereby constitutes the said A. D. Wood attorney in fact to make and sign said proxy or power of attorney in our names for each of us, empowering him, the said trustee, to vote at said meeting or meetings for each.

"3. It is further agreed that upon request in writing of any of the undersigned to said trustee, that he as the equitable owner of said stock or interest in capital, desires to pledge the same for a loan of money to the said equitable owner, the said trustee shall, within 48 hours after receiving notice of the name and location of the lender of said money, acquaint a majority of the board of directors of said request and of the name and address of said proposed lender, and shall within thirty (30) days thereafter either lend or furnish to the said applicant an equal amount of money, upon the same time, at the same rate of interest, upon the security of said stock or interest in capital, or else shall in proper legal form assign or pledge the said stock or part thereof, to the lender designated by the said equitable owner of said stock.

"4. It is further agreed that no sales of stock so held in trust shall be made by the equitable owner thereof during the continuance of this trust.

"5. In the event of the death, resignation, or disability of the trustee herein named, his successor shall be appointed by the vote of three-quarters in interest of the signers hereof. The said successor, when appointed, shall have all the powers and shall perform the duties of the trustee herein designated, failing to do which, he, or the trustee hereby appointed, may be removed by a three-quarter vote of the stock in interest hereof.

"In the event of suit being brought to enforce this agreement, or for the stipulated damages for breach thereof, the same shall be in the name of the said trustee and for the benefit of all not delinquent, as hereinbefore provided.

"The said trustee, who shall be a stockholder in the United States Pipe Line Company, shall not be held liable, personally, except for gross negligence or for the violation of this agreement in its letter or spirit. He shall, before entering upon his duties, accept this appointment in writing, and at the same time enter into a bond or obligation of five thousand (5 000) dollars that he will faithfully discharge his duties in accordance with the terms and spirit of this contract.

"It is further understood and agreed that in voting said stock the parties hereto and said trustee shall vote for persons as directors, interested in the business of refining, producing, and exporting oil, as herein stated and as near as may for members of each in proportion to the interest of each class of capital.

"In witness whereof the said parties have hereunto set their hands and seals the day and year first above written.

"I, _____, named as trustee in the foregoing instrument, do hereby accept the duties of the trust, and bind myself to perform the same in accordance with law and the letter and spirit of said agreement, in the sum of five thousand (5,000) dollars, to be paid upon breach hereof.

"_____. [L.S.]

"April _____, 1893."

VOTING TRUST AGREEMENT OF THE PURE OIL COMPANY.

I present, also, as being, perhaps, more easily understood, a printed copy of the trust agreement in full, the voting trust in full, of the Pure Oil Company.¹

"This agreement, made and entered into by the Pure Oil Company, a corporation organized and existing under the laws of the State of New Jersey; David

¹ A later modified form of this trust agreement, involving many verbal changes and some important ones, is furnished to the commission by Mr. J. W. Lee. It is as follows:

This agreement, made and entered into by the Pure Oil Company, a corporation organized and existing under the laws of the State of New Jersey, David Kirk, Jerome B. Akin, Marcus L. Lockwood, Walter A. Dennison, Chas. H. Duncan, Theodore B. Westgate, Wm. L. Curtis, James W. Lee, and David Kirk,

Kirk, Jerome B. Akin, Marcus L. Lockwood, Walter A. Dennison, Charles H. Duncan, Theodore B. Westgate, Wm. L. Curtis, James W. Lee, and David Kirk, trustee for the McCalmont Oil Company, severally subscribers to and owners of the capital stock of the said Pure Oil Company; and Thomas W. Phillips, Lewis Emery, jr., Rufus Scott, Clarence Walker, Louis Walz, James W. Lee, David Kirk, Marcus L. Lockwood, Jerome B. Akin, Charles H. Duncan, Hugh King, Michael Murphy, Adolphus A. Hoch, Ferdinand Reiber, and Walter A. Dennison, parties mutually agreed upon to exercise the trusts created hereunder.

"Witnesseth. That whereas, the said Pure Oil Company is formed for the purpose of engaging in directly and of aiding other companies and parties engaged in the production, transportation, storage, manufacture and sale of crude petroleum and its products, and in any business incident thereto, and it is desired to enlist therein the co-operation of other parties, and to procure capital to be invested in the shares of its capital stock, and in such other ways as may be desirable, which investments are to be solicited from parties not now interested in the company; and 'whereas, it is advisable, equitable, essential, and intended for the safety and advantage of all interests that the control of the said Pure Oil Company

trustees for the McCalmont Oil Company, and Thomas W. Phillips, Lewis Emery, jr., Rufus Scott, Clarence Walker, Lewis Walz, James W. Lee, David Kirk, Marcus L. Lockwood, Jerome B. Akin, Charles H. Duncan, Hugh King, Michael Murphy, Adolphus Hoch, Ferdinand Reiber, and Walter A. Dennison, parties mutually agreed upon to exercise the trusts created hereunder:

Witnesseth, that whereas the said Pure Oil Company is formed for the purpose of engaging in, directly, and of aiding other companies and parties engaged in the production, transportation, storage, manufacture and sale of crude petroleum and its products, and in any business incident thereto; and it is desired to enlist therein the cooperation of other parties, and to procure capital to be invested in the shares of its capital stock, and in such other ways as may be desirable, which investments are to be solicited from parties not now interested in the company, and,

Whereas it is advisable, equitable, essential, and intended for the safety and advantage of all interests that the control of the said Pure Oil Company shall be so created as to prevent and render impossible at all times the diversion of its resources and business from their intended use and course, in opposition to monopoly in the business, and to protect and maintain what are known as "the independent interests" in the petroleum industry, and to maintain the policy agreed on for conducting the business of the company, created by mutual agreement of shareholders or by operation of law;

Therefore the said parties hereto, in consideration of the sum of one dollar by each to each of the others paid, the receipt of which is hereby acknowledged by each, and in further consideration of the mutual benefits received, to be received, or expected from the agreements, covenants, and trusts hereinafter contained, and from the undertakings and business to be promoted, do hereby agree and consent to the various acts and things hereinafter set forth; provided, however, that no party hereto shall be bound to do any act or thing or be responsible for the results or consequences of any act or thing done or omitted to be done, except so far as relates to such act or things as he himself expressly undertakes to do and perform; and do further agree as follows:

First. The capital stock of the Pure Oil Company as authorized in its certificate of organization, is to be one million (\$1,000,000) dollars, represented by two hundred thousand (200,000) shares, of the legal par value of five (\$5.00) dollars each, divided into classes, and to be issued, held and transferred, subject and according to law and the by-laws, rules and regulations adopted and approved by all the shareholders of the company, a copy of which is hereto attached and referred to.

Second. The said David Kirk, Jerome B. Akin, Marcus L. Lockwood, Walter A. Dennison, Chas. H. Duncan, Theodore B. Westgate, Wm. L. Curtis, James W. Lee, and David Kirk, trustee for the McCalmont Oil Company, are the owners of all the shares of the capital stock now subscribed, amounting to three thousand (3,000) shares, of which they hereby transfer to the said Thomas W. Phillips, Lewis Emery, jr., Rufus Scott, Clarence Walker, Louis Walz, James W. Lee, David Kirk, Marcus L. Lockwood, Jerome B. Akin, Chas. H. Duncan, Hugh King, Michael Murphy, Adolphus A. Hoch, Ferdinand Reiber, and Walter A. Dennison, sixteen hundred (1,600) shares, being more than a majority of the shares of the company now subscribed, and agree that one-half of all the shares hereafter subscribed and issued shall be transferred in like manner to the said parties and their associate trustees, as any may be appointed, to be by them held *in trust*, for 20 years from organiza-

tion of shall be secured permanently, as to prevent and render impossible at all times the diversion of its resources and business from their intended use and course, in opposition to monopoly in the business, and to permanently protect and maintain what are known as the 'independent interests' in the petroleum industry, and to maintain the policy agreed on for conducting the business of the company in the interest and for the protection of all rights in the company, created by mutual agreement of shareholders, or by operation of law; therefore the said parties hereto, in consideration of the sum of one dollar by each to each of the others paid, the receipt of which is hereby acknowledged by each, and in further consideration of the mutual benefits received, to be received, or expected from the agreements, covenants, and trusts hereinafter contained, and from the undertakings and business to be promoted, do hereby agree and consent to the various acts and things hereinafter set forth; provided, however, that no party hereto shall be bound to do any act or thing, or be responsible for the results or consequences of any act or thing done or omitted to be done, except so far as relates to such act or thing as he himself expressly undertakes to do and perform; and do further agree as follows:

"First. The capital stock of the Pure Oil Company, as authorized in its certi-

tion of the company, for the uses and purposes herein proposed, and subject to the terms and conditions as follows:

1. The equitable ownership of the trust shares and all interests therein shall be subject to the terms of this trust agreement. Such ownership of the shares or interests therein may be sold at the will of the holder, but no sale, transfer, or conveyance of such ownership or interests shall give to the purchaser any rights other than are provided for in the by-laws, rules, and regulations of the company, and in accordance with this trust. The trustees hereunder shall at all times be recognized as the legal owners and holders of the trust shares, to carry into effect the purposes of this trust, and all equitable owners of the trust shares or interests therein shall specifically agree in writing to the terms of this trust; and no transfer of any such shares or interests shall be made, or be effected, if made, until the transferee of any such equitable ownership or interest shall have agreed in writing to receive and hold the same subject to the provisions of this trust.

2. At all meetings of the company for the election of directors, or for any other purposes, to cast the entire number of votes which, as holders of the said shares, they would be entitled to cast.

3. Each trustee at such meetings shall be entitled to cast an equal number of all the votes which all of the trustees would be entitled to cast in the aggregate, if present, except as hereinafter provided.

4. In case of differences of opinion among the trustees present at any such meetings as to how such votes shall be cast in regard to any matter or thing to be voted on, they shall be cast as the representatives of four-fifths of all the shares held under this trust may direct in writing, if so demanded in writing by any of the trustees.

5. Any trustee unable to attend any meeting of shareholders and to personally cast the votes he would be entitled to cast if present, may authorize any other trustee to cast the vote which he would be entitled to cast if personally present, which authority shall be in writing, approved by three-fifths of the trustees other than himself.

6. When none of the trustees can be present at any meeting of the stockholders, legally held, they may be represented in proxy by an attorney appointed in writing, executed by three-fifths of the trustees.

7. The trustees may exercise such consent in writing as in their opinion it may be right and proper for them to do in the interests of the Pure Oil Company, and of the owners of the shares held by them in trust; provided that no such consents shall be executed against the objection of the equitable owners of 10 per cent of the shares held by them in trust, unless after the question of executing such consent shall have been submitted in person, or by writing properly addressed, to the several equitable owners of the shares held in trust, and approved in writing by such owners of three-fifths of such shares.

8. The number of trustees may be increased or diminished at any time, and one-third of the trustees shall retire each year and their successors in the trust elected at each annual meeting of the company. Those of the trustees whose names first occur in alphabetical order shall retire at the next annual meeting, and so on, and their successors shall be elected in the same manner as directors are elected, but nothing herein shall render any trustee ineligible to reelection. Any trustee may be removed, without assignment of cause or reason therefor, by three-fifths of the trustees and the written consent of the equitable owners of three-fifths of the shares held in trust hereunder; and upon such removal, or on the filing of such

cate of organization, is to be one million (\$1,000,000) dollars, represented by two hundred thousand (200,000) shares of the legal par value of five (\$.50) dollars each, divided into classes, and to be issued, held, and transferred, subject and according to law and the by-laws, rules, and regulations adopted and approved by all the shareholders of the company, a copy of which is hereto attached and referred to.

"Second. The said David Kirk, Jerome B. Akin, Marcus L. Lockwood, Walter A. Dennison, Chas. H. Duncan, Theodore B. Westage, William L. Curtis, James W. Lee, and David Kirk, trustee of the McCalmont Oil Company, are the owners of all the shares of the capital stock now subscribed, amounting to three thousand (3,000) shares, of which they hereby transfer to the said Thomas W. Phillips, Lewis Emery, jr., Rufus Scott, Clarence Walker, Louis Walz, James W. Lee, David Kirk, Marcus L. Lockwood, Jerome B. Akin, Charles H. Duncan, Hugh King, Michael Murphy, Adolphus A. Hoch, Ferdinand Reiber, and Walter A. Dennison sixteen hundred (1,600) shares, being more than a majority of the shares of the company now subscribed, and agree that one-half of all the shares hereafter subscribed and issued shall be transferred in like manner to the said parties and their associate trustees, as any may be appointed, to be by them held in trust for

written consent with the secretary of the company, and on the notice in writing delivered to the party so removed, or sent by registered letter to his proper address, the rights, duties and obligations of such party as trustee shall immediately cease.

9. In case of the death, resignation, or removal of any of the trustees, the trust shall be exercised by the remaining trustees until the vacancy be filled by the appointment of new trustees for that purpose, on the nomination of the equitable owners of a majority of the shares previously represented by the trustee whose place is vacated, with the consent in writing of the equitable owners of three-fifths of the shares held under this trust and the approval of three-fifths of the trustees.

10. No trustee has any such beneficial interest in this trust personally as to entitle him to maintain any action at law or in equity to enjoin, delay, hinder, or prevent his removal from the trusteeship, or to recover any damages on account thereof from the company or the trustees, or from the individual stockholders by whose action he may have been removed.

11. The trustees shall appoint a chairman and secretary, who shall hold these offices for one year, and until their successors shall be qualified; and shall keep regular accounts, showing the ownership and residences of the various equitable owners of the shares held by them in trust; and shall execute and deliver to such several owners certificates in due form, approved by the directors of the company, evidencing the number of shares held by them in trust for each of the several owners; and shall make such transfers of any of the shares as they may be requested to do by such several owners, on the surrender of such certificates representing such shares, properly indorsed, assigning for transfer, subject to the terms of this trust, any of the shares thereby represented, in the manner prescribed for making such transfers.

12. The trustees shall immediately advise the company by writing, addressed to the secretary, of any transfer of ownership of any of the shares held by them; and shall, on written request of the treasurer of the company, certify to him the names and residences of all equitable owners of shares held by them in trust; and shall sign warrants for the payment to such owners, severally, of any dividends to which they may be entitled to on the shares so held in trust.

Third. This agreement may be changed at any time only with the consent in writing of the Pure Oil Company, three-fifths of the persons acting at the time as trustees hereunder, and of the equitable owners of three-fifths of the shares held in trust hereunder.

Fourth. This agreement may be canceled, and the trust hereby created dissolved, only by the winding up of the Pure Oil Company, or by the consent in writing, duly executed, of the equitable owners of three-fifths of the shares held in trust hereunder and of three-fifths of all the other shares of the company, after providing in full for the redemption or purchase at one hundred and ten dollars per share, in cash, of all the preferred shares of the company at the time outstanding.

Fifth. The said Thomas W. Phillips, Lewis Emery, jr., Rufus Scott, Clarence Walker, Louis Walz, James W. Lee, David Kirk, Marcus L. Lockwood, Jerome B. Akin, Chas. H. Duncan, Hugh King, Michael Murphy, Adolphus A. Hoch, Ferdinand Reiber, and Walter A. Dennison hereby accept the trust herein conferred and imposed on them.

In witness whereof the parties hereto have severally signed this agreement as of the — day of —; A. D. 189—.

the uses and purposes herein proposed, and subject to the terms and conditions as follows:

"1. The equitable ownership of the trust shares and all interests therein shall be subject to the terms of this trust agreement; such ownership of the shares or interests therein may be sold at the will of the holder, but no sale, transfer, or conveyance of such ownership or interests shall give to the purchaser any rights other than are provided for in the by-laws, rules, and regulations of the company, and in accordance with this trust. The trustees hereunder shall at all times be recognized as the legal owners and holders of the trust shares to carry into effect the purposes of this trust, and all equitable owners of the trust shares or interests therein shall specifically agree in writing to the terms of this trust; and no transfer of any such shares or interest shall be made, or be effective if made, until the transferee of such equitable ownership or interest shall have agreed in writing to receive and hold the same subject to the provisions of this trust.

"2. At all meetings of the company for the election of directors, or for any other purpose, to cast the entire number of votes which, as holders of the said shares, they would be entitled to cast.

"3. Each trustee at such meetings shall be entitled to cast an equal number of all the votes which all of the trustees would be entitled to cast in the aggregate, if present, except as hereinafter provided.

"4. In case of differences of opinion among the trustees present at any such meetings as to how such votes shall be cast in regard to any matter or thing to be voted on, they shall be cast as the representatives of four-fifths of all the shares held under this trust may direct in writing, if so demanded in writing by any of the trustees.

"5. Any trustee unable to attend any meeting of shareholders and to personally cast the votes he would be entitled to cast if present, may authorize any other trustee to cast the vote which he would be entitled to cast if personally present, which authority shall be in writing, approved by three-fifths of the trustees other than himself.

"6. When none of the trustees can be present at any meeting of the stockholders, legally held, they may be represented in proxy by an attorney appointed in writing, executed by three-fifths of the trustees.

"7. The trustees may execute such consents in writing as in their opinion it may be right and proper for them to do in the interest of the Pure Oil Company and of the owners of the shares held by them in trust, provided that no such consents shall be executed against the objection of the equitable owners of 10 per cent of the shares held by them in trust, unless after the question of executing such consent shall have been submitted in person, or by writing, properly addressed to the several equitable owners of the shares held in trust, and approved in writing by such owners of three-fifths of such shares.

"8. The number of trustees may be increased or diminished at any time, or any trustee may be removed, without assignment of cause or reason therefor, by three-fifths of the trustees and the written consent of the equitable owners of three-fifths of the shares held in trust hereunder; and upon such removal, or on filing of such written consent with the secretary of the company, and on notice in writing delivered to the party so removed or sent by registered letter to his proper address, the rights, duties, and obligations of such party as trustee shall immediately cease.

"9. In case of the death, resignation, or removal of any of the trustees, the trust shall be exercised by the remaining trustees until the vacancy be filled by the appointment of new trustees for that purpose, on the nomination of the equitable owners of a majority of the shares previously represented by the trustees whose place is vacated, with the consent, in writing, of the equitable owners of three-fifths of the shares held under his trust and the approval of the three-fifths of the trustees.

"10. No trustee has any such beneficial interest in this trust, personally, as to entitle him to maintain any action at law or in equity to enjoin, delay, hinder, or prevent his removal from the trusteeship, or to recover any damages on account thereof from the company or the trustees, or from the individual stockholders by whose action he may have been removed.

"11. The trustees shall appoint a chairman and secretary, and shall keep regular accounts showing the ownership and residence of the various equitable owners of the shares held by them in trust, and shall execute and deliver to such several owners certificates in due form, approved by the directors of the company, evidencing the number of shares held by them in trust for each of such several owners, and shall make such transfers of any of the shares as they may be requested to do by such several owners, on the surrender of such certificates

representing such shares, properly endorsed, assigned for transfer subject to the terms of this permanent trust, any of the shares thereby represented in the manner prescribed for making such transfer.

"12. The trustees shall immediately advise the company, by writing, addressed to the secretary, of any transfer of ownership of any of the shares held by them; and shall, on written request of the treasurer of the company, certify to him the names and residences of all equitable owners of shares held by them in trust; and shall sign warrants for the payment to such owners, severally, of any dividends to which they may be entitled on the shares so held in trust.

"Third. This agreement may be changed at any time only with the consent, in writing, of the Pure Oil Company, three-fifths of the persons at the time acting as trustees hereunder, and of the equitable owners of three-fifths of the shares held in trust hereunder.

"Fourth. This agreement may be cancelled, and the trust hereby created dissolved, only by the winding up of the Pure Oil Company, or by the consent, in writing, duly executed, of the equitable owners of four-fifths of the shares held in trust hereunder, and of four-fifths of all the other shares of the company, after providing in full for the redemption or purchase, at one hundred and ten dollars per share, in cash, of all the preferred and common shares of the company at the time outstanding.

"Fifth. The said Thomas W. Phillips, Lewis Emery, jr., Rufus Scott, Clarence Walker, Louis Walz, James W. Lee, David Kirk, Marcus L. Lockwood, Jerome B. Akin, Charles H. Duncan, Hugh King, Michael Murphy, Adolphus A. Hoch, Ferdinand Reiber, and Walter A. Dennison hereby accept the trust herein conferred and imposed on them.

"In witness whereof the parties hereto have severally signed this agreement as of the 6th day of November, A. D. one thousand eight hundred and ninety-five.

"PURE OIL COMPANY,

"DAVID KIRK, *President*.

"C. H. DUNCAN, *Treasurer*.

"Incorporators: David Kirk, Jerome B. Akin, Marcus L. Lockwood, Walter A. Dennison, C. H. Duncan, Theodore B. Westgate, James W. Lee, David Kirk, trustees for McCalmont Oil Company; W. L. Curtis, Thomas W. Phillips, David Kirk, Marcus L. Lockwood, Clarence Walker, James W. Lee.

"Trustees: Walter A. Dennison, Jerome B. Akin, C. H. Duncan, Adolphus A. Hoch, Ferd. Reiber, Louis Walz, Rufus Scott, Lewis Emery, jr., M. Murphy, H. King."

DID NOT ISSUE CIRCULARS AGAINST FREE PIPE LINE LAW.

Mr. Lee charges that we fought the passage of the free pipe bill in the Pennsylvania legislature, and that we caused "dodgers" or small handbills to be circulated, saying that if the free pipe bill became a law the orchards would be destroyed, springs polluted, death lurk in their doorsills.¹ I want to deny this *in toto*. In those early days to which he referred we were in favor of the passage of the free pipe law in Pennsylvania. We greatly desired it. We were entering the pipe-line business, fully understanding its great importance to the future of the petroleum trade, and it is not likely that we would be prejudiced by any such action as Mr. Lee claims.

Q. (By Representative LIVINGSTON.) You deny the issuing of the circular?—A. I deny the issuing of the circular *in toto*. I never heard of any testimony of that kind.

Q. (By Mr. SMYTH.) Do you know whether such circulars were issued?—A. I do not.

Q. If you did not issue them, who did?—A. I do not know that they were issued.

EMPIRE TRANSPORTATION COMPANY.

He refers, in the way of criticism, to our course regarding our relations with the Pennsylvania road in connection with the Empire Transportation Company refinery.² I may say, in a word of explanation, that at the time specified the people prominent in official relations with the Pennsylvania road engaged in the petroleum business on their own account. We, deeming that outside of the regular province of the railroad company, of which we were large patrons, discontinued our shipments over the Pennsylvania road, transferring them to the

¹ See p. 262; Mr. Emery, pp. 659, 660.

² See p. 263.

other great lines. This loss of traffic finally brought the Pennsylvania officials proper to a negotiation regarding this special refining business, to which I have referred, and those negotiations resulted in our purchase of those refineries and our again becoming a patron, in the way of transportation, of the Pennsylvania Railroad. That is the exact history of the case simply told. I will refer now to—

Q. (Interrupting.) Are you willing to state what the negotiations were?—A. I would be glad to if I had it in mind; but it is a transaction of nearly 20 years ago, and I cannot, from memory, give any really exact outline of it.

Q. Were there considerable advantages offered to the Standard Oil Company over other shippers?—A. There were no advantages offered to the Standard Oil Company. The advantage was in favor of their own people, as we felt it to be, and was the prime particular reason for our discontinuing our shipments over it.¹

Q. After these negotiations did the Standard Oil Company enjoy secret rates or better rates than other refiners?—A. I go into that fully in answer to the specific charges to that effect.

Q. (By Mr. FARQUHAR.) Were the Pennsylvania Railroad holders of oil participants with you in transportation at the same time you made arrangements with the Pennsylvania?—A. No, their relations ceased.

Q. (By Mr. JENKS.) You can furnish that account more in detail, can you not?—A. Undoubtedly, if you desire it.

The Empire Line and Green Line were corporations doing freight business over the Pennsylvania Railroad, the stocks of which were owned by the officers and managers of the railway. Through these companies the railway became interested both in transportation of oil by pipe lines and in the refining of oil. The Standard Oil Company claimed that the railway discriminated in freights in favor of its own refineries, and refused to ship over that road. This led to negotiations for the sale of the pipelines and refineries to persons interested in the Standard. This sale took place October 1, 1877. The railway first purchased from the Empire and Green lines all the pipe lines and refineries which they owned, which it was empowered to do by virtue of an existing contract, and then conveyed the pipe lines and refineries to the Standard parties.

MR. EMERY'S ESTIMATE OF \$10,000,000 REBATES.

Mr. Lee goes quite into detail with reference to allegations regarding preferential railroad rates to us during that early period of the oil business.² I want to answer all his charges made at different times during his testimony as is indicated, and by referring to the various pages at once and as definitely as possible. He treated first the well-worn statement regarding deductions, originally made by Mr. Emery, or alleged to be made by him, from the testimony of Mr. Cassatt, an official of the Pennsylvania road, covering alleged rebates paid to our company for a certain period. I have here, and desire to submit and leave with you, a statement of the analysis of Mr. Cassatt's testimony in that regard, prepared by our counsel at the time, showing the utter falsity of Mr. Emery's statement. Mr. Emery's statement was made on an absolutely false hypothesis throughout. There never was any foundation for it. It was one of those catching statements which take hold and travel fast. It has been denied over and over again; but the people who have agitated these questions have adopted it as one of their stock features in trade, and keep on repeating it. I desire to submit this analysis, but I will read:

"The assertion that Mr. Cassatt testified that \$10,000,000 was paid to the Standard Oil Company as rebates from October 17, 1877, to March 31, 1879, was first made by Mr. Lewis Emery, and in examination before the Committee on Manufactures of the Fiftieth Congress, May, 1888, he shows how he deduced these figures from the testimony referred to. I quote from page 241:

"Q. You were also the authority, were you not, for the statement which is referred to in Mr. Dodd's book that it was proved during that examination that in a period of, I think, 17 months—

"The witness (interrupting). Seventeen and one-half months.

"Q. (Continuing.) The four railroad companies had paid to the Standard Oil Company \$10,000,000 as rebates on the oil carried by them, were you not?—A. Yes, sir.

"Q. Look at that paper [handing paper to witness] and state whether you made an analysis—an examination of the testimony given by Mr. Cassatt, the Standard Oil Company people, and other railroad officers in that suit, in order to

¹ See statement of G. R. Blanchard, p. 642, footnote.

² See p. 264, 287. Compare also Mr. Emery, pp. 660, 661.

ascertain what the total amount of money paid over as discrimination during that period of 17½ months was?—A. I did."

The witness then presented a paper prepared by himself, which, if true, showed a rebate to the Standard Oil Company of 64½ cents per barrel on refined oil, 29 cents on crude oil from 1 district, 26½ cents on crude oil from another district, and 22½ cents per barrel on crude oil paid to the American Transfer Company. He added these figures, divided them by 8, and claimed 55 cents as the average rebate to the Standard. He then took the total consumption of oil from October 17, 1877, to March 31, 1879, to wit, 18,556,277 barrels, and multiplying by 55 cents produced \$10,155,218, which, he claimed, showed was the amount of discriminatory rebates paid to the Standard in 17 months.

Mr. Emery did not pretend to have any personal knowledge of the subject. He pretended to compile his figures from the evidence of Mr. Cassatt. That evidence is published in the same volume which contains Mr. Emery's evidence. To reach this result Mr. Emery had to make these absurdly false assumptions:

"I. That all oil consumed was shipped eastward over four trunk lines, and was all shipped by the Standard Oil Company.

"II. That all these trunk lines paid the same rebate as the Pennsylvania Railroad Company.

"III. That the shipments of oil of the class on which the rebate was 64½ cents was equal to the shipments of oil of the class on which the rebate was 26½ cents."

Eliminate these gratuitous assumptions from Mr. Emery's statements, and his conclusion is shown to be ridiculous.

These gratuitous assumptions are as nothing, however, compared to the gratuitous falsehoods embraced in the figures given. The claim is that a discriminating rebate, averaging 55 cents, was paid to the Standard Oil Company from October, 1877, to March 31, 1879, by 4 trunk lines.

The evidence of A. J. Cassatt, which is referred to for the truth of these statements, refers only to 1 trunk line, Pennsylvania Railroad, and shows:

"I. That the Standard Oil Company shipped no oil over the Pennsylvania Railroad until July, 1875. That the Pennsylvania Railroad was then interested in refining in competition with the Standard, and not only allowed the Standard no preferences, but discriminated against it to such an extent that the Standard stopped shipping over the road in March, 1877.

"II. That in October, 1877, the Pennsylvania Railroad and the Standard entered into an agreement by which the Standard Oil Company was to have a commission of 10 per cent on all freight furnished by it in consideration of the Standard agreeing to equalize oil freights on the 4 trunk lines.

"III. That this agreement did not effect a discrimination even to that extent as against other shippers over the Pennsylvania Railroad prior to May 1, 1878, because said shippers had contracts extending to that date, which were excepted in the contract with the Standard.

"IV. That the Pennsylvania Railroad was willing and offered to carry oil for all shippers on the same terms with the Standard, excepting only 10 per cent commission, for which it demanded like considerations.

"V. That it did continue to carry for all shippers who did all their business over its line as low as for the Standard, commission included.

"VI. That shippers not using the Pennsylvania Railroad were able, after May 1, 1878, to get oil east by the Erie Canal lower than by rail, and shipped their oil by that route, in consequence of which the Pennsylvania Railroad shippers were paying greater freight rates than other shippers.

"VII. In consequence the Pennsylvania rate was reduced to those who continued to ship by that line 44½ cents on refined, making the net rate \$1, said 44½ cents being paid as rebate.

"VIII. For the same reason, namely, to meet canal rates, in July, 1878, the rate to those who shipped by rail was further reduced 20 cents, the 20 cents being paid as a rebate, and refunded back to May 1, 1878.

"IX. That these rebates were paid to all shippers who shipped entirely by rail, and were for the express purpose of putting them on an equality with those who shipped by canal.

"X. The same is true of the rebate allowed on crude oil during the same period, except 10 per cent paid to Standard and 22½ cents paid to the American Transfer Company, the latter being the pipe line's share of a through rate.

"XI. That the rebates which were paid from May 1, 1878, to equalize rail and canal shipments were discontinued December 8 of the same year, when the canal was closed.

"XII. All payments of rebates entirely ceased March 31, 1879."

The result of the testimony is that while there was an agreement for a 10 per

cent commission between the dates referred to there was in fact no discrimination against shippers by the Pennsylvania Railroad; that the rebates paid were paid to all shippers over that line, and that they were paid to put shippers by that line on an equality with shippers by canal.

Q. (By Mr. SMYTH.) You will make that a part of your testimony, will you?—A. I will make that a part of my testimony, and I hope it will be in the record of the proceedings of this commission as simple final answers to these lusty old lies about the \$10,000,000 rebates.

Q. (By Representative LIVINGSTON.) You say now, in your place as a witness, that there never have been any rebates in favor of the Standard Oil Company?—A. I am proceeding with the statement.

Q. I understand you deny everything that has been said here before about rebates?—A. I will go right into that and be glad to answer questions about that.

AS TO FAVORITISM IN BUYING LUBRICATING OILS.

Mr. Lee makes the statement that the railroad companies are now systematically robbed by their own officers through the making of discriminatory contracts with the Standard Oil Company for lubricating oils.¹ I had never heard of this allegation brought out here by Mr. Lee and some other witnesses until told before you. I want to deny it absolutely and entirely as being utterly untrue, and I challenge him to produce a scintilla of evidence in support of their allegations.

Q. (By Mr. JENKS.) Perhaps you will note that Mr. Lee says that he does not state that to be absolutely true, but it is a matter of belief with him.—A. It is the same old method—he does not know it to be true, and he can not say it is true, and I challenge him to make any showing of any such thing at any place or any time.

Q. You say it is not true?—A. I say it is not true.

NO DISCRIMINATORY RATES.

In answer to questions as to whether the Standard Oil Company is now receiving discriminatory rates, he does not answer directly, but goes back to the 1889 case,² in which the Standard Oil Company was in no way involved; was not, indeed, in the case referred to by Mr. Lee, and the same is true in a number of other cases also. It was not shown that there was any discrimination in favor of the Standard Oil Company, and as a matter of fact the Standard Oil Company were not given any such discriminatory rates. I make that answer more specifically with reference to the case of the period to which he referred, in answer to the testimony at that time.

Q. (By Mr. SMYTH.) If there had been any such rates, you would have known it?—A. I should have known it.

Q. It would have been impossible for any such rates to be in existence without your knowing it?—A. It would. Further, the cases referred to in Mr. Lee's testimony³ as pending in the United States court to recover discriminations are really cases to recover freight which the railroad charged refiners on barrels. The Interstate Commerce Commission decided that railroads carrying both in tank cars and in barrels should carry barrels free; and the railroads, refusing to accept such a decision, are testing the question in the United States court. It is fair to say that the same charge for carrying barrels was made against the Standard Oil Company, and if the refiners are successful in recovering the Standard Oil Company will have a claim for a very large amount.

Q. (By Mr. JENKS.) Against the railroads?—A. We shall be in the same position as the other shippers if it is decided in the interest of the refiners.

Q. (By Mr. SMYTH.) You will claim a rebate of the freight on the barrels of the refined?—A. Yes; we are in the same position as they are on that question. I may say, in my personal opinion, it is a most unjust decision for any court to make; but it is not for me to decide it.

In answer to inquiry as to whether the Standard Oil Company were paid rebates on shipments of other people, Mr. Lee answers in an untruthful and disingenuous way, and refers finally to the Rice Case as the only possible support of his assertion.⁴ The Rice Case will be fully answered in connection with the testimony of another witness.⁵

THE STANDARD HAS STRICTLY OBEYED THE INTERSTATE-COMMERCE LAW.

It is fair to say here, however, and I will make this statement covering the entire question of freight rates prior to the passage of the interstate-commerce

¹ See p. 208. See also Mr. Davis, p. 359; Mr. Rice, pp. 699, 700; Mr. Page, pp. 756-759.

² See p. 287.

³ See p. 556.

law, in 1887, that the shipment of oil or any considerable freight over the roads was a question of special contract. While tariffs were nominally issued, every shipper knew that a special contract could be had, and it was universally the rule that special contracts were made for the shipment of any considerable freight. Since the passage of the interstate-commerce law we have strictly obeyed it. I want to say further in this connection that during the period before the passage of the interstate-commerce law every and any rate of freight was uniformly considered in the fixing of prices at which the oil was sold. I want an exhibit—

Q. (Interrupting.) Are your books open to verify that statement?—A. To the very utmost. I have thought it worth while, in view of the hard downing of this old ghost, to go into some considerable collateral proof to show the falsity of the charges in reference to discriminatory rates. I now beg leave to submit to you, and I of course will leave them with you—

Q. (By Representative LIVINGSTON.) (Interrupting.) If you will pardon me just now—is there a suit pending or anything of the kind on the part of the Interstate Commerce Commission against the Standard Oil Company for rebates now, or has there been since the passage of the act?—A. There have been various actions instituted regarding some special features of the carrying law, but I do not know that there are any now pending. I think they have all, so far as relates to our interest directly, been adjudicated.

LETTERS FROM RAILROAD OFFICERS DENYING THAT THEIR ROADS GIVE PREFERENTIAL RATES TO THE STANDARD.

I submit here, in answer to direct queries—and they are only a small part of the entire number I might have had for the asking—letters from prominent railroad officials representing the railroads in this country, North, South, East, and West, answered on their own part and over their own signatures, with reference to the charge of discrimination in any way. These letters are of the most specific character on this subject. I thought it best not simply to rest on our own denial on the charge of discrimination, but to leave these with you as collateral evidence of the falsity of these statements which our enemies and competitors in the business are continually making on this question. I will, with your permission, read a list of these letters, and I will submit a map,¹ colored in lines, showing the different sections of the country reached by the railroads which are represented in these letters, and which deny any preferential relations with the Standard Oil Company.²

[Standard Oil Company, 26 Broadway, New York.]

DEAR SIR: During May and June of this year the Industrial Commission (a body appointed by Congress) had a hearing in Washington. Before this body appeared a number of oil producers and refiners who testified, generally, that it was their belief that the railroads of the United States were giving the Standard Oil Company and its interests many advantages on its shipments of petroleum and its products as compared with those of other oil shippers.

We are now and have been, as you know, large shippers of petroleum and its products over your rails, and we would be glad if you would write me a letter stating as fully as you can whether or not, since the passage of the interstate-commerce law, you have in any way given to the Standard Oil Company or any of its representatives any lower rates of freight, either by direct tariff, rebate, underbilling, or in any way given to it or its representatives any advantages in the carriage of its shipments over your rails as against any other oil shipper. In other words, have not the Standard Oil Company and its interests paid the same rate per 100 pounds on its shipments, whether in tank cars, carloads, or less than carloads, as you have charged other shippers between the same points, and has there been since the passage of the interstate-commerce law, or is there now, any arrangement or device by which the Standard Oil Company have in any way received any advantage in the transportation of its oil, per 100 pounds, as compared with any other shipper over your road between the same points?

If you, yourself, have not full knowledge of the matter referred to, we would be glad if you would confer with your traffic department before answering. It may be that we will show this letter and your reply to the Industrial Commission, and would like for your reply to be as full and explicit as possible. Kindly reply at your earliest convenience and oblige,

Yours, truly,

HOWARD PAGE.

¹ Omitted.

² See Mr. Emery, pp. 642, 643.

I will not weary you, unless it is your desire, by reading all these letters, but I will read two or three of them. I will first read the list: Atchison, Topeka and Santa Fe Railway, Paul Morton, second vice-president, Chicago, Ill.; Baltimore and Ohio Railroad, Oscar G. Murray, first vice-president, Baltimore, Md.; Boston and Maine Railroad, W. F. Berry, second vice-president and general manager, Boston, Mass.; Chicago and Alton Railroad, C. A. Chappell, vice-president and general manager, Chicago, Ill.; Chicago, Milwaukee and St. Paul Railway, A. J. Earling, second vice-president, Chicago, Ill.; Chicago, Burlington and Quincy Railroad, Thomas Miller, general freight agent, Chicago, Ill.; Cleveland, Cincinnati, Chicago and St. Louis Railway, E. E. Cost, freight traffic manager, Cincinnati, Ohio; Delaware, Lackawanna and Western Railway, W. H. Truesdale, president, New York City, N. Y.; Erie Railroad, G. G. Cochran, fourth vice-president, New York City, N. Y.; Great Northern Railway, D. Miller, second vice-president, St. Paul, Minn.; Lake Shore and Michigan Southern Railway, W. H. Newman, president, Cleveland, Ohio; Louisville and Nashville Railroad, S. R. Knott, first vice-president, Louisville, Ky.; New York Central and Hudson River Railroad, S. R. Callaway, president, New York City, N. Y.; Northern Pacific Railway, C. S. Mellen, president, St. Paul, Minn.; Pennsylvania Railroad, W. H. Joyce, freight traffic manager, Philadelphia, Pa.; St. Louis and San Francisco Railroad, D. B. Robinson, president, St. Louis, Mo.; Southern Pacific Company, J. C. Stubbs, third vice-president, San Francisco, Cal.; Southern Railway, J. M. Culp, traffic manager, Washington, D. C.; Union Pacific Railroad, H. G. Burt, president, Omaha, Nebr.; Wabash Railroad, S. B. Knight, general freight agent, St. Louis, Mo.; Western New York and Pennsylvania Railroad, E. T. Johnson, general freight agent, Buffalo, N. Y.

I will read, if you please, first, as representing the different sections of the country, a letter from the New England States, Boston and Maine Railroad:

[Boston and Maine Railroad, traffic department.]

BOSTON, MASS., *August 18, 1899.*

DEAR SIR: Replying to your esteemed favor of the 15th instant, you ask me to state whether or not since the passage of the interstate commerce law the Boston and Maine Railroad have in any way given to the Standard Oil Company, or any of its representatives, any lower rate of freight either by direct tariff, rebate, or underbilling than has been openly quoted to all other shippers of oil, and I am pleased to be able to state that we have not.

Yours, truly,

W. F. BERRY,

Second Vice-President and General Traffic Manager.

MR. HOWARD PAGE,
26 Broadway, New York, N. Y.

[Chicago and Alton Railroad Company, C. A. Chappell, vice-president and general manager.]

CHICAGO, ILL., *August 17, 1899.*

DEAR SIR: I take pleasure in stating to you, as I have frequently stated to others, and am willing to state before the Interstate Commerce Commission, or any other authority, that, in my judgment, the Standard Oil Company has obeyed the interstate law better than any other large shipper in the country.

So far as the Chicago and Alton is concerned, the Standard Oil Company has not only declined to accept concessions of any name or nature, but has used its influence with the railroads to maintain agreed and tariff rates, and there has been no arrangement, device, or any other plan by which the Standard Oil Company received less rates than other shippers. The rates granted the Standard Oil Company have been the same that all other oil shippers have had, whether in tank cars, carloads, or less than carloads.

I have frequently stated to the Interstate Commerce Commission, and to others, that if all the large shippers of the country would cooperate in the enforcement of the interstate law, as the Standard Oil Company has done, we would have an ideal condition.

Yours, very truly,

C. A. CHAPPELL,

Vice-President and General Manager.

MR. HOWARD PAGE,
Standard Oil Company, New York.

[Louisville and Nashville Railroad Company, office of the first vice-president.]

LOUISVILLE, KY., August 19, 1899.

DEAR SIR: Please refer to your favor of the 15th instant.

Having been since January, 1888, in one position or another, charged with the direct supervision of the traffic affairs of the Louisville and Nashville Company, and having been for several years prior to that time directly connected with that department of the company's business, I feel I am in position to speak most authoritatively upon the subject mentioned in your letter.

I beg to say that the Louisville and Nashville Railroad Company has not in any way given the Standard Oil Company, or any of its representatives or allied interests, any lower rates of freight, either by direct tariff, rebate, refund, underbilling, or any other subterfuge or device, than it was at the same time extending to any and all other shippers handling the same or similar traffic and subject to the same rules, regulations, and conditions. In other words, the Standard Oil Company has been required to pay and has paid to the Louisville and Nashville Railroad Company the same charges for the same transportation rendered as any other shipper, and there is no arrangement between it or any of its agents and the Louisville and Nashville Railroad Company by which any advantage accrues to it over any other shipper handling similar traffic between the same points over this company's rails.

Yours, truly,

S. R. KNOTT,
First Vice-President.

Mr. HOWARD PAGE,
Standard Oil Company, New York.

[The Atchison, Topeka and Santa Fe Railway System, Great Northern Building, 77 Jackson street, Chicago, second vice-president's office.]

AUGUST 17, 1899.

GENTLEMEN: It is with a great deal of pleasure and satisfaction that I write you in regard to the general belief that the railroads of the United States are giving the Standard Oil Company and its interests many advantages on its shipments of petroleum and its products as compared with shipments of other oil producers.

For nearly four years I have had charge of the freight business of this company, and never in all that time has the Standard Oil Company's representatives asked for, or received, better rates than other shippers of oil secure. From my own experience I know that the Standard Oil Company does not ask for rebates, and I know further that the chief aim of the freight representatives of your company has been to have the railroads of the West absolutely maintain the tariff. I wish that other large shippers would take the same position in regard to this matter that your company does. If the terrible pressure from gigantic shippers for inside rates could be relieved the transportation problem of the country would be a very easy one to solve.

The position of your company in not asking for special rates, and in declining to receive rebates, and its effort to keep the rates on oil and its products up, has been a common topic of discussion among western traffic men ever since the interstate commerce law became enacted.

I take this occasion to thank you, on behalf of the railroad I represent, for the broad-gauged position that you have taken in this matter.

Yours, truly,

PAUL MORTON,
Second Vice-President.

STANDARD OIL COMPANY,
New York City.

[Great Northern Railway Company, office of second vice-president.]

ST. PAUL, MINN., August 23, 1899.

DEAR SIR: Replying to your favor of the 15th instant, I herewith hand you a letter from our general traffic manager, Mr. F. B. Clarke, under date of the 21st instant, which, I think, covers your inquiry fully so far as this company is concerned.

I have no hesitancy in stating that since my connection with this company, in November last, the Standard Oil Company have paid the full legal tariff on all shipments made by it over this line, and there have been no arrangements by which any less rates were secured.

I can also make the same statement with regard to the shipments of the Standard Oil Company over the Missouri, Kansas and Texas Railroad during my connection with that road, from May, 1898, to November, 1898.

If there is any further information desired, kindly advise and I will take pleasure in furnishing same.

Yours, truly,

D. MILLER,
Second Vice-President.

Mr. HOWARD PAGE,
Standard Oil Company, New York City.

[Great Northern Railway, traffic department.]

ST. PAUL, MINN., August 21, 1899.

DEAR SIR: Referring to the inclosed inquiry from the Standard Oil Company with respect to the rates charged on shipments forwarded over the Great Northern Railway since the passage of the interstate commerce law.

My connection with this company dates from December, 1896, since which time I know personally that the Standard Oil Company has paid our company full tariff rates on all shipments we have carried for them. I have made inquiry of those connected with the general freight department who were in the service prior to my connection with the company and who have had opportunities to know what rates were being charged on the shipments of the Standard Oil Company, and have received assurances that the Standard Oil Company has always paid our company the full published tariff rates on their shipments, and that we have yet to receive the first intimation that the Standard Oil Company desired less than the published tariff rates charged other shippers of the same class of goods.

Yours, truly,

F. B. CLARKE,
General Traffic Manager.

Mr. D. MILLER,
Second Vice-President.

[Erie Railroad Company, 21 Cortlandt street, New York.]

AUGUST 29, 1899.

DEAR SIR: In answer to your letter of the 15th instant to President Thomas, I desire to say, in his absence, that the Standard Oil Company has evinced the strongest disposition to cooperate with the railroad companies to the extent of paying fair and reasonable rates for transportation of all of its products based upon and in conformity with the interstate commerce act, and based on my own knowledge and information obtained from other officers of this company that said Standard Oil Company has not been afforded lower rates of freight upon such traffic than the tariffs open to and offered for the carriage of like products between the same points to any other shippers of oil over this company's lines.

Yours, truly,

GEO. G. COCHRAN,
Fourth Vice-President.

Mr. HOWARD PAGE,
26 Broadway, City.

[Delaware, Lackawanna and Western Railroad Company, office of president.]

AUGUST 22, 1899.

DEAR SIR: I noted with some interest that during a hearing before the Industrial Commission in Washington during May and June of this year certain parties appeared before that body who testified in a general way that they believed that the railroad companies of the United States were giving the Standard Oil

STANDARD OIL COMBINATIONS:—ARCHBOLD.

Company, or its interests, many advantages on its shipments of petroleum oil and its products over those accorded other shippers of similar commodities.

These statements or this testimony, if it may be so considered, is so much at variance with the facts and the truth as I know them to be that I feel compelled to write you and state the facts as I know them to exist, and to say that I am willing you should make such use of this letter as you may desire in refuting the false statements referred to.

This company has not since the passage of the interstate commerce act, so called, given the Standard Oil Company or any of its interests or anyone for it any reduced rates or advantages of any character whatever on its shipments of petroleum oil and its products different or in any way more favorable than was at the same time accorded other shippers of similar commodities. As I am advised by our people, no one for the Standard Oil Company has since the passage of said act ever solicited any concession in any way, shape, or form from the regular, established rates, rules, and regulations governing the transportation of petroleum oil and its products.

Furthermore, I take pleasure in certifying that at the time of the passage of the interstate commerce act and until 1894 I was in charge of the Minneapolis and St. Louis Railway, and from 1894 until 1899 was vice-president and general manager of the Chicago, Rock Island and Pacific Railway Company in charge of its freight traffic; that during my connection with the Minneapolis and St. Louis and the Chicago, Rock Island and Pacific railways, as aforesaid, neither of those companies ever granted to the Standard Oil Company or anyone in its interests or for it any concessions from the regular, established rates on its shipments of petroleum oil and its products, nor did any official of the Standard Oil Company, or anyone else in its interests, ever ask special rates or advantages on its shipments, as against those accorded other shippers of the same commodities.

Should it be found necessary or desirable to have the foregoing statement of facts put in the shape of an affidavit or deposition I shall be very much pleased indeed to put my knowledge of this matter in that shape and place it at your disposal for such use as you deem best.

Yours, truly,

W. H. TRUESDALE,
President.

Mr. HOWARD PAGE,
Standard Oil Company, 26 Broadway, City.

[Cleveland, Cincinnati, Chicago and St. Louis Railway Company.]

AUGUST 28, 1899.

DEAR SIR: I have your letter of the 15th in relation to certain testimony that was given before the Industrial Commission during May and June of this year regarding shipments of petroleum and its products.

If I mistake not, this company is the recipient of a fair share of the traffic shipped by your company in all directions, and we can most positively state, and are prepared to support same by an affidavit, that we have not, since the inception of the interstate law, paid the Standard Oil Company or any of its agents or branches in any manner, shape, or form one mill for the purpose of influencing business via our line, and that the Standard Oil Company have paid full tariff rates on all shipments over the line of the Cleveland, Cincinnati, Chicago, and St. Louis Railway, whether in tanks, carloads, or less than carloads.

I do not know what further I can say on this subject, only that if the other large shipping interests would pursue the same policy as the Standard Oil Company in relation to the strict maintenance of published rates, it would eliminate the strife and contention among the railroad companies which often produces unhealthy competition and ruinous rates.

Very truly, yours,

E. F. COST.

Mr. HOWARD PAGE,
26 Broadway, New York.

[Chicago, Milwaukee and St. Paul Railway Company, office of second vice-president.]

CHICAGO, August 18, 1899.

DEAR SIR: In the absence of President Miller your letter of the 15th instant has been handed to me. In reply I desire to say that since the passage of the interstate commerce act the Chicago, Milwaukee and St. Paul Railway has carried a

satisfactory share of the business of the Standard Oil Company to all competitive points reached by its lines, and I also desire to say that the full, lawfully published tariff rates have at all times been exacted, and that no concessions or deviations from such lawfully published rates have been granted by this company in any manner or by any device whatsoever; nor has the Standard Oil Company asked for any concessions or suggested any deviations from the lawfully published tariffs. I wish, further, to state that there has been no discrimination practiced by this company in connection with the business of the Standard Oil Company and that of other shippers of petroleum and its products.

Yours, truly,

A. J. EARLING,
Second Vice-President.

MR. HOWARD PAGE,
Standard Oil Company, 26 Broadway, New York City.

[Chicago, Burlington and Quincy Railroad Company, general freight department.]

CHICAGO, August 22, 1899.

DEAR SIR: Answering your letter of the 15th instant, I have to say that there never has been a request made by anyone representing the Standard Oil Company since the passage of the interstate-commerce law for a reduction in our tariff rates, directly or indirectly, either by tariff, rebate, underbilling, or otherwise, and no concessions have been made by this company of any character whatsoever on the business transported by us for account of the Standard Oil Company. It has all been done at published tariff rates, which are open to the inspection of everybody.

Yours, truly,

THOS. MILLER,
General Freight Agent.

MR. HOWARD PAGE,
Standard Oil Company, New York.

[The Baltimore and Ohio Railroad Company.]

BALTIMORE, MD., August 22, 1899.

DEAR SIR: Replying to your favor of August 19, in relation to rates charged to and collected from the Standard Oil Company on their shipments of oil over the road, we invite your attention to next-attached communication from our manager freight traffic, Mr. Wight.

With reference to the Cleveland, Cincinnati, Chicago and St. Louis road, as you know, it has been a number of years since my connection with that company was severed, and it is therefore suggested you take the matter up direct with them.

Yours, very truly,

OSCAR G. MURRAY,
First Vice-President.

MR. HOWARD PAGE,
Standard Oil Company, New York, N. Y.

[The Baltimore and Ohio Railroad, office of manager of freight traffic.]

BALTIMORE, August 21, 1899.

DEAR SIR: With return of attached letter from Mr. Howard Page, of the Standard Oil Company, would advise that since the interstate-commerce law became effective the Baltimore and Ohio Railroad has not to my knowledge given the Standard Oil Company or any of its representatives any rate less than published tariffs on oil, whether in tank cars or barrels or by any subterfuge whatever, all such tariffs being filed with the commission and the rates named therein being applicable on all shipments, whether made by the Standard Oil Company or its competitors.

Yours, truly,

C. S. WIGHT,
Manager Freight Traffic.

OSCAR G. MURRAY, Esq.,
First Vice-President.

[Western New York and Pennsylvania Railway Company, general freight department, Mooney-Brisbane Building.]

BUFFALO, N. Y., August 29, 1899.

DEAR SIR: I am in receipt of your letter of 23d instant, relative to testimony given by Oil Creek producers and refiners before the Industrial Commission in Washington.

In reply to your letter would say that on any shipments of petroleum or its products forwarded by the Standard Oil Company, from or via Western New York and Pennsylvania Railway, the Standard Oil Company have not and are not obtaining any advantage in any way, shape, or manner as compared with other shippers of petroleum and its products. The shipments of the Standard Oil Company are charged exactly the same rates and the same weights as the shipments of any producer or refiner between the same points, and no lower rates are given the Standard Oil Company, or to any of its representatives, or through any other party, either through tariff, rebate, underbilling in quantity or in weight, or through any device whatever; and the charges on such shipments against the Standard Oil Company have been upon exactly the same basis between the same points as charged any other refiner or producer since the interstate-commerce law was put in force.

If it is desired I am willing to appear before any United States commissioner in Buffalo and make affidavit to the above facts.

Yours, truly,

EDWARD T. JOHNSON,
General Freight Agent.

Mr. HOWARD PAGE,
26 Broadway, New York City.

[The Wabash Railroad Company.]

ST. LOUIS, August 18, 1899.

DEAR SIR: I note that in the course of the investigation before the Industrial Commission, during May and June of this year, evidence was submitted to the effect that the Standard Oil Company had received advantages in the shipment of petroleum and its products as compared with other oil shippers.

I do not understand that specific reference was made to any railroads thus favoring the Standard Oil Company, but I would like to testify in defense of the Wabash Railroad Company that we have not contributed in a discriminatory manner to the Standard Oil Company, and that we have not since April 5, 1887—when the interstate-commerce law became effective—deviated from our published tariffs in the way of rebates or irregular departure from said tariff in a single instance in the handling of shipments of the Standard Oil Company. We have had but one tariff, which applies alike to all oil shipments handled by the Wabash Railroad Company from that period up to the present time.

Yours, truly,

S. B. KNIGHT,
General Freight Agent.

Mr. HOWARD PAGE,
Standard Oil Company, 26 Broadway, New York.

[Union Pacific Railroad Company, office of president.]

OMAHA, NEBR., August 25, 1899.

MY DEAR SIR: Returning to Omaha after an absence, I find your letter of the 15th instant.

In reply permit me to say that as far as my personal knowledge is concerned, and from all the information I am able to obtain from other officers of this company, the Standard Oil Company has at all times since the passage of the interstate-commerce act evinced the strongest disposition to cooperate heartily with the railroads to the extent of paying fair and reasonable rates for transportation of all of its products. I am unaware that the Standard Oil Company has been in any manner afforded lower rates of freight than the tariffs open to and offered for the carriage of like products for any other shippers of oil over this company's lines.

Yours, truly,

HORACE G. BURT, President.

Mr. HOWARD PAGE,
Standard Oil Company, New York City.

[Northern Pacific Railway Company, office of the president, St. Paul, Minn.]

NEW YORK, August 23, 1899.

DEAR SIR: In reply to your favor of August 15, I take pleasure in saying that so far as the Northern Pacific road is concerned it has not in any way allowed you any rebate or concession on your shipments of oil as compared with any other shipper of oil between the same points; and there is no arrangement or understanding, expressed or implied, by which you receive any concession or consideration not open to every other shipper of the same commodities between the same points upon our line.

The same is also true, so far as I can recall, with regard to the relation of your company with the New York, New Haven and Hartford Railroad, during the time I was connected with the same as second vice-president, in charge of its traffic.

Yours, truly,

C. S. MELLEN, *President.*

Mr. HOWARD PAGE,
26 Broadway, New York City.

[Southern Railway Company, office of the traffic manager.]

WASHINGTON, D. C., August 21, 1899.

DEAR SIR: Replying to your favor of the 15th instant: Since the organization of the Southern Railway Company I have been in charge, as traffic manager, of its traffic interests, including the establishment and promulgation of all rates used by it in the transportation of passengers and freight over its line of railway, and I am prepared to say, unhesitatingly and without qualification, that the Southern Railway Company has at no time given to the Standard Oil Company, or any of its representatives, any lower rates of freight in the carriage of shipments made by that company over our rails, either by direct tariff, refund, or otherwise, than to any other shippers of similar commodities.

Our rates, as issued from time to time, are published and filed with the Interstate Commerce Commission, and with the several commissions of States traversed by the Southern Railway, and the Standard Oil Company has in no instance been given the benefit of anything less than the rates so published and filed with these commissions, and which are the same figures as are charged all other shippers of petroleum and its products.

The policy pursued by the Southern Railway Company is to treat all of its patrons alike, and to fully observe its obligations under the law, and this policy applies as well to shipments of petroleum as to other classes of freight between points on our line.

Yours, truly,

J. M. CULP, *Traffic Manager.*

Mr. HOWARD PAGE,
26 Broadway, New York.

[St. Louis and San Francisco Railroad Company.]

ST. LOUIS, MO., August 25, 1899.

DEAR SIR: Absence from home has prevented an earlier reply to yours of the 15th instant.

Since the passage of the interstate commerce law there has been no time that the Standard Oil Company, or any of its subordinate companies, have enjoyed any lower basis of rates on the business handled by our line than that which has been charged all other oil companies doing business with us. This statement is made absolutely, and without qualifications of any kind or character.

In all of our dealings with the Standard Oil Company we have found it to be the rule that they have never in any instance asked us for any lower basis of rates than was enjoyed by any other company.

Yours, very truly,

D. B. ROBINSON, *President.*

HOWARD PAGE,
Standard Oil Company, New York

[Southern Pacific Company. Office of the third vice-president.]

SAN FRANCISCO, *August 23, 1899.*

DEAR SIR: I am in receipt of your letter of August 15, in which you refer to the Industrial Commission which recently met in Washington, and before which appeared a number of oil producers and refiners, who testified generally that it was their belief that the railroads of the United States were giving the Standard Oil Company and its interests many advantages on its shipments of petroleum and its products as compared with those of other oil shippers.

I respond to your invitation to state the facts bearing upon this question in its relation to the Southern Pacific Company, not only because I believe the Standard Oil Company is entitled to it, but I believe that it is my duty to my own company and to the railroad interests of the United States that these facts should be published.

Since the passage of the interstate commerce law, the Standard Oil Company has not solicited nor received from the Southern Pacific Company any lower rate of freight for the transportation of oil or of the products of petroleum, or anything else in which the Standard Oil Company deals, than the lawful, published tariff rates, which at the same time were given to every other shipper of like commodities for similar and contemporaneous service, nor has the Standard Oil Company, in its use of the transportation lines of the Southern Pacific Company, employed any device such as misrepresentation of the contents of packages or cars or under-billing in weights in order to avoid the tariff or to gain advantages over its competitors. I say that the Standard Oil Company has not employed these devices because it has not been detected in any such attempts, and our system of inspection has been such that I do not believe such attempts could have escaped detection. In other words, according to my observation and experience, and I have full knowledge of its transactions with the Southern Pacific Company, the Standard Oil Company has obeyed the law in its spirit as well as letter.

Yours, truly,

J. C. STUBBS,
Third Vice-President.

MR. HOWARD PAGE,
Standard Oil Company, 26 Broadway, New York.

[The Lake Shore and Michigan Southern Railway Company.]

CLEVELAND, OHIO, *August 17, 1899.*

DEAR SIR: Replying to your favor under date 15th, relating to rates charged Standard Oil Company on traffic as compared with charges on similar traffic from other shippers.

The Lake Shore Company does not now, and has not heretofore, so far as can be ascertained from the records for a period of years, charged the Standard Oil Company any less rate per hundred pounds on its property, whether oil or products, in tanks or barrels, carloads or less, than charged to the trade in general on such property; in other words, the Standard Oil Company has not received any lower rates on the vast traffic handled by that company than other shippers of the same commodities, regardless of quantity.

I would further state that the Standard Oil Company, nor its representatives, have at any time asked that we give them any form of concession, but, on the other hand, have insisted that the full authorized tariff rates be charged on its shipments, and that all other shippers of similar commodities be treated likewise.

The conditions in that respect do not differ from the practice during the time I was connected with the Chicago and Northwestern Railway, as the Standard Company insisted then, as it does now, on application of the tariff rates on all shipments of petroleum and its products.

Very respectfully, yours,

W. H. NEWMAN, *President.*

MR. HOWARD PAGE,
Vice-President Standard Oil Company, New York City.

[New York Central and Hudson River Railroad Company, Grand Central Station.]

NEW YORK, August 17, 1899.

DEAR SIR: Referring to your letter of the 15th instant, you may state explicitly, for this company, and also for the Lake Shore and Michigan Southern Railway Company, of which I was president and am now a director, that no discrimination in the matter of rates has been, since the passage of the interstate law, extended in favor of the Standard Oil Company over either of these lines. So far as my knowledge goes, no application has ever been made by any of the officers of the Standard Oil Company for any discriminating rate.

Yours, truly,

S. R. CALLAWAY, *President.*

Mr. HOWARD PAGE,
The Standard Oil Company, New York City.

[Pennsylvania Railroad Company, General Office.]

PHILADELPHIA, August 28, 1899.

MY DEAR MR. PAGE: In reply to your inquiry, in which you call my attention to statements in the newspapers relating to the inquiry of the Industrial Commission, in which statements witnesses say that the railroad companies pay rebates to the Standard Oil Company and permit preferences by under-gauging tank cars and by paying fictitious prices for oil supplies. I beg to say that if said assertions are meant to apply to this company, in its relation to the Standard Oil Company, they are wholly groundless and without foundation in fact.

Yours, truly,

W. H. JOYCE,
Freight Traffic Manager.

Mr. HOWARD PAGE,
#6 Broadway, New York City.

NO PREFERENTIAL RELATIONS SINCE 1887. DISCRIMINATIONS INJURED THE STANDARD.

Q. (By Mr. SMYTH.) You state very plainly that there were no rebates or advantages in rates given to the Standard Oil Company. Have you been given any advantages with reference to quicker movement of freight—immediate dispatch?—A. None that I am aware of.

Q. You have not asked for any?—A. We have not asked for any. I do not know of any such preferential arrangements.

Q. (By Mr. JENKS.) Is this a general statement you make that covers the entire period since the passage of the interstate commerce law?—A. Yes.

Q. That the Standard Oil Company has in no way had any preferential relations in freights?—A. That is my answer.

Q. Preferential relations would seem to cover it? With reference to the period immediately preceding that, you state that before that time for some years the freight rates to all large shippers were made by special contract, and that you did have special rates then?—A. Yes.

Q. Did I understand you to say further that so far as the Standard Oil Company was concerned the prices to consumers were based upon freight rates in part, so that consumers received the benefits of any benefits you had?—A. I make that statement very broadly.

Q. You make that statement very broadly, then, that the Standard Oil Company did not receive any benefit in preferential rates?—A. On the other hand, I think the old system in vogue among the railroads prior to the passage of the interstate-commerce law was altogether contrary to the interests of the Standard Oil Company. I repeat again that the strongest evidence of that lies in the statement that I have made here, that the greatest prosperity has come since the passage of the interstate-commerce law.

Q. (By Representative LIVINGSTON.) In your answer a moment ago you said, "Not in any way covered by interstate-commerce law."¹ Are you getting rebates in any way not covered by this law?—A. We are not. There may be local shipments, as between some points within a State where tariffs are not issued, that I am not familiar with at all,² but not to my knowledge in any way that would

debar any other shippers in the same business, if there was another shipper there, having the same thing.

Q. There is some specific testimony that in some place on the Pennsylvania Central, between two given points, the charge on a tank of oil was \$1.80, and that the Standard Oil Company got, or the railroads gave back, the 80 cents and put the \$1 into their treasury, and with the independent company kept the whole \$1.80.—A. I do not know of any such case.

Q. Would that be a violation of the interstate-commerce law?—A. If within the State it might not be; but I have never heard of any such case as you say.

Q. You say they charge them all the same rates?—A. Every shipper could have had the same thing. To my own knowledge I do not know of the case you specifically refer to.

Q. (By Mr. FARQUHAR.) Are there not many railroads not under the interstate-commerce law, whose lines are within a State, and which are not in the interstate-commerce business?—A. There may be, but I do not know. I do not know, on our part, of any arrangement that would be exclusive in connection with any such railroad, if there is such.

Q. (By Mr. JENKS.) Have you any further reference to make to this freight question?—A. I think that is all.

Q. (By Mr. KENNEDY.) In one of these letters your correspondent spoke of your policy in refusing rebates. Have any of the railroad companies offered the Standard Oil Company rebates in consideration of securing their business?—A. Well, that would be a very difficult question for me to go into. That the Standard Oil Company during the past 10 or 11 years, since the passage of the interstate-commerce law, have not secured large amounts of rebates is true; but that they may have been offered rebates at times is undoubtedly true; but I have no specific cases to state. It is one of our duties to keep looking after our competitors a little bit, and we are so shining a mark we could not if we were so disposed, but we would not, even if we could and if we were desirous, which we are not.

Q. (By Mr. SMYTH.) You state positively that you did not accept them in general and have not accepted them?—A. We have not and do not expect to accept them.

Q. (By Mr. JENKS.) Your statement applies also to your shipments within a State?—A. Yes; and I speak of them in a general way—that we have no rates that would debar any other shippers from the same basis.¹

Q. (By Mr. FARQUHAR.) Under the old rule of special contracts, is it or is it not a fact that the Standard or any other great company never needs to solicit special contracts from great roads, but that the railroads, competing among themselves, offer the shipping contracts and then cut below their original contracts themselves?—A. Unquestionably.

Q. That was the character of all traffic business before the interstate-commerce bill?—A. It was.

Q. (By Mr. SMYTH.) That was proved by the case of the Pennsylvania Railroad you have spoken of when you shipped by the Erie Canal? (Question not answered.)

Q. (By Mr. PHILLIPS.) Do we understand you, Mr. Archbold, that large shippers never solicited low rates—that they were always solicited on the part of the railroads?—A. I answered that question by saying that a business as large as ours is sought for by railroads. I do not say other shippers do not solicit rates; I have no doubt they secure them.

Q. (By Mr. JENKS.) In one of the letters you read a statement was made to this effect—that the Standard Oil Company, by not asking for rebates and adhering strictly to the established or published freight rates, had aided in keeping the freights up. Is it your opinion that the railroads, generally speaking, feel that the Standard Oil Company is aiding them in keeping their freights up, so as to make them good paying railroads?—A. That is true, and the railroads will say so if they are frank enough to say so. Any of you who have contracts with the great railroads in this country, if you will talk with them on that subject, will find that to be the case.

Q. (By Mr. PHILLIPS.) How will keeping the rates up affect the general public? Is that in their interest?—A. It is to the interest of the general public to have a uniformity of rates under the interstate-commerce law, as the public consider it.

Q. (By Mr. SMYTH.) You are in favor of the interstate-commerce law?—A. I am, most decidedly.²

Q. (By Mr. RATCHFORD.) Mr. Archbold has made himself very clear, I think, on the question of rebates on the shipments of the Standard Oil Company. We have received specific testimony to the effect that the Standard Oil Company received rebates from the shipments of other companies. What do you know of that?—A. I will treat on all that matter later if you will allow me.

¹ See p. 774.

² See p. 593.

THE CONSUMERS GOT ALL REBATES AND MORE.

Q. (By Mr. PHILLIPS.) You stated, if the Chair remembers, that since the passage of the interstate-commerce law your profits have been greater than they were prior to that. Now, was that due to the passage of the interstate-commerce law, or on account of the larger business and less competition?—A. Well, I think that one of the causes—a number of causes may have combined in the growth of the business—but one of the causes is the better settled condition of business incident to the passage of the interstate-commerce law. I think that my assertion that the consumer was given cut rates of freight is not only true, but that the effect was greater than I have stated it; for, in the strain, the anxiety, that the manufacturer was necessarily under lest his neighbor, his competitor, might get a lower rate than he was getting, they were always all very anxious sellers of oil. I think that oftentimes the price was made lower than it needed to be because of the belief or expectation that lower rates of freight were either prevailing or might prevail. I think the business was sacrificed on that account.

Q. But you do not wish to leave the impression that your greater income or greater profits are due to the interstate-commerce law?—A. Oh, no; business has grown.

Q. And competition has not been so great?—A. Oh, I think competition has been quite as vigorous.

PRICES OF REFINED OIL IN NEW YORK, AND OF CRUDE, IN 1896.

Mr. Lee made the statement,¹ as to the course of prices for domestic refined oil for New York, or Greater New York, during the period from March, 1896, to July, 1898, I think it was, that the Pure Oil Company, the company with which he is related, having made its advent in the market of Greater New York in March of 1896, found the price which we were charging to the people of that great metropolis to be 9½ cents a gallon, and that because of their advent and of their supposed competition we dropped the prices on them until in July of the same year it was 5½ cents. He spoke of this not only as illustrating our method of attack as against the competitor, but, I believe, claimed some credit from the people of Greater New York to the Pure Oil Company because of their advent there. I will read from the list prices of the period named as they prevailed at the time and show that, to all the trade in Greater New York and its vicinity, in March, 1896, our selling price averaged for the month 7.98 cents, as against his statement of 9½ cents.

Q. In that immediate territory?—A. In that immediate territory.

Q. (By Mr. PHILLIPS.) Was that immediately before or at the time of the advent of the Pure Oil Company?—A. Their advent there was in March, according to his statement.

Q. Can you give us the statement of the month prior to that?—A. I made it only for the period covered by him in his testimony. I can give you the other. And I will also quote from that statement as showing the relation between the two—the crude-oil prices as they prevailed. In March the average price of crude oil per barrel of 42 gallons at the wells was \$1.42. In April our price was 7.81 cents, the average price of crude oil being \$1.22. In May the average price of refined was 6.94 cents, and the average price of crude was \$1.14. In June the average price of refined was 6.72 cents, and the price of crude \$1.15. In July, the average price was 6.28 cents, and the price of crude \$1.09. It is only an illustration of the carelessness which marks the statements which our competitors make, with reference to any feature of the business in which they want to make a point.

Q. (By Mr. PHILLIPS.) One question there; did you sell any oil in March as high as 9 cents?—A. I give the average prices.

Q. Was there any other selling price?—A. I should say not, because there could not be an average of that.

Q. It could be sold at 10 or 11 cents in the beginning and 3 or 4 cents at the close?—A. The following month would show that.

ANY GREAT VARIATION IN PRICE IN ANY LOCALITY WOULD BE SPEEDILY KNOWN AND WOULD BE DISHONEST.

Q. (By Mr. JENKS.) You give these average prices for Greater New York. The statement has been made at different times that it is your habit in dealing with the customers of competitors to find out the individual customers and make special cut rates to them. It might easily be, therefore, that your average price would be what you have given, and that to a good many special customers, with

¹ See p. 265. See also Mr. Westgate, p. 335.

whom the Pure Oil Company was trying to deal, it would be 5½ cents?—A. I can not make any definite statement, but I would reply that it would be utterly impossible for us to have any great variation in price to any special customers in any locality. It would be speedily known, and it would be dishonest, and I want to say that dishonesty will not win in any business. We have got our hold on the trade in 30 years because we treated the trade honestly and not dishonestly.

Q. You would be safe in saying that in March, 1896, no oil was sold to any customer for less than 6 or 6½ cents?—A. Oh, not for less than 6½.

RAILROADS V. U. S. PIPE LINE—NO FIGHT OF THE STANDARD'S.

Mr. Lee makes a statement regarding the difficulty of his pipe line, the United States Pipe Line, in crossing railroads and securing right of way to the seaboard, and makes a general statement implying that we have instituted and carried out great obstruction to their progress.¹ I want to make general denial of this statement. We have not at any time had any different relations with reference to any obstruction or effort at obstruction of their line than would attach to any competitor in a line of business engaging against another. With reference to the special features referred to by Mr. Lee, and which he attempts, by implication at any rate, to connect us with, in the crossing of the Delaware and Lackawanna Railroad in New Jersey, I want to say that the contention in that respect was entirely at the hands of the railroad, and not at our hands in any possible respect. They went there surreptitiously and endeavored to force their way, on a Sunday, over a line where they had no right, either by private purchase or by public franchise. Having accomplished the crossing of the road in that surreptitious way, they stationed there an armed force to prevent the railroad company from asserting its rights and taking out their lines, and kept that force there for a long period. The railroad went about it in a peaceful way, in the courts, and the final result is that the decision is against the line, after the case has been carried up finally to the supreme court of the State, and they must, of course, remove their line. But any statement on Mr. Lee's part, or any other witness, that we had anything to do with that matter, or with reference to any of the difficulties interposed in their progress to the seaboard, is absolutely false.

Q. (By Mr. PHILLIPS) Did your company own in fee simple the tract of ground, and was a roadway reserved by the landholder? Was that purchased by them?—A. It was not my case, and I am not conversant with the details regarding it. The fact that after having been fought in the newspapers and in the courts for a term of years, seeking the sympathy of the judges as well as the public, the supreme court of the State has ruled against them is the best evidence, I think, that the right was against them. I want to say with reference to our pipe lines, that we never endeavored to cross any man's right of way without first seeing him about it.

Q. Still did they not go through the railroad on their own ground, and was not this the final decision, that they had not the right to lay a pipe line where a man had reserved a right of way under the ground?—A. It was not only decided that they had no right there, but they were ordered to remove.

THE STANDARD NEVER HAD SO LOW A FREIGHT RATE.

I want also to present a statement showing the rate of freight which Mr. Lee's United States Pipe Line enjoys from the Central Railroad of New Jersey on the crude oil and refined oil also transported over that line from the terminal point of their pipe line to the seaboard; it being a lower freight, I think, than the Standard Oil Company ever had for an equal distance at any time in the history of their business. (Witness here reads a letter from the Central Railroad of New Jersey.)

Central Railroad of New Jersey's rate to United States Pipe Line, Hampton Junction, N. J., to Bayonne, N. J.

[Distance, 52½ miles; mileage, ½ cent each way, equals 78 cents per car; empty car returned free. Weight per gallon, crude oil, 8½ pounds; refined oil, 8½ pounds.]

	Rate per barrel of 50 gallons.	Actual weight per barrel of 50 gallons.	Rate per 100 pounds.	Rate per car of 120 barrels.	Rate per car, less mileage.
Crude ...		333	0.0808	\$8.20	\$7.42
Refined .	.0769			9.22	8.44

¹ See p. 267. Compare also the testimony of Mr. Phillips, p. 668; Mr. Emery, pp. 650-655; Mr. Boyle, p. 486.

The above shows that this oil is being carried 52½ miles in tank cars, averaging 120 barrels or 30 tons to the car, at a gross average revenue to the railroad, on the crude and refined oil, of \$7.98 per car, and out of this revenue the railroad returns the empty car free.¹

The contract between the railroad and the pipe line is for 100 years from January 1, 1894, and provides for various rates from different points along the line of the Central Railroad of New Jersey to tidewater. The oil is now (and has been for three years) shipped from Hampton Junction, and the above rates are being paid.

The contract further provides the right upon the part of the Pipe Line Company to abrogate the arrangement upon 5 years' notice at any time during the 100 years. The railroad has no right to cancel, excepting for violation of lease.

Q. (By Mr. SMYTH.) The lease is on record?—A. Yes; it would seem that if there ever was a preferential contract, that is one of them.

Q. (By Mr. JENKS.) You say this is on record?—A. It is not a lease; it is a contract.

Q. (By Mr. PHILLIPS.) You do not assume to say that it is an illegal contract?—A. I am not a lawyer; I am not passing on the legality of the question.

EFFORTS TO BUY OUT THE INDEPENDENTS—ADVANCES FROM THE OTHER SIDE.

Mr. Lee claims at great length and with great particularity that we have at different times done our best to buy them out, offering them large inducements in the way of extraordinary prices for their properties, and have done our best to get them out of the business by purchase.² I want to say that any approaches on that line that have been made have come from Mr. Lee's side to us; and I want to say, now that he has forced the question, that approaches of that kind have been made by pretty nearly every person in connection with his company, every prominent person in connection with his company, at various times, including not only Mr. Lee, but Mr. Phillips, Mr. Nichols, Mr. Murphy, Mr. Jennings, Mr. King, and Mr. McDonald, and, as I said, pretty much every gentleman prominent in the affairs of that company. I want to say further that we have persistently declined the considering of any such combination with them on the ground, first, as we have said to them at various times, of its illegality; and, second—and this would have been enough in itself—our unwillingness to enter into any business relations with them because of our lack of faith in them. We have had experience with the gentlemen, different ones of them, at different times, and we should have known if there had been no legal difficulty in the way of such combination that it was impossible for us to enter into any such relation with them.³ I am making the broadest possible denial to Mr. Lee's statement that we have gone after them with reference to their purchase or combination; and I am making in return a statement that they have up to this very day, within the period of your sitting here, approached us on this question.

Q. (By Mr. PHILLIPS.) Do you mean to include all of them?—A. I mean to include the gentlemen I have named and others I have not named.⁴

Q. Have any persons or any agent or gentleman from whom you bought property approached individual members, coming direct from your office, to solicit the selling of an interest to you?—A. No; I say broadly that the approaches have been made from your side, and the answer is as broad as I can make it.⁵

Q. You have no knowledge of a person coming from your office after soliciting you to make a transaction with these people?—A. I have knowledge of persons coming to our office who came there at the instance of different people in that connection, to raise a question about it; you came there—many of them—if that is what you mean.

THE INDEPENDENTS PROPOSED A DIVISION OF THE BUSINESS.

Q. Was not that to have a stop put to the litigation that was going on in New Jersey, and to have a right to live as a company?—A. I do not know what you mean by that.

(By Mr. ROGERS.) May I have the privilege of prompting Mr. Archbold?

(By Mr. PHILLIPS.) Certainly, you have the privilege.

(By Mr. SMYTH.) I think so, certainly.

(By Mr. PHILLIPS.) Any information of that kind is entirely admissible.

(After talking with Mr. Rogers.) A. I answer broadly again, after conference with Mr. Rogers, that we have never sent anybody for any purpose.

¹ Compare Mr. Phillips, p. 601; Mr. Emery, p. 663.

² See pp. 270, 271. Compare Mr. Westgate, pp. 270, 282.

³ Compare the testimony of Mr. Phillips, pp. 593, 594.

⁴ See Mr. Phillips, p. 594.

⁵ See Mr. Westgate, pp. 270, 271.

Q. (By Representative LIVINGSTON.) Those propositions, were they written or verbal?—A. Oh, no; they were all oral. You do not get that company into making written propositions; they are too crafty.

Q. (By Mr. PHILLIPS.) Do you say, Mr. Archbold, that you were approached by a large per cent of those persons in an unfair and unjust way?—A. Oh, I did not say so; I do not say so. It may have been entirely fair and just in their view; but their proposition, in our view, was illegal and not to be entertained.

Q. Was not that after you had purchased a large amount of stock, a controlling interest, in the Producers' Oil Company, Limited, and also purchased a large amount of the United States Company's stock, and was it not to make some fair, honorable, and just contract that would leave these companies the privilege of living and doing business years ago when they were very badly crippled by opposition from the Standard Oil Company, by the lowering of prices of oil in Europe and other places?—A. Using your own case, Mr. Phillips, as an illustration—and you can hardly find fault with that—I do not think that at the time you came to Mr. Rogers or myself you raised any question whatever with reference to any possible minority ownership in any of these companies. What you and they proposed was simply that a division of the business be made, so that you would have a percentage and we a percentage, in order to cooperate in the marketing of the oil and in all that pertained to the welfare of the business; is it not so?¹

Q. Was it not to get the privilege of handling the capacity of the lines then existing, and to cease further opposition, and to do away with the opposition which was very badly crippling these companies; and had you not at that time lowered the price of oil in Germany, so as to make it entirely unprofitable to the refiners? They lost very large sums of money, and you had bought out a per cent of the refineries that were engaged in these independent lines?—A. Nothing of the kind existed. Our business was entirely satisfactory, was on a profitable basis in Germany and elsewhere, so far as I am aware; and we had no special desire that a combination should be made, as is evidenced by the fact that we were unwilling to entertain it. And I now further state that we were unwilling to entertain it not only because of its illegality, but because of our lack of faith in the individuals connected with it. There can be no question about that.²

Q. Well, do you know that at that time a Mr. Poth was managing the business of the independent refiners in Germany? Did he not sell out to the Standard Oil Company the tankage procured in Germany, so that these companies could not do business? Did they not have to reestablish connections and send agents there, and build tankage in which their oil could be received and distributed in Germany? For a number of years, did not you put the prices there so that there was no profit? And during that period did not you buy out some of the largest refineries that were connected with these companies?—A. My answer, Mr. Phillips broadly is that none of these questions have anything to do with this company, with that proposition. You came to us seeking these propositions. That is my statement and you dare not deny it. That is true, every word of it.

CHARACTER OF MEN PROMINENT IN THE STANDARD.

In answer to the query regarding gentlemen prominent in the Standard Oil Company, Mr. Lee saw fit to speak of them in a most depreciatory way.³ It is not amiss for me to ask these gentlemen to think for a moment of J. D. Rockefeller, William Rockefeller, H. M. Flagler, William G. Warden, Charles Pratt, J. W. Bostwick, Benjamin Brewster, Henry H. Rogers, W. H. Tilford, and James Magee, and I might mention scores of others prominent in the Standard Oil connection, whose business genius and boundless energy have been given to the building up of the petroleum industry. Will you think of these gentlemen in comparison with the men who have appeared here to defame them? I might go further and speak of the beneficent use these gentlemen are making of their substance, but they require no such eulogy at my hands.

In answer to the query as to what would be the effect if the Standard Oil Company were abandoned or dismantled, Mr. Lee said that the prices of refined products would go lower all over the world.⁴ I will not occupy your time by any lengthy argument in refutation of this most absurd proposition, that if we were really out of existence, and put out of existence that which represents to-day two-thirds or three-fourths of the active capital, energy, and equipment employed in the manufacturing and distribution of oil, the prices would go lower; but I will call your attention to what Mr. Lee says in practically the same breath, as showing his utter inconsistency. He gives it as his opinion that if the Standard

¹ Compare the testimony of Mr. Phillips, p. 598.

² Compare Mr. Phillips, pp. 598, 594.

³ See p. 271, under the heading "Practical experience."

⁴ See p. 272.

were out of the way prices would be lower, and in the same breath testified that he wanted them out of the way because for 5 years he, in his own business, has not made a fair profit. And the utter inconsistency of his testimony is shown by this question and answer: "Q. (By Mr. NORTH.) What do you call a fair manufacturing profit?—A. They would be entirely satisfied to do this business at 10 cents a barrel on crude oil that runs through the refinery; I think the Standard Oil Company makes \$1.50 to \$2 on every barrel that goes through their works."¹

If it is true that the Standard Oil Company make \$1.50 to \$2, and they can not make 10 cents, they are not good people to serve the public.

REFINED OIL FROM OHIO CRUDE AS GOOD AS THAT FROM PENNSYLVANIA.

He says that the quality of Standard oil has deteriorated because of using Ohio crude, and that the reason is that Lima oil contains arsenic and sulphur.² I want to say of the gentlemen connected with the companies represented by Mr. Lee, that they have from the very beginning of the great production of oil in Ohio and Indiana, because of their small interest in competition with it in the Pennsylvania region, done their very utmost to depreciate and discredit the standing of the products of Ohio oil in the markets of the world. They came to New York, and before the New York Produce Exchange made a very vigorous effort to have the exchange rule that refined oil produced from Ohio crude should not be a good delivery in the markets of the world. Their course has been utterly indefensible in respect to the great interest involved in those States, and nothing but the most active effort on our part has saved to those States the markets which are to-day giving them the profit that is inuring to them in the production of the oil in those States. And I want to say that this is in spite of the fact, which they must have known or could have known, if they had any intelligence on the subject whatever, that after the sulphur element in the Ohio crude was conquered—and it was a very difficult work to conquer it, which we applied ourselves to successfully—the average of the refined oil produced from the Ohio crude has been and is quite equal to that produced from the Pennsylvania crude. That is now admitted by all buyers and in all markets, and it is known to consumers where they know anything about it at all.³ The talk which the agents of the Pure Oil Company and which the Pure Oil Company have made, and continue to make, as to the superiority of their products over even that which we make from the Ohio crude is entire nonsense; it is not true.

I want to call attention to Mr. Lee's testimony, given somewhat in detail, indicating that we obtained higher prices for oil abroad than we do in this country.⁴ If that is so—and I do not admit that it is so, but admitting for the sake of the argument that it is—it is a pretty good argument that the consumers in the United States are being very well treated by the Standard Oil Company.

FOREIGN GOVERNMENT CONTROL—POPULATION AND OIL CONSUMPTION OF GERMANY AND FRANCE.

He makes a long talk about foreign governmental control,⁵ which is about as silly as anybody ever listened to, and I will not take the time to comment on it.

He makes a statement regarding the comparative population and oil consumption of Germany and France, and I refer to this statement only to show how exceedingly careless he is in respect to statements made before this body on matters in which he seeks to influence your minds and that of the public. (Reading.)

"Q. Abroad, where the oil of the independent refineries goes, which is not of such a grade as can be consumed in the States here, does it come into competition with the oil sent there and sold by the Standard?—A. Yes; the Standard is doing a very large business in Germany. Germany is the largest oil market in the world; although the population is about the same as France, it uses probably twenty times as much oil as France. I think I am not far wrong in that."⁶

The relative population of Germany and France, by the last census of 1891, was: German population, 49,421,803; French, 38,343,192. The consumption of oil in the year 1896, the last year of record, in barrels of 50 gallons, was, in Germany, 3,357,397, and in France, 1,683,146. Mr. Lee said it was twenty times as great in one as the other, and that their population was about the same. I submit this statement to you.

¹ See p. 273. See also p. 277. Also Mr. Phillips, p. 602.

² See p. 273.

³ Compare Mr. Emery, p. 624; Mr. Gall, pp. 672, 681.

⁴ See p. 276. Compare Mr. Emery, pp. 616, 631, 632, and chart of prices in introduction.

⁵ See pp. 276, 277. See also Mr. Emery, pp. 616-618.

⁶ See p. 273. Compare also Mr. Emery, p. 623.

PRICES OF COAL AND MINERS' WAGES.

He makes the statement that the Standard fixes its own price at which it buys coal, and is thus enabled to oppress not only labor in its own line of business, but also the coal labor.¹ The statement is entirely and absolutely untruthful. The Standard buys its coal on competitive offerings, and if the price is so low as to compel low prices for labor it is the result of competition.

He claims that prices were fixed by the South Improvement Company,² when he knew well that the South Improvement Company never did any business.

PRICES OF CRUDE OIL.

He goes into an elaborate argument to prove that the prices paid for crude oil have been unremunerative to the producer.³ This charge, which is more specifically, and I may say hysterically, made by Mr. Lockwood, I will reserve for fuller answer until I reach Mr. Lockwood's testimony.

THE STANDARD'S MANUFACTURE OF CANS AND CASES.

In answer to a query Mr. Lee says that the Standard are largely supplying Eastern markets with Russian oil and making their tin cans abroad.³ I want to submit, gentlemen, a series of statements on this interesting subject. Our business in the canning of oil, for the markets where the oil must be put into tin cans and packed into wooden boxes for the market, has been a very important feature from the beginning. It is a business in which we have perhaps expended as much or more industry, in keeping and maintaining the markets, as in all the other sections of the world combined, because in those markets we have found our great competitor, Russia, most active. In answer to Mr. Lee's statement that we have practically abandoned this business, and that we are buying Russian oil in bulk and making tin cans abroad in which to put it and send it to the market, I present this statement, being a memorandum of our manufacture of tin cans for the 5 years beginning with the year 1894 and ending with 1898:

Number of 5-gallon cans manufactured, five years, 1894 to 1898, inclusive; also cases.

Years.	Cases.	Cans.	Equiva- lent in boxes of tin plate.	Years.	Cases.	Cans.	Equiva- lent in boxes of tin plate.
UNITED STATES.				TAMPICO.			
1894	20,496,942	40,993,884	843,387	1897	53,044	106,089	2,182
1895	18,517,421	37,034,841	761,938	1898	210,252	420,504	8,651
1896	22,908,053	45,816,106	946,238	Total	263,296	526,593	10,833
1897	26,220,579	52,441,158	1,078,895	VENICE.			
1898	23,325,335	46,650,671	959,787	1896	807,775	1,615,550	33,236
Total	111,558,330	223,116,660	4,590,285	1897	704,249	1,408,499	28,977
MEXICO CITY.				1898	734,449	1,468,898	30,220
1894	114,024	228,045	4,636	Total	2,246,472	4,492,947	92,435
1895	70,120	140,240	2,885	SAVONA.			
1896	124,411	248,822	5,119	1896	647,946	1,295,912	26,636
1897	102,630	205,260	4,125	1897	785,995	1,571,990	32,308
1898	93,976	187,952	3,866	1898	768,627	1,537,255	31,379
Total	505,161	1,010,321	20,555	Total	2,197,578	4,395,157	90,323
VERA CRUZ.				TOTAL.			
1894	244,353	488,707	10,055	1894	20,855,318	41,710,636	856,125
1895	240,022	480,044	9,876	1895	18,827,563	37,655,126	774,609
1896	243,950	487,900	10,087	1896	24,822,145	49,644,291	1,021,328
1897	296,905	593,810	12,081	1897	28,196,408	56,392,816	1,160,085
1898	301,864	603,728	12,306	1898	26,379,504	52,759,008	1,042,189
Total	1,197,095	2,394,190	49,255	Total	118,027,938	236,055,938	4,856,396

¹ See p. 273.² See p. 279.³ See p. 282.

About 2,500 men are steadily employed in this industry in the United States.

In 5 years we manufactured in the United States 228,116,660 tin cans, which were packed in boxes holding 2 tins each, the requirement being in boxes made from our native pine. The boxes were made mostly from Canadian pine, but made in this country, lumber being brought here and the labor being employed here. This business involved the use of 111,558,890 wooden boxes, holding, as I say, 2 cans each. And we used in this manufacture 4,590,285 boxes of tin plate. The only business that we do outside of the United States in the manufacture of tin cans is where we are compelled to do it by the exigency of freight; in Mexico City a small business, in Vera Cruz a small business, and a small business in Tampico, Mexico, also, the amount of which is entirely inconsiderable. We also do a little canning—a very little—in the exportation of bulk oil and the manufacture of tin cans in Italy, at Venice and Savona, where the tariff and customs make it necessary that we do the canning there. And there are employed in this great industry, at the minimum, in steady, remunerative labor, 2,500 good Americans.

RUSSIAN AND AMERICAN EXPORTS OF OIL IN CASES.

I present here also a statement made up to show the exports of refined oil in cases from Batoum, Russia, from 1894 to 1898, inclusive. I present this statement for the purpose of having you understand something of the menace which attaches to this business at the hands of this great Russian competitor. Our aggregate in all this great business with the East, which we have made such a fight to retain for the American petroleum industry, is now 109,000,000 cases for the 5 years, as against Russia's 53,000,000; but for the year 1898, perhaps I should read to you, as showing the change in the matter, their shipment was 10,728,608, as against our 22,479,745.

I also present a statement which you, gentlemen, at your leisure, will find great interest in studying, showing the enormous exportation of this particular packing of oil in tins and cases to the markets of the world. It is a business, as I say, which is competed for by these foreign countries most vigorously, on which our hold is uncertain, and which requires the utmost vigilance and encouragement on the part of everything pertaining to the business from America:

Exports of refined oil in cases from Batoum, Russia, during years 1894 to 1898, inclusive.

[Cases.]

To—	1894.	1895.	1896.	1897.	1898.	Total.
Austria.....	8					8
Bulgaria and Servia.....	255,800	287,524	305,045	445,383	227,004	1,522,856
Cochin China.....				95,000	75,840	170,840
China.....	725,563	1,256,285	1,125,121	1,845,627	907,048	5,860,244
Egypt.....	808,929	847,266	845,524	1,100,169	1,315,389	4,912,559
England and United Kingdom.....						
India.....	2,776,059	4,582,226	3,816,028	3,498,488	3,948,895	18,621,696
Italy.....			20			20
Japan.....	311,064	380,000	346,054	614,214	271,880	1,923,212
Java.....	647,680	1,505,656	974,970	136,225	519,884	3,784,415
Manila.....	158,482	261,461	152,510	162,600	166,828	901,881
Malta.....		50,099	16,890		12,150	79,109
Roumania.....	195,474	82,526	31,107	51,547	42,320	402,974
Portugal.....					42,610	42,610
Arabia.....			45,000			45,000
Turkey.....	2,684,176	1,667,073	2,740,660	3,833,633	2,872,901	13,598,473
Greece.....	49,481	78,164	23,919	51,117	25,900	228,581
Africa.....	18,700	79,136	25,025	114,036	121,720	358,616
Suez Canal.....	2,000	33,209	20,000			55,209
Total exports.....	8,628,414	11,405,656	10,469,273	11,449,089	10,550,919	52,503,301
Russia.....	101,594	156,683	94,569	94,499	177,684	624,519
Total shipments.....	8,730,008	11,562,339	10,563,832	11,543,588	10,728,603	53,128,120

Total petroleum products exported from United States in cases during years 1894 to 1898, inclusive.

[Cases.]

To—	1894.	1895.	1896.	1897.	1898.	Total.
Great Britain:						
Standard Oil Co.....	26,500	16,900	17,106	18,520	14,101	83,127
Others.....	2,500					2,500
Total	29,000	16,900	17,106	18,520	14,101	85,627
Holland:						
Standard Oil Co.....	100	100	500			700
Others.....						
Total	100	100	500			700
Belgium:						
Standard Oil Co.....	280					280
Others.....						
Total	280					280
German North Sea:						
Standard Oil Co.....	19,000	20,000	16,300	18,000	21,000	94,300
Others.....						
Total	19,000	20,000	16,300	18,000	21,000	94,300
Sweden and Norway:						
Standard Oil Co.....	24,295	2,900	750	400		28,345
Others.....						
Total	24,295	2,900	750	400		28,345
Denmark:						
Standard Oil Co.....					1,250	1,250
Others.....						
Total					1,250	1,250
Russian Baltic:						
Standard Oil Co.....	1,150	1,500		1,050		3,700
Others.....						
Total	1,150	1,500		1,050		3,700
France:						
Standard Oil Co.....	87,400	80	13,500	28,000	18,303	97,283
Others.....					100	100
Total	87,400	80	13,500	28,000	18,403	97,383
Portugal:						
Standard Oil Co.....	123,445	200,832	163,407	249,919	130,891	868,494
Others.....	18,245	24,912	24,432	30,735	30,010	128,334
Total	136,690	225,744	187,839	280,654	160,901	901,828
Gibraltar:						
Standard Oil Co.....	77,060	28,810	65,923	54,259	38,720	264,772
Others.....			100			100
Total	77,060	28,810	66,023	54,259	38,720	264,872
Italy:						
Standard Oil Co.....	1,145,784	715,904	348,000	362,275	312,705	2,884,648
Others.....				97,002	5,012	102,014
Total	1,145,784	715,904	348,000	459,277	317,717	2,986,662
Malta:						
Standard Oil Co.....				27,500		27,500
Others.....						
Total				27,500		27,500
Greece and Greek Archipelago:						
Standard Oil Co.....	181,281	198,400	118,700	167,000	152,727	768,108
Others.....						
Total	181,281	198,400	118,700	167,000	152,727	768,108

Total petroleum products exported from United States in cases during years 1894 to 1898, inclusive—Continued.

To—	1894.	1895.	1896.	1897.	1898.	Total.
Turkey:						
Standard Oil Co.	88,800			85,900		124,700
Others.....						
Total	88,800			85,900		124,700
Egypt:						
Standard Oil Co.	230,065	32,850	161,432	236,058		660,435
Others.....						
Total	230,065	32,850	161,432	236,058		660,435
North coast of Africa:						
Standard Oil Co.	175,821	167,544	74,200	80,526	83,004	591,095
Others.....			5,000	5,426		10,426
Total	175,821	167,544	79,200	85,952	83,004	591,521
Indian Archipelago and islands in the China Sea:						
Standard Oil Co.	298,061	173,634	373,627	215,639	82,271	1,143,252
Others.....	47,300	13,230				60,530
Total	345,361	186,864	373,627	215,639	82,271	1,203,782
West coast of Africa:						
Standard Oil Co.	85,641	122,093	154,906	180,089	79,657	633,046
Others.....	26,132	6,327	23,129	12,183	7,093	74,874
Total	111,773	128,020	178,035	202,232	86,750	707,920
East India:						
Standard Oil Co.	3,071,929	3,054,529	2,818,933	3,561,390	2,631,349	15,138,130
Others.....	263,900	6,000	12,000	6,000		277,900
Total	3,335,729	3,060,529	2,830,933	3,567,390	2,631,349	15,415,930
Java:						
Standard Oil Co.	1,511,236	1,603,130	1,772,670	1,434,061	1,321,833	7,642,950
Others.....						
Total	1,511,236	1,603,130	1,772,670	1,434,061	1,321,833	7,642,950
China:						
Standard Oil Co.	3,951,031	2,293,248	4,791,618	6,352,811	4,945,962	22,334,670
Others.....	289,525					289,525
Total	4,240,556	2,293,248	4,791,618	6,352,811	4,945,962	22,624,195
Japan:						
Standard Oil Co.	3,619,576	2,607,214	4,095,758	4,373,299	5,467,215	20,163,062
Others.....	282,037					282,037
Total	3,901,613	2,607,214	4,095,758	4,373,299	5,467,215	20,445,099
South coast of Africa:						
Standard Oil Co.	345,471	431,039	398,974	599,051	470,102	2,244,637
Others.....	24,190	13,000	11,242	15,445	14,500	78,377
Total	369,661	444,039	410,216	614,496	484,602	2,323,014
East coast of Africa:						
Standard Oil Co.						
Others.....	124,151	50,000	148,813	163,625	98,000	579,589
Total	124,151	50,000	148,813	163,625	98,000	579,589
Islands in the Indian Ocean:						
Standard Oil Co.	37,000	38,500	54,950	51,800	33,000	215,250
Others.....		2,892	5,000	500	500	8,392
Total	37,000	41,392	59,950	52,300	33,500	224,142
Arabia:						
Standard Oil Co.	261,845	119,200	276,873	175,720	66,100	899,743
Others.....	1,500	58,000				59,500
Total	263,345	177,200	276,873	175,720	66,100	959,243

Total petroleum products exported from United States in cases during years 1894 to 1898, inclusive—Continued.

To—	1894.	1895.	1896.	1897.	1898.	Total.
Sandwich Islands and islands in the Pacific:						
Standard Oil Co.....	86,431	78,718	44,472	78,488	69,044	308,048
Others.....	15,348	4,786	1,526	100	1,000	22,755
Total	51,774	83,499	45,998	78,588	70,944	330,803
Australia:						
Standard Oil Co.....	1,119,288	1,002,069	1,179,713	1,268,563	1,210,421	5,789,054
Others.....	92,566	133,035	113,000	169,100	186,750	694,471
Total	1,211,874	1,135,104	1,292,713	1,437,663	1,406,171	6,483,525
New Zealand:						
Standard Oil Co.....	192,975	208,528	279,333	276,010	233,522	1,190,368
Others.....	17,515	10,180				27,695
Total	210,490	218,708	279,333	276,010	233,522	1,218,063
British North America:						
Standard Oil Co.....	16,260	17,433	15,076	5,301	6,425	60,495
Others.....	1,891	1,743	1,215	1,828	2,400	9,077
Total	18,151	19,176	16,291	7,129	8,825	69,572
Mexico:						
Standard Oil Co.....	8,563	8,658	8,990	2,617	3,397	32,234
Others.....	12,095	7,423	3,930	41,622	26,041	91,111
Total	20,658	16,081	12,920	44,239	29,438	123,345
Central America:						
Standard Oil Co.....	106,019	105,837	136,181	120,396	140,001	608,424
Others.....	34,429	29,391	21,313	18,710	13,657	117,500
Total	140,448	135,228	157,494	139,096	153,658	725,924
Cuba:						
Standard Oil Co.....	500,004	393,255	255,234	267,032	194,150	1,609,775
Others.....	8,939	1,954	2,109	3,095	17,382	33,479
Total	508,943	395,209	257,343	270,127	211,532	1,643,254
West Indies:						
Standard Oil Co.....	425,537	458,483	493,200	441,599	421,550	2,240,459
Others.....	65,379	60,785	65,145	61,453	65,489	324,251
Total	490,916	525,268	558,335	503,052	487,039	2,504,710
Northeast coast of South America:						
Standard Oil Co.....	249,833	228,400	247,525	228,019	284,584	1,238,361
Others.....	55,618	51,968	57,297	63,172	54,761	282,746
Total	305,451	275,368	304,702	291,191	339,335	1,516,107
Brazil:						
Standard Oil Co.....	1,539,303	1,496,370	1,596,327	2,111,730	1,988,763	8,732,493
Others.....	9,779	7,744	9,445	6,557	8,919	42,444
Total	1,549,082	1,504,114	1,605,772	2,118,287	1,997,682	8,774,937
Southeast coast of South America:						
Standard Oil Co.....	597,506	539,344	518,283	390,199	280,892	2,266,224
Others.....	301,576	502,821	759,390	873,197	789,738	3,226,632
Total	899,082	1,042,165	1,277,643	1,263,396	1,070,630	5,492,916
West coast of South America:						
Standard Oil Co.....	185,308	318,433	274,755	289,283	353,539	1,419,318
Others.....	106,022	173,840	155,895	107,450	97,025	641,222
Total	293,330	492,273	430,650	396,733	450,564	2,060,540
Grand total:						
Standard Oil Co.....	20,209,828	16,672,480	20,767,480	23,682,514	21,066,378	102,398,680
Others.....	1,787,552	1,165,531	1,419,381	1,677,210	1,413,367	7,463,061
Total	21,997,380	17,838,011	22,186,861	25,359,724	22,479,745	109,861,741

Q. (By Mr. SMYTH.) Is there any competition from America?—A. There is practically no competition from America. I do not know but these gentlemen do some small amount of business. It is almost inconsiderable from the fact that we do not even know that they are doing it.

Q. The principal competition comes from Russia?—A. The principal competition comes from Russia, and now from the far East, as I will explain a little further along. There is getting to be a large production of oil, especially in the Dutch East Indies, but I will go into that in another place.

I may add, gentlemen, just by way of a word of explanation, that I think in all those countries to which we send oil we have our own active American agents on the alert for the American oil and the American industry; and this gentleman comes here and states that we are not doing this business.

CONDITION OF THE OIL REGION.

In answer to the query, or in pursuing the argument, rather, that the Standard had so governed prices for oil as to have made it an unremunerative business in the oil country, Mr. Lee made a most astonishing statement, that the counties producing oil are not as well off as though they had never produced a barrel of oil.¹ That section prior to the opening of the oil industry was a comparative wilderness, noted, if it was noted at all, principally for its hemlock and buckwheat. The oil production has made it a world-renowned center of marvelous activity. It has taken there a population of tens of thousands, I may say hundreds of thousands, of prosperous, happy, contented people, the like of which probably does not exist in the same territory in any place on God's footstool. The oil production has built towns and cities and railroads. It has given employment—steady, remunerative employment—to thousands of American workmen through all this period; and for a man to stand up, who comes from that section, with a knowledge of conditions as they exist there, and make such a statement, is, as I say, utterly incredible.

CAPITAL, PROFIT, STOCKHOLDERS, OF THE STANDARD.

Q. (By Representative LIVINGSTON.) In connection with this statement you have just made, will you give us the amount of capital invested in the Standard Oil Company, and a list of all the stockholders, and the profits on that investment?—A. The figures with reference to all the questions are being made up, as Mr. Jenks knows.

Q. A list of the stockholders?

(By Mr. JENKS.) A list of the stockholders, I may say, was not asked for in the general schedule.

Q. (By Representative LIVINGSTON.) Well, I am asking for it now?—A. I can not answer as to that.

Q. (By Mr. PHILLIPS.) Would you be willing to meet the commissioner's request and furnish a list of the Standard's stockholders in the trust as it formerly existed, and the combination as it now exists?—A. I could not answer now without further conferring in reference to that statement.

Q. (By Representative LIVINGSTON.) Will you promise the commission that you will confer with the authorities, and if these things are not inconsistent and impracticable, you will furnish them?—A. If they are not inconsistent and impracticable, I should be glad, of course, to give any statement that might be asked.

Q. (By Mr. A. L. HARRIS.) Would not this be the best testimony in refuting the statements made by Senator Lee, to give the taxable property of those countries previous to the discovery of oil and at the present time?—A. I think it would be very interesting.

Simply as an illustration of the point I make of the absurdity of Mr. Lee's statement, I present for your information a statement of the value of Pennsylvania crude oil as compared with that of other States, the total production from the beginning of the industry to the year 1898, inclusive, and figured on a very conservative basis.

¹ See p. 282.

Total production and value of Pennsylvania crude oil, 1859 to 1898, inclusive.

[Barrels of 42 gallons.]

Year.	Production.	Average price per barrel at wells.	Total value.	Land inter- est. ¹	Working interest value. ¹
	<i>Barrels.</i>				
1860..	8,500	\$20.00	\$170,000.00	\$21,250.00	\$148,750.00
1861..	650,000	9.00	6,240,000.00	780,000.00	5,460,000.00
1862..	2,118,000	.52	110,136.00	13,767.00	96,369.00
1863..	3,056,000	1.05	3,208,800.00	401,100.00	2,807,700.00
1864..	2,631,000	3.15	8,287,650.00	1,036,966.25	7,251,683.75
1865..	2,116,200	8.15	17,247,030.00	2,155,878.75	15,091,151.25
1866..	2,497,700	6.59	16,459,843.00	2,067,480.37	14,402,362.63
1866..	3,597,500	3.75	13,490,625.00	1,686,328.13	11,804,296.87
1867..	3,347,300	2.40	8,033,520.00	1,004,190.00	7,029,330.00
1868..	3,715,800	3.63	13,488,354.00	1,686,044.25	11,802,309.75
1869..	4,215,000	5.60	23,604,000.00	2,950,500.00	20,653,500.00
1870..	5,659,000	3.90	22,070,100.00	2,758,702.50	19,311,397.50
1871..	5,795,000	4.40	25,498,000.00	3,187,250.00	22,310,750.00
1872..	6,539,100	3.75	24,521,625.00	3,065,203.13	21,456,421.87
1873..	9,893,786	1.80	17,808,814.80	2,226,101.85	15,582,712.95
1874..	10,926,945	1.15	12,565,986.75	1,570,748.34	10,995,238.41
1875..	11,987,514	1.25	14,984,392.50	1,873,049.08	13,111,343.42
1876..	9,120,600	2.58	23,531,326.02	2,941,415.75	20,589,910.27
1877..	13,337,363	2.39	31,876,297.57	3,984,537.20	27,891,760.37
1878..	15,381,641	1.17	17,996,519.97	2,249,565.00	15,746,954.97
1879..	19,894,238	.86	17,106,067.68	2,138,635.96	14,970,431.72
1880..	26,245,571	.94	24,670,836.74	3,083,854.59	21,586,982.15
1881..	27,561,376	.85	23,427,169.60	2,926,390.20	20,496,773.40
1882..	21,528,621	.79	17,007,610.59	2,125,951.32	14,881,659.27
1883..	23,362,021	1.00	24,700,142.26	3,087,517.78	21,612,624.48
1884..	23,952,290	.84	20,119,623.60	2,514,990.45	17,604,633.15
1885..	21,528,621	.88	18,945,186.48	2,368,148.31	16,577,038.17
1886..	26,003,945	.71	18,588,800.95	2,361,100.13	16,227,700.82
1887..	22,873,450	.67	15,325,211.50	1,911,651.44	13,409,560.06
1888..	16,905,890	.87	14,708,124.30	1,838,515.54	12,869,608.76
1889..	22,349,825	.94	21,008,835.50	2,626,104.44	18,382,731.06
1890..	30,005,867	.87	26,157,304.29	3,269,693.04	22,887,611.25
1891..	35,742,127	.67	23,947,225.09	2,993,403.13	20,953,821.96
1892..	33,332,306	.56	18,666,061.36	2,333,261.42	16,332,800.94
1893..	31,256,283	.64	20,004,021.12	2,500,502.64	17,503,518.48
1894..	30,696,716	.84	25,785,241.44	3,223,155.18	22,562,086.26
1895..	30,891,868	1.35	41,704,021.80	5,213,002.72	36,491,019.08
1896..	33,908,041	1.19	40,350,598.79	5,043,821.10	35,306,777.69
1897..	35,170,367	.78	27,432,886.26	3,429,110.78	24,003,775.48
1898..	31,645,151	.91	28,797,087.41	3,599,635.92	25,197,451.49
Total..	662,048,642	1.163	769,948,397.37	96,243,549.67	673,704,847.70

¹ See explanation below. Compare Mr. Boyle, pp. 434, 435.

This table shows during this period, and this is an interesting statement, I am sure, that there has been taken from the oil fields of Pennsylvania 662,048,642 barrels; and that the average for all that period of the prices paid at the wells for the oil is \$1.163, or a total value of \$769,948,397.37.

ROYALTIES TO LANDOWNERS.

Q. (By Mr. SMYTH.) That amount had been paid to the producers for crude oil?—A. This amount has been paid to the producers for crude oil. Now, as has probably been brought out to you in the course of this testimony, the oil-producing business is done largely on a basis of what is called royalty. That is, the operator takes a lease of the land and pays to the landowner, who is usually a farmer in that section, a certain free-royalty interest for the right to occupy and drill the land.

Q. (By Mr. SMYTH.) That right to occupy does not interfere with the agricultural pursuit of the farmer?—A. No; it is held as free as possible from that interference. That royalty right of payment has varied during the history of the business from one-half of the oil found to the present ruling basis of one-eighth, which basis prevails perhaps to-day through the larger part of the

oil-producing country. Of the crude produced one-eighth goes over to the land-owner;¹ and for that he does nothing, as I say, but furnish the surface on which to drill.

Q. (By Representative LIVINGSTON.) Now, will you go further and give us the average profits you have made on all those wells?—A. Now, what I want to say is, that figuring for the whole period that the payment was one-eighth and not the high amount that has prevailed through most of the period, the payment in royalties alone to the people of that section on the oil produced would amount during that period to the sum of \$96,248,549.67.

Q. (By Mr. SMYTH.) You think these counties are worse off than before the oil wells were drilled?—A. If you have traveled through them you will not think so.

Q. (By Mr. CLARKE.) What is the population of that region?—A. It would be a mere guess on my part. Mr. Boyle or Mr. Lee could answer more intelligently than I. I have not lived there for some years; I would say about 850,000.

SOUTH IMPROVEMENT COMPANY.

Again, Mr. Lee refers, in answer to a question by Mr. Jenks, to the South Improvement Company, as though it was actually doing business;² which was not true.

Q. (By Mr. PHILLIPS.) The South Improvement Company did fix rates, did they not?—A. Never to do business.

Q. But they had rates fixed?—A. There was a contract entered into, but abolished before it became operative.

Q. But there was another contract, and is it not in sworn testimony that that contract was in existence only two weeks afterwards, and did or did not the rates fixed by the South Improvement Company prevail after the Standard Oil Company came into existence?—A. I have no knowledge of any relations on the part of the Standard Oil Company succeeding to the South Improvement Company whatever. I have been an opponent of the South Improvement Company, as you well know. I have disapproved of it in theory, and practically disapprove of it to-day. I want to say that the statements that that which was the South Improvement Company is continued in the Standard are not true; if they had been true, I would not have been in it.

THE SHUT-DOWN MOVEMENT.

Mr. Lee refers to the shut-down movement,³ so called. It was entered into at the request of the producers, who alleged they were suffering from low prices incident to a large accumulation of stock. Our relation to it was entirely the result of the urgency of the producers, who were represented by a committee; they expressed the greatest satisfaction with our course. I want to present for your knowledge, in support of my statement in this respect, the testimony of Mr. Thomas W. Phillips, given before the Congressional committee inquiring on this subject in 1888, page 112. I will read the concluding part:

"We are certain that there would have been much bankruptcy in that region had this movement not been made. I will state further, in justice to them, that this was not a movement on the part of the Standard Oil people. It was a movement conceived by the producers themselves. They approached the Standard people in regard to this matter, and after long negotiation, which you have here in testimony, the contract, which you also have, was formulated and signed."

Q. (By Mr. PHILLIPS.) I assert the same thing to-day.—A. That answers Mr. Lee's statement.

Mr. Lee says: "I believe if there had been 50 concerns engaged in the manufacture of petroleum, that just as wide markets would have been obtained for the article, and that while the consumer would not have paid any more for his oil, the producers would have realized better prices, and have had a handsome profit, whereas I think they have not made any profit."⁴

I present here a statement showing in detail the list of oil refineries in the United States, with their capacity, averaging a life to this time, the first of this year, the end of December, 1898, of 14 years, and numbering 66 in all.

¹ See Mr. Monnett, p. 811; Mr. Davis, p. 364.

² See p. 233. Compare pp. 619, 644.

³ See pp. 277, 284, 288.

⁴ See p. 263.

Capacities of outside refineries.¹

Year built.	Name and place of refinery.	Number and capacity of stills.	Total still capacity.	Remarks.
Oil City, Pa.:				
1882.	Independent Refining Co., Limited.	2, 250; 1, 500 1, 600; 2, 700	3, 000	Naphtha plant.
1885.	Continental Refining Co., Limited.	3, 590; 1, 600 2, 250; 1, 500	2, 340	
1887.	Penn Refining Co., Limited	3, 500	1, 500	Do.
1888.	Rouseville, Germania Refining Co.	1, 800; 2, 250	1, 300	Pressing plant.
1888.	McClintockville, Crystal Oil Refining Co.	1, 250; 5, 100	750	
1883; burned and rebuilt 1890.	Reno, Empire Oil Works	2, 500; 2, 250	1, 500	Naphtha plant; pressing plant.
1882.	Franklin, Pa., Relief Oil Works	2, 250; 1, 600	1, 100	
1880.	Petrolia, I. Dougherty	1, 16	16	
1880.	Karns City, Bech Bros.	1, 100	100	
	Norristown, Montgomery Oil Works	2, 100	200	
1887.	Beaver, Beaver Oil Works	2,	120	
1887.	Industry, Scott Oil Co.		50	
1882.	Kendall, Pa.: Emery Manufacturing Co	8, 600; 3, 125	5, 175	Naphtha works, paraffin and tar stills. Make lubricating oils.
1883.	Kendall Refining Co.	1, 150; 2, 100	350	Lubricating and re-fined.
1882.	Eldred, Pa., United Oil Co.	1, 80	80	
Titusville, Pa.:				
1881.	Robert Foggan	1, 250; 1, 350 1, 600; 1, 815	2, 015	Naphtha works.
1885.	American Oil Works	1, 750; 1, 500 1, 500; 1, 280	1, 250	
1888.	Titusville Oil Works	1, 140	920	Do.
1887.	Oil Creek Oil Co.	2, 350; 2, 125	950	Paraffin plant.
1896.	Climax Gasoline Co.	1, 250; 1, 350 1, 350	950	Naphtha works.
1893.	Pennsylvania Paraffin Works.	4, 350; 1, 250	1, 650	
East Warren:				
1888.	Cornplanter Refining Co	2, 150; 2, 100 1, 125; 1, 100 1, 250	975	Filtering works.
1885 and 1889.	Crew-Levick Co.	3, 125; 3, 150	825	Do.
1892.	Seneca Oil Co.	4, 150	600	Do.
1897.	Wilburine Oil Works	1, 500; 2, 300	1, 100	Lubricating works,
1886.	North Warren, Warren Refining Co.	2, 225; 1, 225 1, 200	875	Filtering works.
Clarendon:				
1885.	Tiona Refining Co.	3, 100; 1, 50 3, 100	350	Do.
	Fidelity Oil Works		300	Wax plant.
1894.	Bolivar, Bolivar Refinery	1, 50	50	
Pittsburg, Pa.:				
	Miller Oil Works	1, 1,400 2, 250; 1, 275 2, 500	2, 175	Barrel factory, naphtha works, tar stills.
1890.	Waverly Oil Works	2, 300; 2, 35 2, 40	1, 670	
	Union Oil Works		80	Do.
Freedom, Pa.:				
	St. Clair Oil Co.	2, 40	80	
1879.	Freedom Oil Works	1, 250; 1, 300 2, 50	650	Tar still, naphtha and paraffin works.
Washington, Pa.:				
1890.	Beaver Refining Co.	1, 150; 1, 100	250	
1887.	Leader Refining Co.	4, 200	800	
Coraopolis, Pa.:				
1892.	Pittsburg Refining Co.	1, 250; 2, 200 1, 375	1, 0	
1899.	Penn Petroleum Works.	1, 150; 1, 250	400	
1894.	Murraysville, Pa., Philadelphia Co.	1, 50	50	
Philadelphia, Pa.:				
1881.	Crew, Levick & Co.	2, 80; 1, 500 1, 125	735	
1881.	Delaware Oil Co.	1, 300; 3, 100 3, 200; 1, 250	1, 450	
1877.	Bossard & Wilson.	1, 220; 2, 125	470	

¹ 26 of these refineries are said, in a letter from Scofield, Shurmer & Teagle, of Cleveland, to be, according to their information, either out of business or absorbed by the Standard Oil Company. Mr. Archbold verifies that the list is correct as dated, December, 1898, though some "may not be in operation or may not have been at some given period;" that the Standard is a minority stockholder in the Tidewater Oil Company, New York, but in no way controls it. It will be noted that these two statements are not contradictory.

Capacities of outside refineries—Continued.

Year built.	Name and place of refinery.	Number and capacity of stills.	Total still capacity.	Remarks.
Philadelphia, Pa.—Continued.				
1874.	Philadelphia Lubricating Co	1, 250; 1, 100	350	
Marietta, Ohio:				
1875.	Ohio Oil Works	1, 150; 1, 100	1, 150	
1882.	Marietta Oil Works	1, 600; 1, 300		
1884.	Producers' Refining Co.	1, 225	225	
1893.	Buffalo, N. Y., Crystal Oil Works.	1, 250	250	
Cleveland, Ohio:				
1883.	National Refining Co.	1, 300; 2, 85	470	Naphtha works.
1883.	Cleveland Refining Co.	3, 75; 1, 110	885	
1873.	Great Western Refinery.	2, 100; 1, 85		
1884.	Merriam & Morgan	1, 65	1, 240	No crude stills; tar and pitch.
Toledo, Ohio:				
1889.	Paragon Refining Co.	4, 400; 8, 500	8, 000	
1895.	Craig Oil Co.	3, 600		
1895.	Diamond Oil Co.	4, 550; 1, 600	2, 800	Tar stills, wax works.
1890.	Walker, Ohio, Manhattan Oil Co.	3, 400; 2, 400	2, 000	
		12, 600	7, 200	Do.
Florence, Colo.:				
1887.	Florence Oil Co.	2, 600; 5, 100	1, 700	
1887.	Western Oil Co.	2, 78; 2, 65		
		1, 75; 2, 78	3, 653	
		2, 500; 4, 250		
		2, 570		
1879.	San Francisco, Alameda Refinery.	1, 1000; 1, 200	1, 900	
1898.	Los Angeles, Franklin Oil Co.	1, 400; 1, 80		
		8, 35	200	
1896.	Oelum, Cal., Union Oil Co.	2, 50; 1, 100		
1896.	Puente, Cal., Puente Oil Co.	1, 150; 3, 150	600	
1897.	Ventura, Cal., Ventura Oil Co.	2, 250	500	
	New York:	2, 60	120	
1879.	Tide Water Oil Co.	18, 800; 16, 600		
		12, 650; 17, 600	43, 150	{Have tar and reducing stills.
1899.	Columbia Oil Works.	2, 450; 1, 250		
	Edgewater Oil Co.	4, 650; 4, 700	5, 400	
		7, 400	2, 800	
	Total (66 in all) .		125, 079	
	Total capacity of outside steam stills		19, 825	
	Total capacity of outside tar stills		1, 355	
	Grand total outside capacity		146, 259	

The average time since the above refineries commenced operations is now 14 years.

COMBINATIONS AND LABOR.

Mr. Lee makes a very labored effort to show that trusts and combinations affect labor injuriously.¹ The best refutation possible of this statement is the record of our own experience, the fact being that for all the years we have been engaged in business we have had scarcely any serious difficulty with the vast body of men employed. On the other hand, we assert most positively that, as a whole, there never was a more zealous body of employees than have been connected with our interests. We have been practically without strikes; our labor is well paid and contented in every department, and I submit that our experience in this regard is the best possible proof of the advantage of labor and capital working together on intelligent lines, where the rights of each are fairly considered. I am a firm believer in the right, and, indeed, the duty, of labor to organize, as I am in favor of the combination and organization of capital. Of course it is true that the labor organizations often do very unwise and arbitrary things. They fall frequently into the hands of leaders who are demagogic and lack the qualities of

¹ See pp. 238, 239, 290.

intelligent leadership, and they are badly influenced also by political demagogues, whose sole stock in trade is often their ability to talk loudly against capital and the employing class; and, above all, they are too much influenced by the bad advice of an element in the public press that is utterly depraved and demagogic and which teaches them altogether false ideas as to their duties. They are taught that it is no sin for them to cheat capital. They will, however, learn better as time goes on. Capital, on its side, has made and is making grievous mistakes in the treatment of labor; but the two are moving together on irresistible lines toward organization and a better mutual understanding, and one of these days labor will realize, as the employing class already knows, that the howling of a demagogue is hurtful to all concerned, and a better era of understanding between the employer and the employee will be brought about.

MR. LEE'S REMEDIES.

At the end of his testimony Mr. Lee suggests remedies.¹ They seem almost too frivolous to demand attention. His views on destructive competition, the limitation of capital, etc., seem altogether too absurd to call for special attention. I may say, in conclusion, that he has taken good care to organize his own company or embryonic trust in the very State (New Jersey) which he criticizes so severely, with a view, undoubtedly, to make his capital quite unlimited if he finds it will float.

OPERATIONS OF THE STANDARD IN OHIO.

I turn next to the testimony of Mr. Monnett, the attorney-general of the State of Ohio. I want to say, by way of preface, before answering directly the points presented by Mr. Monnett, that we are interested in Ohio, in whole or in part, in a number of corporations, duly chartered by the State, and all carefully observing the obligations imposed on them by their charters. The actual amount paid in taxes is in the neighborhood of \$250,000. The aggregate amount paid in wages to about 4,700 employees in the State by this corporation is over \$3,250,000 per annum. The further distribution of money in the State for fuel and supplies of all kinds would amount to a vast sum. I submit for your consideration whether we are not a valuable client of the State and entitled to protection rather than persecution. That Mr. Monnett's course has been an effort at the most malignant possible persecution, and probably worse, I will endeavor to show in taking up his testimony.

Mr. Monnett makes a statement that there has been great discrimination in favor of the Union Tank Line or Standard Oil Company.² The rates fixed by the railroads in connection with tank car lots and single barrel or part car lots have been the same to all, and carried with them no discrimination whatever in favor of the Standard Oil Company. In other words, I deny the allegation particularly.

ALLEGED BURNING OF BOOKS.

Regarding the alleged burning of books at Cleveland, Ohio,³ I want to deny the fact of any such burning absolutely. At the time of the original inquiry on the subject we offered to produce every employee who could have any knowledge on the subject, who would each have denied the statement as to the burning of the books. The attorney general refused to have them sworn at the time, and at the time Mr. Monnett gave this testimony he knew that Mr. Squires, the then secretary of the Standard Oil Company of Ohio, had made an affidavit in the litigation pending in Ohio that the books were in his possession. Any denial that I have made regarding the matter, or any statement that I have made in reference to the testimony in connection with it, is true, and it is not true that I have made any retraction, as Mr. Monnett states, with reference to any statement that I have made. Mr. Monnett's reiteration of this matter, after all that has been shown regarding it is most reprehensible. I would like to characterize this in stronger terms, but I bow to the wish of the commission.

AMOUNT OF TRUST CERTIFICATES ISSUED.

Mr. Monnett endeavors to carry the impression that more Standard Oil Trust certificates were issued than our statements have shown.⁴ The allegation is made without a scintilla of truth to sustain it. It is contrary to all the evidence that was offered in the case, and it is utterly destitute of the truth. The stock and

¹ See pp. 294-296.

² See p. 299.

³ See p. 303.

⁴ See pp. 307, 309.

transfer books of the trust were placed in the hands of Mr. Monnett's associate, Mr. Kincaid, during the Ohio investigation, who examined them thoroughly and expressed himself as thoroughly satisfied.

DISMANTLING OF WORKS.

He speaks with feeling with reference to our having dismantled some works at Marietta.¹ I want to call attention to 2 at Marietta, Mr. Rice's and Mr. Davis's,² and I do not recall that we have dismantled any there. I do not know of any works there that we have dismantled.

Q. (By Mr. FARQUHAR.) This commission, in some of its testimony, has had considerable stress laid on the dismantling of the works by your company, and the delocalizing, transferring of business from towns and other places and the concentration into larger plants. Would you give the business reasons of the Standard with respect to any of these changes?—A. I shall be glad to, and I have it in another place. I think you will find it amply treated.

THE STANDARD'S OHIO BUSINESS.

Mr. Monnett makes a statement which, even to a person unfamiliar with the oil business, is quite unintelligible, to the effect that somehow from the business of Ohio oil we make \$120,000,000 a year.³ It is entirely ridiculous. As I say, it is exceedingly difficult to know what he has in his mind. It certainly had no relation to the facts. I have had prepared a statement which shows the total sales in the State of Ohio of refined-oil products for 1898 to be \$979,798.56.

Q. (By Mr. JENKS.) That includes all by-products?—A. Yes; I will ask you to discount his statement at least \$119,000,000.

Q. (By Mr. CLARKE.) That is the sales by your company?—A. These were the total sales.

BRIBERY CASE IN OHIO.

I must speak somewhat guardedly, in the nature of things, about what Mr. Monnett saw fit to say about the conduct of bribery cases in Ohio.⁴ With reference to the so-called "bribery" case in Ohio, I desire to say that affidavits have been filed with the supreme court of the State of Ohio denying specifically all of Mr. Monnett's charges of attempted bribery and all of his allegations in relation thereto, and asking the court to appoint a commissioner to investigate the charges. The court has not yet acted upon the subject. If they do not, we will then see whether there is not some other method by which Mr. Monnett can be compelled to answer on this matter.

Q. (By Mr. FARQUHAR.) What is the supposed amount of bribery?—A. The newspapers have it about \$400,000.

Q. (By Mr. SMYTH.) Paid to whom—to Monnett?—A. To Mr. Monnett; yes. I say we have answered the matter and our answer is before the supreme court. With reference to what our final attitude will be it would be unwise for me to state now. We court an investigation.

Q. (By Mr. RATCHFORD.) Are you prepared to say that such a proposition might not have been made without your knowledge, or do you deny?—A. We have denied it to the very uttermost. Our answer is now in court.

Q. The answer of your company?—A. The answer of our company.

I want to speak a word regarding the recommendation by Mr. Monnett of Mr. W. H. Clark, of Newark, Ohio, as a competent witness.⁵ In recommending this witness to you Mr. Monnett must have known that he was an untruthful, dishonest, discharged employee, and his imposing him upon you as a witness was an insult alike to you, to our interest, and to the country at large.

COMPETITORS IN OHIO.

Mr. Monnett testifies, in answer to a question by Mr. Harris, as follows: "Q. What companies are competing with the Standard Oil Company in Ohio now?—A. There is only a limited competition—I think the Scofield, Shurmer & Teagle

¹ See p. 308.

² Compare pp. 548, 549, 550; Mr. Davis, pp. 351, 361; Mr. Rice, p. 687.

³ Compare pp. 311, 315.

⁴ See pp. 313, 316.

⁵ See p. 313.

...and a man by the name of Strall, of Mansfield, has an independent agency for a limited product. The Sumner & Teague people originally had a contract whereby they were allowed to five—to sell and five.”¹

Mr. Monnett again refers to the absence of competition in Ohio and repeats that he does not know of a single independent chartered corporation left in the State of Ohio.² However, he attempts to carry the impression that we are attempting to deceive the public by operating through different names in the State. He quotes the Penn Oil Company.³ I do not know what he means by this, as we have no such company operating in the State.

I now submit statements showing a partial list of our competitors in Ohio, composed of pipe lines, refiners, and producers, covering corporations, partnerships, firms, and individuals. The list is only partial, but it gives some indication of the utter lack of knowledge, or worse, that actuated Mr. Monnett in his statement.⁴ I will give you a summary of the incorporated companies engaged in the State of Ohio; not in the southern part, but in the Lima district. There are 159 corporations.

Q. (By Mr. SMYTH.) Not controlled by the Standard Oil Company?—A. Not to the interest of a dollar. They are, of course, all creatures of the State of Ohio, and if not chartered under the State they are all registered under the laws of Ohio and paying taxes in that State. There are partnerships, 258.

Q. Not owned or controlled by the Standard Oil Company?—A. Not to the extent of a dollar.

Q. Not agents?—A. Not agents of the Standard Oil Company in any way or sense.

Q. (By Mr. PHILLIPS.) Have you any interest in these companies, in producing with them?—A. None that I know of.

Q. You have alliances with producers in the Pennsylvania field?—A. Our business in Ohio is done in the name of the Ohio Oil Company.

Q. The point I wish to make is this. Have you not an eighth, a quarter, or a third in the leases in Ohio, as you have in Pennsylvania?—A. Not in these that I am presenting.

Q. In Pennsylvania and West Virginia you have?—A. Not that I know of.

Q. Are you not interested a quarter or an eighth?—A. We may be to a small extent.

Q. (By Mr. JENKS.) But not at all in any of these?—A. It is such a trifling exception as not to be an exception, if at all. Of individuals there are 1,240, 150 corporations, 258 partnerships; and there are of refining concerns not in the remotest degree related to the Standard Oil Company 8 active large concerns chartered by and doing business in the State of Ohio, which makes a grand total of concerns doing business in competition with us of 1,665 in the Lima district against Mr. Monnett's 1 concern that he could name and 1 business man that had a station at Mansfield.

Q. (By Mr. PHILLIPS.) What per cent of the Lima field do you control in production?—A. I have that here.

Q. (By Mr. A. L. HARRIS.) I had in my mind, when I asked Mr. Monnett the question, the refining companies, not the producing companies.—A. He answered also regarding the producing companies—regarding them all.

Q. I asked the question with reference to the refining companies, and I think that he intended to make the answer to my question.—A. His answer mentioned producing companies, and he spoke about the Penn Company being a producing company, but claimed that was ours.

Q. Is that a refining company?—A. It is a producing company.

Q. (By Mr. RATCHFORD.) The witness has stated that the Standard Oil Company has virtually no interest in a number of producing companies he has mentioned. Have they no interest in the refining companies?—A. None whatever, I believe.

Q. No relations with refining companies?—A. None whatever.

Q. (By Mr. A. L. HARRIS.) How many refineries outside of the Standard are in operation in Ohio now?—A. I have just given them. I do not think this covers them all, but the larger ones. This was made the first of the year. They are: Craig Oil Company, Cleveland Refining Company, Diamond Oil Company, Manhattan Oil Company, National Refining Company, Producers' Refining Company, Fargun Refining Company, and the Sun Oil Company. This is made up with

¹ See p. 318. ² See p. 325. ³ See p. 326.
⁴ Detailed list filed with commission. The refiners are included in the general list of competing refiners given above, pp. 541, 542.

reference to the Ohio field. I might say also that the business done by these companies, and in which we had not one dollar of interest, direct or indirect, or one iota of control in any way, aggregated for the 5 years from 1894 to 1898, inclusive, 14,647,949 barrels. I am reminded there are some Cleveland refineries in competition with ours, not included in this list. By the way, these Cleveland refineries are included in the general list of refineries which I gave in answer to Mr. Lee's testimony. I have further a supplementary list of competitive producing companies, made up of organizations, corporations, partnerships, and individuals operating in southern Ohio, apart from the Lima field, aggregating 16 corporations, 8 partnerships, 69 individuals, or a total of 93 in that section, which should be added.¹

AGITATION OF THE OIL-TEST QUESTION IN ENGLAND.

Mr. Monnett shows his vindictiveness as against the American oil industry by applauding a scurrilous pamphlet put out by one of the yellow journals of London at the instance of the Russian oil dealers as against American oil.² There was not a word of justification for the statements made, and a committee of Parliament, who have gone into the subject most thoroughly with reference to possible legislation on the oil-test question in England, have upheld American oil as against all the outrageous charges made by the Russian industry and given publicity through this scurrilous pamphlet. I wish to say one word on the magnitude of the Russian oil industry and its menace to our American industry. Nowhere during the past year have they made so determined an effort against American oil as they have in England, and they have retained a journal of the lowest order to make these scurrilous attacks. The name of the journal is the *Star*, and this pamphlet is published undoubtedly at their instance, although it is anonymous in its character. Even the Russian people who put it out would not put their names to it. I have here a further statement of the Russian oil industry, giving statistics in detail, which I am sure you will find of great interest.

Q. (By Mr. JENKS.) Can you give us a reference to the official statements of the committee of Parliament to which you refer?—A. I will get that for you.³

Q. (By Mr. FARQUHAR.) You state the *Star* article is on the side of the Russian industry?—A. They applaud the Russian oil and decry American oil; that is the purpose of the publication. The thing is to cry down the American oil.

Q. And you claim they injure the Standard?—A. That is where they—yes; we are the large distributors.

Q. What is the test?—A. 78 Abel.

Q. What is the equivalent of the test?—A. About 120. I might add a further list of the Ohio companies organized since November, 1898, and not yet published. I will put them in.⁴

PRICES OF CRUDE AND REFINED OIL, 1870 TO 1898.

Mr. Monnett endeavors to make a statement that the dismantling of the Standard Oil Company would reduce prices of oil to consumers.⁵ I wish to answer this by giving statistics showing the record of cost and prices for a period.

The world-wide facilities employed by the Standard Oil Company and its affiliated interests for the distribution of refined oil would involve years of effort, and a similar amount of capital to replace, and would immeasurably increase the cost of oil to the consumer.

Q. (By Mr. JENKS.) The price of refined oil in the table is the average export price?—A. Yes.

Q. Export prices fix the price of domestic refined?—A. Substantially so.⁶

Q. Can you furnish to the commission also a list of prices of refined water-white oil in the oil markets of New York, Chicago, and Cincinnati?—A. If you will give me a memorandum of that I will.

¹ Placed on file with commission.

² See p. 319.

³ On file with commission.

⁴ See p. 253. See also p. 317; Mr. Thurber, p. 4; Mr. Westgate, pp. 371, 372.

⁵ Compare Mr. Westgate, pp. 371, 372; Mr. Lockwood, pp. 394, 395.

Pennsylvania oil, stocks, and prices.

Year.	Average daily product.	Average price per barrel.	Export price, refined, per gallon.	Stocks increased.	Stocks decreased.	Total stocks.
	<i>Barrels.</i>		<i>Cents.</i>	<i>Barrels.</i>	<i>Barrels.</i>	<i>Barrels.</i>
1870	15,350	\$3.90	26½	203,872		544,030
1871	15,800	4.40	24½		12,026	532,000
1872	17,925	2.75	23½	552,223		1,084,433
1873	27,106	1.60	18½	541,134		1,025,157
1874	29,687	1.15	13	2,060,403		2,705,689
1875	24,075	1.24½	18		155,439	2,550,250
1876	24,505	2.57½	19½		725,401	2,824,729
1877	35,888	2.39½	15½	303,096		3,127,837
1878	41,544	1.17½	10½	1,427,463		4,615,300
1879	54,206	.85½	8½	3,935,956		8,522,256
1880	71,114	.94½	9½	8,562,848		17,145,104
1881	75,004	.85½	8	8,615,947		25,761,061
1882	82,838	.78½	7½	8,574,068		34,385,144
1883	69,385	1.05½	8½	1,360,421		35,715,565
1884	65,129	.83½	8½	1,157,327		36,872,862
1885	58,021	.88½	8½		3,823,854	33,539,038
1886	70,879	.71½	7½		171,140	33,367,896
1887	68,846	.60½	6½		5,011,786	28,867,112
1888	45,056	.87	7½		9,753,638	18,604,474
1889	58,869	.94½	7½		7,899,631	10,904,798
1890	82,376	.80½	7½		1,609,279	9,293,514
1891	98,191	.90½	6½	6,047,719		15,343,238
1892	91,328	.55½	6.07	2,052,155		17,895,899
1893	85,290	.64	5.24		5,284,206	12,111,138
1894	84,334	.83½	5.19		5,774,406	6,836,777
1895	84,320	1.35½	7.36		1,174,872	5,131,805
1896	92,815	1.19	6.98	4,488,678		9,550,533
1897	96,357	.78½	5.91	1,239,009		10,799,632
1898	85,206	.91½	6.31	752,101		11,541,753

Since 1870 the daily production has increased 450 per cent, the price of crude oil has declined 75 per cent, and the price of refined about 75½ per cent.

Average prices received for deliveries of standard white illuminating oils at New York City, Chicago, Ill., and Cincinnati, Ohio, during years 1885 to 1899, inclusive.

[Prices given are cents per gallon in bulk, exclusive of the package; 2½ cents per gallon added will give average price, including barrel.]

NEW YORK CITY

Month.	Year.												
	1885.	1886.	1887.	1888.	1889.	1890.	1891.	1892.	1893.	1894.	1895.	1896.	1897.
January	6.16	6.40	5.63	5.39	5.62	4.66	4.47	3.86	5.30	4.03	4.50	4.99	3.80
February	6.09	6.47	5.52	5.49	5.57	4.87	4.44	3.77	5.01	4.00	4.42	4.58	3.31
March	5.96	6.12	5.45	5.44	5.44	4.69	4.42	3.86	4.87	3.73	4.50	4.78	3.43
April	6.08	6.30	5.09	5.55	5.17	4.54	4.43	3.77	5.42	4.22	4.59	4.49	3.53
May	6.69	5.39	5.21	5.54	5.01	4.40	4.44	3.57	5.39	4.26	4.96	4.09	3.54
June	6.02	5.59	4.73	5.58	4.22	4.32	4.18	3.06	5.10	4.73	4.55	4.40	3.55
July	5.88	5.76	4.85	5.47	4.81	4.72	4.13	3.29	5.07	4.29	4.49	3.60	3.81
August	6.06	5.65	4.71	4.52	4.81	4.81	3.98	3.25	5.09	3.98	3.79	3.47	3.80
September	6.11	5.68	4.67	4.73	4.78	4.81	4.06	3.29	4.66	3.87	3.80	3.39	3.14
October	6.35	5.48	4.61	4.81	4.72	4.85	3.97	3.27	4.48	3.87	3.81	3.70	3.04
November	6.51	5.41	4.67	5.08	4.63	4.87	3.99	4.09	4.34	3.81	4.33	3.74	3.05
December	6.47	5.43	4.94	5.10	4.77	4.69	3.70	4.37	3.71	3.78	5.06	3.44	3.26
Total year	6.21	5.77	5.01	5.01	5.01	4.67	4.16	3.61	4.78	4.07	4.56	3.96	3.31

548 HEARINGS BEFORE THE INDUSTRIAL COMMISSION.

Average prices received for deliveries of standard white illuminating oils at New York City, Chicago, Ill., and Cincinnati, Ohio, during years 1885 to 1899, inclusive—Continued.

CHICAGO, ILL.

Month.	Year.														
	1885.	1886.	1887.	1888.	1889.	1890.	1891.	1892.	1893.	1894.	1895.	1896.	1897.	1898.	1899.
January	4.83	6.08	4.88	5.31	5.19	5.03	4.05	3.82	3.51	3.58	3.17	4.99	3.06	2.77	3.80
February	4.88	6.00	4.90	5.51	5.22	4.83	4.34	3.72	2.68	3.69	3.69	4.52	3.00	2.82	3.81
March	5.07	5.56	4.71	5.40	5.23	4.81	4.04	3.74	3.57	3.57	4.08	4.12	2.99	2.97	3.60
April	5.00	5.37	4.74	5.13	5.17	4.81	4.01	3.98	3.47	3.54	4.85	3.89	3.03	3.09	3.53
May	4.93	5.19	4.68	5.03	5.07	4.94	4.08	3.28	3.75	3.24	3.91	3.75	2.84	3.04	3.52
June	4.86	5.02	4.70	4.93	5.07	4.82	4.06	3.28	3.70	3.51	4.00	3.47	2.79	3.04	3.53
July	5.20	4.98	4.59	4.92	5.02	4.56	4.06	3.42	3.65	3.15	3.64	3.18	2.77	3.03	.....
August	5.27	4.97	4.52	4.70	5.20	4.30	3.89	3.34	3.69	3.51	3.25	3.25	2.79	3.03	.....
September	5.51	4.95	4.53	5.03	5.25	4.33	4.13	3.29	3.84	3.72	3.26	3.31	2.80	3.19	.....
October	5.70	4.93	4.50	5.35	5.23	4.34	3.97	3.38	3.56	3.47	3.74	3.24	2.53	3.43	.....
November	6.04	4.88	4.79	5.18	5.08	4.97	4.03	3.40	3.63	3.54	4.41	3.09	2.78	3.49	.....
December	6.09	4.96	4.92	5.01	5.21	4.18	4.04	3.40	3.80	3.30	4.89	3.13	2.80	3.50	.....
Total year	5.40	5.23	4.67	5.14	5.16	4.59	4.01	3.48	3.57	3.57	3.96	3.66	2.93	3.29	.....

CINCINNATI, OHIO.

Month.	Year.														
	1885.	1886.	1887.	1888.	1889.	1890.	1891.	1892.	1893.	1894.	1895.	1896.	1897.	1898.	1899.
January	4.56	5.81	4.61	5.04	4.86	4.65	3.99	3.32	3.33	3.06	3.11	4.70	2.62	2.67	3.68
February	4.61	5.73	4.63	5.24	4.95	4.40	3.77	3.12	3.33	3.09	3.30	4.31	2.32	2.67	3.68
March	4.80	5.29	4.44	5.13	4.96	4.40	3.50	3.32	3.33	3.18	3.82	3.99	2.32	2.98	3.44
April	4.73	5.10	4.47	4.86	4.90	4.30	3.40	3.32	3.33	3.07	3.95	3.84	2.65	2.92	3.43
May	4.66	4.92	4.41	4.76	4.80	4.20	3.48	3.33	3.33	3.02	3.08	3.46	2.59	2.91	3.40
June	4.59	4.75	4.43	4.66	4.81	4.20	3.55	3.33	3.16	3.07	4.87	3.07	2.62	2.91	3.40
July	4.93	4.71	4.32	4.65	4.75	4.20	3.50	3.31	3.05	3.06	4.32	3.15	2.80	2.91	.....
August	5.00	4.70	4.25	4.43	4.93	4.17	3.62	3.34	3.03	3.02	3.81	3.09	2.80	2.89	.....
September	5.24	4.68	4.20	4.76	4.98	4.12	3.47	3.33	3.05	3.05	3.83	3.07	2.65	3.06	.....
October	5.43	4.66	4.23	5.08	4.96	4.02	3.33	3.25	3.08	3.13	3.84	2.98	2.61	3.32	.....
November	5.77	4.61	4.52	4.91	4.81	4.02	3.34	3.31	3.06	3.06	4.18	2.82	2.65	3.32	.....
December	5.82	4.69	4.65	4.74	4.94	4.02	3.33	3.33	3.07	3.09	4.82	2.85	2.64	3.45	.....
Total year	5.13	4.96	4.40	4.87	4.89	4.18	3.52	3.31	3.18	3.06	4.12	3.46	2.71	3.07	.....

Whereupon the commission, at 1 o'clock p. m., took a recess until 2 o'clock.

INDEPENDENTS WANTED TO COMBINE WITH THE STANDARD.

Q. (By Mr. PHILLIPS.) Will you continue your statement?—A. I will, with pleasure. I desire to make a word of explanation. Senator Lee has called my attention to the fact that in his opinion my testimony indicated that his approach to us with reference to their business was with a view to selling their properties. I did not mean so to state. His approach to us was with a view to combination. I supposed I had so clearly stated it; I make this statement in the fear I did not.

Q. Was it in regard to combination, or was it just not to be interfered with in getting a line through to New York—the right to live, rather than the combination; was it not put in that form?—A. My understanding of it was, as I have stated, a combination.¹

MR. THEODORE F. DAVIS.

I take up further the testimony of Mr. Theodore F. Davis, of Marietta, Ohio. It is a trifle difficult for us to understand why this gentleman should have appeared before you; he certainly has had no experience in the refining of oil, or as an owner of a refinery, that would at all qualify him to appear before you as a witness on this important subject. He has had an interest in a little alleged refinery at Marietta, which he bought when he was somewhat in politics. He immediately approached us to sell the property. We declined to buy it, on the ground that it was valueless as a working plant and had no value as competition;

¹ See above, pp. 530 and 531.

and I had forgotten that there was such a thing until his appearance here. Immediately after his appearance before you he evidently thought he had again made himself prominent enough to succeed in selling it, and he came to me in New York offering to sell this property. I will submit a letter from him on the subject, and my reply thereto, which covers all that need be said of this case. I think the only possible explanation on this matter with reference to his appearance is, that he came at Mr. Monnett's invitation as one of his combination. His letter was written after his interview with me; my reply, as you will see, immediately followed it. His letter is dated July 13, 1899; his appearance here before you was on June 9, 1899.

"I called on you about 2 weeks ago with letter of introduction from ———, and I presented the matter of negotiation for my refinery property at this place. You made memorandum of it and stated that you would present the matter to your people soon after the 4th of July, and as I have not heard from you, presume you have overlooked it. I have permitted one option to expire and have declined the proposition of another party to negotiate for them, not intimating why I do so, which is my appointment with you in regard to the matter. Please indicate your desire in regard to whether you are inclined or desire to further consider the negotiation. I, as stated, much prefer dealing with your people than with others, yet do not want to let the favorable conditions pass by. Hoping to hear from you soon.

"Very truly, yours,

THEO. F. DAVIS."

To which I replied, under date of July 18:

"I am duly in receipt of your favor of July 13. I beg to return you herewith the schedule of refinery property which you left with me. The property is of such a character as to be without value to us, and we do not care, therefore, to buy it.

"Appreciating your expression that you prefer to sell the property to us rather than to other buyers, I am,

"Truly, yours,

JNO. D. ARCHBOLD."

I do not suppose it is at all necessary to take up any further statements regarding this gentleman. I have an interesting letter here regarding him from his partner in the refinery business, but I will not read it unless you ask it to be read.

Q. What do you say about reading this letter?—A. It is a personal letter, but I can read that part of it referring to the matter. It is from Mr. Macdonald, and he authorized me to use it if I cared to. Some parts of it are so personal that under suggestions made here I would not read them.

Q. (By Mr. CLARKE.) What is your purpose?—A. Nothing, except to show the character of the gentleman in relation to the refining trade, appearing here as one having knowledge.

MR. PHILLIPS. Without objection, the letter will be read, omitting the personal parts.

The WITNESS. The letter is dated at Newark, Ohio, July 17, 1899, and is from George T. Macdonald.

(Witness at this point read the letter.)

MR. T. B. WESTGATE—THE PURE OIL COMPANY IN NEW YORK.

I have to answer next concerning T. B. Westgate. Mr. Westgate begins by going over substantially the same ground with reference to the advent of the Pure Oil Company in Greater New York,¹ which has already been covered in the testimony of Mr. Lee.

IMITATING BRANDS AND COLORS.

He makes a statement charging that the Standard Oil Company imitated his yellow barrels and used his brands so that they might get trade which he had built up by the use of these barrels and brands as a special trade-mark.² I have carefully investigated that question, and I find it to be the fact that instead of our having attempted to use Mr. Westgate's brands the real facts are he used our brands. The yellow brand, as defining a certain special quality of oil, had been in use by us in that territory for many years before Mr. Westgate appeared there, and when he came he adopted our yellow barrel so as to facilitate his chances for

¹ See p. 365. Compare Mr. Lee, p. 205; Mr. Archbold, p. 528.

² See p. 366.

getting business. I deny emphatically that we have ever used his barrels and brands, and assert that he did use ours.

Q. (By Mr. JENKS.) That he used your brand?—A. That he used our color. I deny his statement with reference to both, and charge in turn that he used our barrels.

Q. (By Mr. SMYTH.) How about the charge of using their brands?—A. It is absolutely untrue; absolutely and unqualifiedly untrue.

Q. (By Mr. JENKS.) The statement was made here, I believe, that you had used the brand "Sunlight Doubly Refined," but put your name on the outside of the circle, which would not be an exact imitation, but would be using the name that he was using for his oil?—A. No; I deny the whole matter in toto.

Q. You had yourselves been using barrels of that same color before he began selling in that territory?—A. I know so, because I had to do business in that section and with the company who made the yellow barrels, and knew all about it.

COMPETITION AT FULTON, N. Y.

Q. In regard to the statement about Fulton, N. Y.?—A. The facts are that he first enticed away from us the man Crandall, to whom he refers. He began a campaign against our trade by cutting prices. We, in self-defense, finally put on another seller of oil to compete with him and to regain lost trade.

CHARLES FREY, OF HOBOKEN—ALLEGED PRICE AGREEMENT.

He goes with great particularity into the case of Charles Frey, of Hoboken, N. J., whom he characterizes as a German with Bismarckian blood in him, who had threatened us with dynamite, etc.¹ I carefully investigated the case, having talked personally with our Jersey City agent, who was our agent at the period mentioned by Mr. Westgate. He denies emphatically ever having made any such threat toward Mr. Frey as Mr. Westgate testified to, or ever having had any understanding with him as to prices in connection with the marketing of Mr. Westgate's oil or any competitive oil, as Mr. Westgate testifies. As a matter of fact, the man Frey was a customer of ours to a considerable extent, having bought, in the year 1890, his principal supplies from us; he was a man of violent temper, an avowed anarchist; he has not been in the business for a number of years now, although Mr. Westgate's testimony would carry the impression that he has continued to help him in the sale of oil at Hoboken. The last known of him was that he was running a saloon in Brooklyn.

UNDERBILLING OF TANK CARS.

Mr. Westgate alleges at great length and with some particularity the under-billing of tank cars, citing, as a special case of which he had special knowledge, shipments from Olean, to points eastward.²

I beg to present to you here letters from the officials of the Western New York and Pennsylvania Railroad and the Erie Railroad, being the only two lines out of Olean, on that subject. I will read first, if you please, the letter of Mr. Edward T. Johnson, general freight agent of the Western New York and Pennsylvania Railway Company, dated at Buffalo, August 10, 1899, addressed to me.

"My attention has been called to the testimony of Mr. Theodore B. Westgate (who I think is a refiner from Titusville, Pa.), before the Industrial Commission of Washington, in which he testified that it was his belief that shipments of the Standard Oil Company from Olean, N. Y., in tank cars, were billed at a weight less than the actual contents of same.

"In answer to Mr. Westgate's testimony I would say that I have investigated the matter, and of my own knowledge am positive that there is no arrangement of this kind now, nor has there been at any time heretofore, between this company and the Standard Oil Company, or any of its representatives. On the contrary, I do know that on all oil shipments from Olean, where the weights have been per 100 pounds, we have charged and collected freight on the full capacity of the tank cars, based on, first, 6.3 pounds to the gallon, subsequently on 6.4 pounds to the gallon, the change at Olean being made at the same time that it was put in force over the entire Western New York and Pennsylvania Railway. Where the weights have been per barrel we have charged and collected freight on basis of maximum number of barrels that the tank could contain. It is possible that in

¹ See pp. 366, 369.

² See p. 370.

³ See p. 373. See also the testimony of Mr. Rice, p. 731; Mr. Page, pp. 770-775.

view of the hundreds of cars of oil that are shipped from Olean some clerical errors have been made by which the weight of a car on the freight bill may have been misstated, but if so it has been by clerical error only, and not by any arrangement with the Standard Oil Company or any of its representatives.

"The above is the situation now, and has been the case for at least 15 years, during which time we have had full knowledge of all traffic matters pertaining to shipments from Olean, and the above statement applies from all other points on this road as well as from Olean, N. Y.

"If it will be of any service to you I will be glad to put the above in the form of an affidavit, or will appear before any United States commissioner and testify in regard to same.

"Yours, truly,

"EDWD. T. JOHNSON,
"General Freight Agent."

For the Erie road, dated at New York, August 20, 1899, addressed to me by George G. Cochran, fourth vice-president:

"Referring to Mr. Harriott's letter to you of the 28th inst., in regard to weights on oil.

"I was traffic manager of the Erie lines from January, 1892, until March, 1896, and concur fully for this period in what Mr. Harriott says. The weight of 6.4 pounds per gallon was maintained from the date of its adoption; previously, the average weight applied was 6.3 pounds per gallon.

"Yours, truly,

"GEO. G. COCHRAN,
"Fourth Vice-President."

Also the letter of Frank Harriott, general freight traffic manager of the Erie road:

"In regard to the testimony given before the Industrial Commission in Washington, June 8, 1899, by Mr. Theodore B. Westgate, of Titusville, in which he alleged that on shipments of the Standard Oil Company from Olean, N. Y., tank cars were billed at less than their actual weight, and in this way an advantage was given the Standard Oil Company over other shippers, I beg to say that for 3 years I have been in charge of traffic matters, covering shipments from Olean and other points on the line of the Erie Railroad, and I can state positively that there is not now, nor has there ever been, an arrangement between this company and the Standard Oil Company, or any of its agents, of a nature testified to by Mr. Westgate. On the contrary, I know that on all shipments from Olean, as well as from all other points on the Erie Railroad where our tariff rates are 'per 100 pounds,' we have charged and collected freight on the full-weight capacity of the tank car, based on 6.4 pounds per gallon, and in a few instances where rates have been 'per barrel,' we have charged and collected freight on the basis of the maximum number of barrels that the tank car held; and this has been true on all shipments made by the Standard Oil Company, as well as by all other shippers.

"You are authorized to use this letter in any way that you think best, and if I can furnish you any further information, I will be glad to do so.

"Yours, truly,

"FRANK HARRIOTT,
"General Freight Traffic Manager."

I desire to submit also a pamphlet,¹ a book known as the Tank Gauge Handbook, which covers by number every tank car with its full capacity that is in use in our business, and which is in the hands of every railroad organization over which we make shipments; and I want to state positively that we have no understanding, and never have had, with any railroad, with reference to the under-billing of any car.

Q. (By Mr. JENKS.) You state you have in your freight business paid full weights according to the schedules given in this pamphlet?—A. According to the schedules given in this pamphlet.

Q. These two railroads from which you have supplied letters are the only ones out of Olean?—A. They are the only ones out of Olean. The concluding part of Mr. Westgate's testimony, with reference to railroad discriminations, is covered in the statement already made in reference to the same question in Mr. Lee's testimony;² namely, that the cases pending in the United States court are to recover freight which the railroads charge all shippers on barrels. The Interstate

¹ On file with commission.

² See Mr. Lee, pp. 227, 232; Mr. Westgate, pp. 379, 380; Mr. Archbold, p. 516.

Commerce Commission decided that railroads should carry barrels free, and the railroads, refusing to accede to such a decision, are testing the question in the United States court. A final decision will interest us to a larger extent than all other shippers.

THREAT TO CUT PRICES AT SOUTHBEND, WASH.

Q. (By Mr. JENKS.) Mr. Westgate presented a letter from Portland, Oreg., which he put in evidence, with reference to some statements made by the special agent of the Standard Oil Company. The essential part of it is this: "You can rest assured that if another carload of Sunlight oil arrives at your place, it will be sold very cheap. We do not propose to allow another carload to come into that territory, unless it comes and is put on the market at one-half its actual cost. You can convey this idea to the young man who imported the carload of Sunlight oil." Signed by George C. Flanders, of the Standard Oil Company.¹ The question is whether in competitive territory your people are authorized and instructed to make statements of that kind?—A. If any such statement was made, it was a foolish statement by a foolish and unwise man, and in our thousands of employees we do have some. The statement had missed my attention, if it was in my copy, or I would have investigated it.

Q. I will give you a specific reference to it: It is, Portland, Oreg.; George C. Flanders, special agent.—A. I will say again the gentleman had no such instructions: any such statement as that was unauthorized and unwise.

(The following letter, with the annexed newspaper clipping, was subsequently submitted by the witness:)

26 BROADWAY, NEW YORK, October 27, 1899.

DEAR SIR: Referring to the letter submitted to the Industrial Commission at Washington, written by George C. Flanders from Portland, Oreg., to a merchant at Southbend, Wash., and to which you called my attention. While the Standard Oil Company does compete with other merchants for business, it is done, though, on the basis of a fair margin of profit, and Mr. Flanders did not have any authority to write that oil would be sold on the basis mentioned in his letter. The letter referred to was written some years ago (in March, 1894), and was intended to be written in a jocular manner to deny a claim that he was selling an oil inferior in quality to that sold by others. The Standard Oil Company is at times unjustly accused of doing this, as is evidenced by the inclosed article taken from a Los Angeles paper, and a wrong construction might at times be put on a letter written to refute a claim of this kind.

Yours, truly,

H. M. TILFORD.

J. D. ARCHBOLD,

26 Broadway, New York.

ASSASSINATION KEROSENE.

POMONA, Oct. 6.—[To the Editor of the Times:] To my positive knowledge 90 per cent of the kerosene sold in Pomona, Pasadena, Riverside, and Anaheim is a dangerously low-test oil. To sell kerosene for domestic use under a test of 120 in the Eastern States is punished by long terms of imprisonment and from \$250 to \$500 fine. There are no laws regulating this matter in southern California. The result is human life is sacrificed and many homes destroyed. This oil is shipped into these towns by the Standard Oil Company and sold to the grocers, who in turn sell it to the public as the best Eastern kerosene. By actual tests I find the lowest grade used about the buildings of the Santa Fe Railroad Company is 150 fire, and that sold by the Standard Oil Company to the grocers of those towns as follows: Elain, in cans and cases, 118 to 120 fire; Pratt's Astral, in cans and cases, 98 to 104 fire; Pearl, in cans and cases, 98 to 104 fire; Eastern, in bulk, 98 to 104 fire. The meaning of the fire test is at what temperature Fahrenheit will the oil throw off an explosive gas. An ordinary lamp often attains a temperature of 120 degrees.² Therefore, any oil that will throw off this gas under that temperature is termed by oil men "Assassination oil." With these facts in view, is it any wonder that lamps explode and human life is sacrificed? In the name of humanity, can not the public be protected from this dangerous imposition?

H. S. WALKER.

¹ See pp. 369, 370.

² See Mr. Emery, pp. 624-626; Mr. Mathews, p. 493, top.

PROSPEROUS OIL PRODUCERS.

I will take up the testimony of Mr. Lockwood. Mr. Lockwood says:¹ "The Standard Oil Company have driven into financial obscurity, bankruptcy, or servitude the men whose energy and enterprise have developed this great oil producing and refining industry of America." I hand you a statement, made so much in detail that I will not attempt to weary you with its reading, of producers who have been prominent in the business in what is known as the Pennsylvania oil-producing section—the section Mr. Lockwood was treating of.

Q. (By Mr. SMYTH.) How many names?—A. There are hundreds of them; I have not figured it up—about 800.²

Q. (By Mr. KENNEDY.) Is Mr. Lockwood's name in the list?—A. I suppose it is.

Q. Are they arranged alphabetically?—A. Yes; I see they have omitted Mr. Lockwood.³

SOUTH IMPROVEMENT COMPANY.

I deny emphatically Mr. Lockwood's statement that everything contemplated to be done for the South Improvement Company has been done for the Standard Oil Company.⁴ As a matter of fact, the South Improvement Company never did any business, as Mr. Lockwood well knew, and the special features of exclusive freight contracts, which were contemplated in the South Improvement Company, were not attempted to be perpetuated by the people of the Standard Oil Company. It was at once recognized that that special feature was not defensible, and it was abandoned absolutely.⁵

PIPE-LINE CONSOLIDATION—COST OF PIPAGE.

Mr. Lockwood refers to the small pipe lines which sprang into existence in the early history of the oil business.⁶ They were inadequately capitalized in many cases; they were inefficient, and gave the producers such poor service that the remedy which was proposed, consolidation, was very gladly welcomed by the producing class as a whole. The result was the pipage was reduced from 40 cents, which was the prevailing price through the life of the small lines, to 30 cents, and after consolidation to 20 cents.⁷

Q. About what time was the cost of pipage reduced to 20 cents?—A. Shortly after the consolidation of the United Pipe Line system.

Q. Has the price lowered since?—A. The price has remained at that figure.

Q. There has been no reduction in the cost of piping for many years, 20 years or so?—A. No. It was considered a minimum price and has been considered a fair price.⁸

Q. (By Mr. SMYTH.) A universal price to all?—A. A universal price to all comers.

Q. The cost of building, controlling, and managing, I presume, has lessened?—A. It has lessened and increased. If you figure from to-day's standpoint it will be higher of course. The long distances involved in laying the lines to some of the fields, notably the field that Mr. Rogers spoke of—the West Virginia field—of course require extensive operations.

NO DISCRIMINATIONS SINCE THE INTERSTATE-COMMERCE LAW.

Mr. Lockwood's statement that discriminations were continued in favor of the Standard Oil Company after the interstate-commerce law was passed,⁹ I desire to meet with absolute denial, and challenge him for any such record. He makes this statement, and then attempts to give it color by referring to a ridiculous case which he and some of his copatriots had brought in Clarion County, Pennsylvania, 9 years before the interstate-commerce law was passed. In connection with this case he goes to the length of accusing the supreme court of the State of Pennsylvania of violating the constitution in order to prevent a conviction of the Standard Oil people. The statement is so outrageous for a gentleman of his calling that it carries its own answer, and perhaps should have no further comment.

THE MATTHEWS-BUFFALO CASE.

Mr. Lockwood goes at great length into that so-called Matthews-Buffalo case,⁹ this case as first instituted attracted a great deal of attention. It has been made much of in the sensational press, and has been made much of by careless writers,

¹ See p. 384; also Mr. Lee, pp. 279, 281-283.

² On file with commission.

³ See Mr. Emery, pp. 619, 644; Mr. Rice, pp. 706-708, 711; Mr. Archbold, pp. 556-559.

⁴ See pp. 386, 388.

⁵ See p. 413.

⁶ See Mr. Lee, p. 284; Mr. Rogers, pp. 581, 588, 589; Mr. Phillips, p. 594; Mr. Emery, p. 606.

⁷ See p. 388.

⁸ Lockwood Oil Company is mentioned.

⁹ See pp. 386, 388.

and I am very glad, indeed, of the opportunity to put this presentation on record in answer to the charges that Mr. Lockwood has made about this case and the sensational statements regarding it which he gave to the public through your hands. We shall be glad to go down, as repeated, exposing the sensational charges that have been made in connection with it. I will, therefore, with your permission, read this statement:

"Mr. Lockwood attempts to make much of the so-called Matthews-Buffalo case.

"And indeed, gentlemen, this case has been more often and more thoroughly exploited in the way of misrepresentation, not only by men of Mr. Lockwood's type, but by careless writers of magazine articles pamphlets, and books, than any other case, unless it be that of Rice. It is high time that a simple, succinct statement of the case should be made, and I am glad to make it.

"The simple facts are that in 1881 Matthews, with two others, were in the employ in confidential capacities of the Vacuum Oil Company, of Rochester, N. Y. The executive officers of this company were Messrs. H. B. and C. M. Everest, of Rochester, who, with their friends, represented a large ownership in the stock of the company, and were by contract fully in control of the management of the business of the company. Messrs. Everest were not at that time, nor have they ever been, interested in the stock of the Standard Oil Company. The Standard Oil Company were owners in the stock of the Vacuum Oil Company, but had no direct relation whatever with the management of its affairs. While still in the employ of the company Matthews and his two associates conspired together to leave the employ of the Vacuum Oil Company and establish a like business at Buffalo. To this end they had entered into a partnership arrangement, had prepared themselves by using the Vacuum Company's patents for castings of the material to be used in construction, had thoroughly familiarized themselves with all methods of manufacture and with the patrons of the Vacuum Company, and in every way prepared themselves to take advantage of the various business processes—many of them covered by patents owned by the Vacuum Company. There is plenty of indisputable evidence that they did not expect their venture at Buffalo to really succeed on its merits, but they believed that by so imitating the brands and processes of the Vacuum Company they would induce the latter to buy them out at a high price. As I say, there is plenty of evidence, even including that of one of the parties who was to join with Matthews, a man named Miller, that they expected to be bought up by the Vacuum Oil Company or the Standard Oil Company. Efforts were also made by the Matthews party to entice away other important employees of the Vacuum Company. After the business was gotten under headway at Buffalo, and the infringements became evident, various suits were brought by the Vacuum Company against Matthews and his associates. During this period Miller, one of the Matthews party, solicited reemployment with the Vacuum Company, and finally, after considerable discussion, was reemployed. Later, having some disagreements with the Vacuum Company with reference to the question of his employment, he again coquetted with Matthews and the Buffalo party, and as a result of his statement before the grand jury as to what his intercourse had been with Messrs. Everest, and of other statements made before the grand jury, the nature of which was never disclosed, an indictment was found by the grand jury charging Messrs. Everest and all the directors of the Vacuum Company, namely, Messrs. H. H. Rogers, A. M. McGregor, and myself, with conspiring against the business of the Buffalo company. The evidence produced in the case clearly indicated a carefully concocted effort on the part of Matthews and his associates as against the Vacuum Company, and the balance of the testimony was tremendously in favor of the Vacuum Company. At the conclusion of the evidence for the prosecution the judge held, as he could not have held otherwise, that not a scintilla of evidence had been produced against the so-called Standard people, namely, Messrs. Rogers, McGregor, and Archbold, and directed the jury to acquit them, which they did.

"As I have stated, the balance of the evidence in the case was so much against Matthews that it seems an act of gross injustice that the judge should have allowed the case against Messrs. Everest to go to the jury. The result of the trial was that the jury, plainly influenced by the cunning plea of the district attorney in behalf of the individual, Matthews, as against the so-called rich corporation, rendered a verdict against Messrs. Everest. Six of the jurors made affidavits, copies of which I attach hereto, that they only agreed to a verdict on the basis of the minor charge presented in the indictment, that of the enticing away from the Buffalo works of the man Miller by the Messrs. Everest. The judge imposed a fine, the largest permitted by the statute. As a matter of simple justice, the verdict should have been set aside entirely. All talk about the blowing up of the

Buffalo works, which has been so much exploited by the yellow journals and by careless writers, is the purest fiction. There never was anything of the kind.

"With reference to Mr. Lockwood's statement¹ that Matthews had verdicts against the Standard Oil Company people for civil damages for \$270,000, I may say that the statement is as false as every other feature which he presents. An action was brought by Matthews for \$30,000, and a sympathy verdict for that amount was rendered by the jury. Judge Baker promptly set the verdict aside as being excessive and on the ground that the jury were guided in their action by prejudice, passion, or sympathy.

"Matthews brought further action for \$250,000, which he never brought to trial. Any careful student of the case who will go thoroughly into the literature of the matter, which can be easily presented, will, after this lapse of all these years, reach no other conclusion than that Matthews and his associates, lay and professional, were engaged in an effort at extortion."

The following is the copy of the affidavit of six jurors, referred to above:

STATE OF NEW YORK, *County of Erie, ss:*

Nicholas Demerly, of the town of Boston, John J. Kinney, Bernhard Schlebus, R. B. Musan, George W. Havens, John Ueblueher, being severally duly sworn, each for himself, deposes and says: That he was one of the jury that served on the trial of H. B. Everest and C. M. Everest for conspiracy in the Erie County Oyer and Terminer in May, 1887; that the said jury rendered a general verdict of guilty against both of said defendants. And deponent further says that, as he verily believes, it was not the intention of said jury, in rendering said general verdict, to pronounce the defendants guilty of an attempt or conspiracy to blow up or burn the works of the Buffalo Lubricating Oil Company, Limited, but the conviction was, in the mind of deponent, based upon the enticement of the witness, Miller, from the employ of said oil company, and he believes that the other members of the jury convicted the prisoners on the same ground. And deponent further says that he believes the ends of justice will be met in this case by the imposition of a fine upon the defendants, and he therefore begs to recommend to the court that the sentence of said defendants be that they pay a fine only, and that they be not sentenced to imprisonment.

NICHOLAS H. DEMERLY.

Nicholas Demerly was sworn to before me this 21st day of April, 1888.

Subscribed and sworn to before me this the 21st day of April, 1888.

RYAL C. PAYNE, *Notary Public.*

JOHN J. KINNEY.

John J. Kinney sworn to recommendation only.

Sworn and subscribed before me this 31st day of April, 1888.

JNO. W. FISHER,
Notary Public Erie County, N. Y.

BERNHARD SCHLEBUS.

Subscribed and sworn to before me by Bernhard Schlebus this 30th day of April, 1888.

S. M. WELCH, Jr.,
Notary Public in and for Erie County, N. Y.

R. B. MASON.

Subscribed and sworn to before me this 2d day of May, 1888, by R. B. Mason.

S. M. WELCH, Jr.,
Notary Public in and for Erie County.

GEORGE W. HAVENS.

Subscribed and sworn to before me this 2d day of May, 1888, by George W. Havens.

FRANK S. COIT,
Notary Public in and for Erie County, N. Y.

JOHN UEBLACKER.

Signed by John Ueblacker in the presence of John F. Knapp.

STATE OF NEW YORK, *Erie County Clerk's Office, ss:*

I, Otto H. Wende, clerk of said county, do hereby certify that I have compared the annexed copy of affidavit and copy indorsements thereon with an original and its indorsements entered and on file in this office, and find the same to be true transcripts of and from the said originals, and the whole of each thereof.

In witness whereof, I have hereunto set my hand and affixed the seal of said county, at Buffalo, this 29th day of August, A. D. 1899.

OTTO H. WENDE, *Clerk.*

Q. (By Mr. JENKS.) You have detailed records of the court which are at the disposal of the commission if they desire them?—A. Yes.

Q. (By Mr. FARQUHAR.) After the finding of the court with respect to conspiracy in destroying the works, in the several actions for damages, I understood you to state that Matthews did not recover at all?—A. After Judge Barker set it aside there never was any further case brought to trial. There was an action pending for \$250,000, which was never brought to trial.

Q. (By Mr. JENKS.) Did Matthews make any settlement of any kind with those against whom judgment was awarded? He received no settlement at all?—A. I do not know what his relations were with his lawyers. It seems, as far as I have recollection of the matter, that after the decision, in the final settlement of the matter, his lawyer partners got most of what was left. I do not know that that is a very exceptional thing, but it is true in that.

THREATEN THE INTERSTATE COMMERCE COMMISSION.

Mr. Lockwood makes the ridiculous statement that the "combines" had threatened the Interstate Commerce Commission.¹ He evidently, in making this statement, desired to be understood that they had threatened it boldly, but this, I believe, he afterwards disavowed.²

THE CASE OF GEORGE RICE.

Mr. Lockwood goes at length into the Rice case, and attempts to enlist the sympathy of the commission regarding Rice.¹ I now desire, first, to present to the commission a full statement of the original Rice case, made by Mr. D. O'Day, before the committee of the House of Representatives in 1888,³ pages 273 to 276, inclusive. This statement covers the exact facts regarding the much-talked-of Rice case.

I would like to read Mr. O'Day's testimony, if I may make it a part of my testimony. I will try and limit it so as not to weary you unduly, reading that which pertains as directly as possible to the Rice case:

Q. Do you remember the Cleveland and Marietta Railroad Company?—A. I do.

Q. You remember Mr. Pease was receiver?—A. I met him once; yes, sir.

Q. Did you not have a conference with him upon the subject of making a rate over his railroad for crude oil?—A. Yes, sir; but not for refined oil.

Q. When was that?—A. I think it was in 1882 or 1883.

Q. Where did you desire that oil to be transported; from what point to what point?—A. The arrangement that you speak of was not made with Mr. Pease. An arrangement was made with the managers of the Wheeling and Lake Erie Railroad, I think, who at that time controlled the Marietta Railroad, which was continued after Mr. Pease, the receiver, was appointed. The arrangement consisted in making a through traffic with the railroad company of which the Macksburg line was a part. We made a connection from Marietta to a point south, the total arrangement of charge being divided between the railroad and the pipe line.

Q. What rate did you get over that railroad for the transportation of oil?—A. To where?

Q. For the distance it passed over the railroad?—A. A good deal of oil was transported from Marietta to Cleveland. The bulk of it was transferred south to Marietta and Parkersburg.

Q. At what rate?—A. I think the through pipage rate and rail rate was 35 cents, as I recollect it.

Q. What part of that did the railroad company get?—A. I have forgotten what the divisions were. My recollection is it was 20 and 15 cents.

Q. Was it not 10 cents?—A. I can not say, sir; I can not be positive.

Q. I will read the following to you to aid your recollection. It is an extract

¹ See p. 390.

² See p. 398.

³ Fiftieth Congress, first session, House Reports, vol. 9.

of a letter to Mr. Rappello, general counsel of the receiver, and signed by P. Pease. He states that—

“Mr. O'Day, manager of the Standard Oil Company, met the general freight agent of the Wheeling and Lake Erie Railroad and our Mr. Terry at Toledo about February 12, and made an agreement (verbal) to carry their oil at 10 cents per barrel. But Mr. O'Day compelled Mr. Terry to make a 35-cent rate on all other oil going to Marietta, and that we should make the rebate of 25 cents per barrel on all oil shipped by other parties, and that the rebate should be paid over to them (The Standard Oil Company), thus giving us 10 cents per barrel for all oil shipped to Marietta, and the rebate of 25 cents per barrel going to the Standard Oil Company, making that company, say, \$25 per day clear money on Mr. George Rice's oil alone.”

“State whether that is a true statement.—A. It is not a true statement.

“Q. In what respect?—A. In the respect, first, of the divisions. It may be true regarding that, but I am not sure of that; I do not recall it well enough to know. It is not a true statement that we compelled the road in any sense to do anything of the kind.

“Q. Were you not under your agreement to have your oil transported from Marietta over the railroad at 10 cents a barrel?—A. We had an arrangement by which the through rate from the wells, which included the pipeage charge, was to be a certain figure, and was to be divided between the railroads and ourselves.

“Q. What share did the railroad get?—A. My recollection, which is rather hearsay, was 20 cents pipeage rate and the railroad 15 cents.

“Q. And not 10 cents?—A. I do not want to be positive of that.

“By the CHAIRMAN:

“Q. Does that rate which you give include your local pipeage, too?—A. Yes, sir.

“By Mr. GOWEN:

“Q. Where did this oil strike the railroad?—A. At a place known as Macksburg.

“Q. Went from there to Marietta, Ohio?—A. Yes, sir.

“Q. Now, I ask you if the rate which the railroad received out of the joint rate was not only 10 cents a barrel?—A. My recollection is, as I said before, 15 cents; I won't be positive of that.

“Q. Would you assert your recollection against a judicial determination of this question by the court?—A. I certainly should not.

“Q. Now, did you not make it as a part of that arrangement that this railroad company, or its receiver or manager, should charge a certain Mr. George Rice, who was a competitor with you, a higher rate on his oil?—A. No, sir.

“Q. You did not?—A. We did not.

“Q. Were you not to receive and did you not receive from this railroad or its business a payment to your company on account of the oil they transported for Mr. George Rice?—A. Yes, sir; the railroad company agreed that the rates should cover all oil transported.

“Q. What rate?—A. The fixed rate as between the railroad and the pipe line.

“Q. That is to say, that when the through rate of 35 cents was charged on the oil which passed through your pipe line and their railroad together, and out of which you received 20 or 25 cents, as your recollection may be, they were to charge the same rate to Mr. George Rice, whose oil passed only over their railroad and not through your pipe line?—A. There was nothing special about George Rice; it covered the oil.

“Q. But did that other oil which was in competition with you pass through your pipe line?—A. No, sir.

DRAWBACK ON OTHERS' OIL RETURNED BY ADVICE OF COUNSEL.

“Q. Did not they, therefore, on that oil which only passed over their railroad and not through your pipe line pay to you the same allowance or rebate that they did on your oil which did pass?—A. They did, but we returned it, through the advice of our counsel, Mr. Dodd.

“Q. How long did you keep it?—A. A very short time.

“Q. It was a hot time for Mr. Rice?—A. I don't think it was; he was a hot man.

“Q. The result of that arrangement, if it had been carried out—assuming your recollection to be correct—you would have paid 15 cents to the railroad for your oil and Mr. Rice would have paid 35 cents, would he not?—A. No, sir; he had the privilege of doing what he did, which he afterwards did do.

“Q. He was not using your pipe line?—A. No, sir; we tried to get him to make

an arrangement with us to use our pipe line, but he would not do it; he wanted a better rebate than anybody else.

"Q. He had his own means of bringing this oil to the railroad; he did not require your pipe for that service?—A. He required the pipe to get his oil to Marietta, and subsequently laid a pipe to Marietta.

"Q. Was not this the fact, as Judge Baxter has found in this case, that Mr. Rice, who at that time only used the railroad, paid 35 cents for the transportation of a barrel of oil? Was not that true?—A. I took it to be true.

"Q. Now, out of that sum how much did you get from the railroad out of what they received from Mr. Rice?—A. We did not get any; that is, we did not retain any. The railroad company agreed to account to us for the oil that went over its lines, and they did make an accounting, to my recollection, of about \$200 or \$250, or something like that, on oil other than that which passed through our lines. Our counsel, Mr. Dodd; advised me that we could not do that business, and we refunded the money.

"Q. Was that refunded before the investigation of the case took place in court?—A. I do not know; I do not remember.

"Mr. BUCHANAN. Before this examination proceeds any further, I wish to say that the use of the terms 'in court' and 'Judge Baxter' indicates to me that there has been litigation upon this subject between Mr. Rice and some company. I would like to know before the examination goes any further whether there has been such litigation between Mr. Rice and any company represented by or that would be bound by the statements of the witness now upon the stand; and, second, whether, if such litigation has been had, it is concluded and the matter disposed of in the courts, or is in any way still pending. I ask this question solely for information, because I do not know anything about the matter.

"Mr. GOWEN. No, sir; the proceedings are entirely completed. It was not a suit between Mr. Rice and anybody. It was a proceeding against the receiver of this road to dismiss him from his receivership. That has been terminated. It has been dismissed, the case is ended, and reported in the Federal Reporter.

"Mr. SMITH. Who rendered that decision?

"Mr. GOWEN. Judge Baxter; he removed him.

"Mr. SMITH. Was he judge of the United States court?

"Mr. GOWEN. He was judge of the circuit court for the southern district of Ohio.

"Mr. SMITH. A United States court?

"Mr. GOWEN. Yes, sir.

"The CHAIRMAN. I understand, in answer to Mr. Buchanan, the information is furnished that there was a proceeding pending to remove a receiver; that proceeding resulted in the finding by the court removing him, and that litigation is closed.

"Mr. GOWEN. That branch of the litigation is closed.

"Mr. BUCHANAN. That answers my inquiry. But there has been another remark made that leads me to ask if there is any other branch of the case remaining unclosed?

"Mr. GOWEN. Only this: The jurisdiction that the United States court was enabled to take over this case arose from the fact that a receiver had been appointed in a proceeding in that court to foreclose the mortgage, and therefore as the receiver was an officer of that court, the court took jurisdiction of this question. Whether the proceeding to foreclose the mortgage is ended or not I do not know.

"Mr. BUCHANAN. That answers my question.

"Mr. GOWEN. There is no other suit pending about it that I know of.

"By Mr. GOWEN:

"Q. Where did this oil that was transported over this railroad to Marietta originate?—A. In the country in and about Macksburg.

"Q. Ohio?—A. Yes, sir.

"Q. There is a small oil field near the Macksburg field in southeastern Ohio?—A. Yes, sir.

"Q. How far is that field from the Ohio River?—A. Perhaps 15 or 20 miles; somewhere along there.

"Q. The largest town near to it on the Ohio is Marietta?—A. Yes, sir; south.

"By Mr. SMITH:

"Q. You stated that the charges on oil were lost in trying to get the business, if my memory serves me right?—A. Very largely.

"Q. How were they lost?—A. In competition in buying the oil—bidding for the oil

"Q. Bidding for the oil?—A. Yes, sir.

"Q. Did you have to purchase of somebody?—A. We had to purchase oil."

That covers the record of the case as given under the sworn testimony of Mr. O'Day, who had to do with it on behalf of our interests at the time, and I now state further, on careful personal inquiry of Mr. O'Day, he informs me that the amount involved in the Rice contract, some \$300 to \$250, was immediately, under Mr. Dodd's instructions, refunded, and that such refunding was made before any proceedings were instituted as against the receiver. We were in no sense a party to the proceeding against the receiver; were not present in court when the matter was heard, and had nothing whatever to do with it.

MR. RICE NOT A REFINER OF LATE YEARS, BUT AN AGITATOR.

I desire to state further, from my own personal knowledge, that Rice's efforts for many years have been directed, not toward making a success of his refining business, but to the pursuit of such a vexatious course toward us as would lead us to buy him out of the business at an exorbitant price. In other words, his course for many years has been a direct effort toward extortion. In a personal interview which I had with him, on his request, as far back as 1886, he demanded of me that we pay him \$250,000 in cash and \$50,000 per year for 5 years, or a total of \$500,000, for his Marietta refinery, which was worth at that time possibly \$25,000 or \$30,000. He based this demand on the statement that he had already inaugurated a number of suits before the Interstate Commission, that he could influence the action of the commission, and had other suits in contemplation which he would at once press unless we submitted to his demand. He claimed that if we did make the deal with him he could influence the discontinuance of the suits already pending, and that he would refrain from bringing others. He further stated that he had the ability to cost us a very large amount every year by making what are termed "cut quotations" in the markets for refined oil, thereby unsettling the trade and compelling us to make concessions to our customers in the localities affected. I drew him out as much as possible on this subject in the hope of getting him to expose his plans as thoroughly as possible, and then asked for time in order to make investigations of his statements. He evidently realized, after some delay in the matter, that we had not been specially influenced by his statements, and the matter was allowed to drop. Later, however, he made further efforts in the same line.¹

Rice has had no active relation with the business nor made any effort to have any for many years. I can not say positively, but I believe that he has been supported as an agitator by our enemies and those seeking in this indirect and underhanded way to annoy us.²

MR. LLOYD—WEALTH VS. COMMONWEALTH.

I desire to say a word regarding the effort at pathetic reference of Mr. Lockwood to the Rice case in Lloyd's book. I desire to characterize this statement in Mr. Lloyd's book, as well, indeed, as all the other statements with reference to our business, as cunning fiction, made up entirely on one-sided testimony and dressed for sale. Whether Mr. Lloyd expected to share, as a result of his advocacy of Rice, in what Mr. Rice might be able to get from us, I am unable to say, but he certainly lays himself open to that suspicion.

I desire to say further with reference to this book of Mr. Lloyd's, that if you are disposed to waste your time reading it you will find it with reference to its statements regarding the business of the Standard Oil Company one of the most untruthful, distorted compilations that was ever inflicted on a suffering public.

Q. (By Mr. FARQUHAR.) Will you state the title of the book?—A. *Wealth vs. Commonwealth*.

PRICES FOR EXPORT, AND IN NONCOMPETITIVE HOME MARKETS.

Mr. Lockwood makes an absurd statement, intended to convey the impression that at the same time refined oil is sold to Germany at 2 cents a gallon the people of Texas and Arkansas are forced to pay 25 cents.³ There is, of course, not a word of truth in any such statement, nor does he pretend to furnish, nor can he offer, any evidence in support of it. It is the sort of statement that a silly demagogue would make in an effort to create sentiment on this question.

¹ See pp. 561, 562. Compare Mr. Rice's testimony, pp. 749-754; Mr. Page, p. 785; Mr. Rice's affidavit, p. 798.

² See Mr. Rice, p. 749.

³ See pp. 384, 385. See also Mr. Emery, p. 616; Mr. Westgate, pp. 371, 372.

With reference to the course of production and present competition and prices, Mr. Lockwood makes the startling admission that he himself at one time aspired to be a monopolist and plutocrat. We can not escape a shudder at the thought of such a thing.

SOUTH IMPROVEMENT COMPANY.

He makes an absurd statement¹ regarding the railroad companies raising the price of crude oil from 40 cents to 80 cents and paying the additional 40 cents to the South Improvement Company. There is not a shadow of basis to support it. He convicts himself with reference to this matter by testifying that the South Improvement Company was not carried out.² As a matter of fact, I repeat that they never did any business.

THE STANDARD'S CONTROL OF REFINING.

Mr. Lockwood testifies:

"Q. (By Mr. KENNEDY.) Mr. Lockwood, can you state, approximately, what per cent of the refined oil of this country is turned out by the independent companies?—A. We calculate that they are handling about 4 per cent.

"Q. Only 4 per cent?—A. Only 4 per cent; you know this is an immense business.

"Q. (By Mr. PHILLIPS.) That is, taking the Ohio oil?—A. Taking the Ohio oil and the Pennsylvania oil and all these different grades of oil."³

I will now present a statement showing the aggregate business done by the Standard Oil Company and by others in the United States for the 5 years, 1894 to 1898, inclusive, in which it appears that the aggregate percentage of all business in petroleum and its products done by the Standard Oil Company was 82 $\frac{1}{2}$ for this period of five years as against competitors 17 $\frac{1}{2}$.

Q. (By Mr. SMYTH.) That includes all by-products?—A. Petroleum and all its products.

Business of Standard Oil Company and other refiners, years 1894 to 1898, inclusive.

[Barrels of 50 gallons. All products, domestic trade.]

Year.	Standard Oil Co.		Others.		Total.
	Barrels.	Percent of total.	Barrels.	Percent of total.	Barrels.
1894.....	18,118,938	81.4	4,145,232	18.6	22,264,165
1895.....	18,348,051	81.8	4,064,720	18.2	22,412,771
1896.....	16,341,161	82.1	3,569,719	17.9	19,910,880
1897.....	18,141,479	82.4	3,876,708	17.6	22,018,185
1898.....	19,999,939	83.7	3,914,999	16.3	23,914,938
Total.....	90,949,593	82.8	19,591,376	17.7	110,540,969

THE STANDARD'S CONTROL OF PRODUCTION.

Mr. Lockwood testifies that by manipulation of price of Ohio crude oil, in conjunction with the railways, we succeeded in getting the price down to an abnormally low figure, and then bought substantially the whole Ohio producing field.⁴

I now present a statement covering the years from 1890 to 1898, showing our relation to the business of producing oil, not only in Ohio, but in Pennsylvania, thinking it would set the matter at rest, as the question has been raised:

¹ See p. 399. Compare pp. 619, 644.

² See p. 400.

³ See p. 402.

⁴ See p. 403. See also Mr. Monnett, pp. 318, 319; Mr. Boyle, p. 426.

Production of Pennsylvania and Lima crude oil by Standard Oil Company and others, years 1890 to 1898, inclusive.

[Expressed in barrels of 42 gallons.]

Year.	Pennsylvania oil.			Lima oil.			Grand total.		
	Total production.	Standard Oil Co. production.	Standard Oil Co. per cent of total.	Total production.	Standard Oil Co. production.	Standard Oil Co. per cent of total.	Pennsylvania and Lima production.	Standard Oil Co. production.	Standard Oil Co. per cent of total.
1890..	30,065,867	2,618,637	8.71	15,014,882	8,400,568	55.95	45,080,749	11,019,205	24.44
1891..	35,742,127	4,913,775	13.74	17,381,923	9,319,156	53.61	53,124,050	14,232,331	26.79
1892..	33,332,306	4,339,822	13.02	16,685,193	7,843,324	47.01	50,017,499	12,182,146	24.36
1893..	31,256,283	6,705,276	21.45	17,823,255	7,290,890	40.74	49,079,538	13,966,175	28.46
1894..	30,696,716	7,210,345	23.49	18,575,693	6,690,951	36.02	49,272,319	13,001,296	26.21
1895..	30,891,868	9,119,920	29.52	21,719,250	6,808,876	31.35	52,611,118	15,928,796	30.28
1896..	33,908,041	9,390,654	27.66	25,222,061	8,031,793	31.84	59,130,132	17,412,447	29.45
1897..	35,170,367	9,787,353	27.83	22,793,033	7,497,349	32.90	57,963,400	17,294,702	29.82
1898..	31,645,151	11,248,443	35.55	20,266,328	7,220,606	35.63	51,911,479	18,469,049	35.58
Total	292,708,726	65,323,225	22.32	175,481,558	69,073,522	39.36	468,190,284	134,396,747	28.70

This is in answer to Mr. Lockwood's statement, as I repeat, that we had bought substantially the whole of the Ohio producing field.¹

Mr. Lockwood's statement, that when the Standard Oil Company buy pipe lines producers have to pay for it two to forty times over² is so ridiculous as no to call for any answer.

In conclusion, gentlemen, it is really difficult to answer seriously a man who indulges in such extravagance of statement as has characterized Mr. Lockwood's testimony. Indeed, it is difficult to believe that he takes himself seriously. We can forgive much in a man in whose veins runs the boiled-down pugnacity of 147 revolutionary sires, but when he ruthlessly attacks judges and courts, and claims that the entire railroad and corporate interests of the country find their chief avocation in the "corrupting of public affairs and the debauching of public men,"³ I think you will agree with me that we must conclude that the "fool killer" has been very remiss in his duty in the vicinity of Zelenople, Pa.

MR. RICE'S CONNECTION WITH CONTEMPT PROCEEDINGS AGAINST THE STANDARD.

In confirmation of the statement which I have made regarding my interrogatories with Mr. Rice, and his overtures to me in connection with his business,⁴ I desire also to read for the information of the commission a transcript from the testimony of Mr. Rice given on cross-examination in the suit of the State of Ohio v. The Buckeye Pipe Line Company, taken on the 20th of February, 1899:

"First. In relation to Rice's connection with the contempt proceeding against the Standard Oil Company of Ohio.

"Q. Mr. Rice, you know that a proceeding for contempt was instituted by the attorney-general of Ohio against the Standard Oil Company?—A. Yes, sir.

"Q. Did you employ counsel in that case?—A. I did.

"Q. Who?—A. W. L. Flagg.

"Q. What other counsel did you employ?—A. Mr. Kinkead.

"Q. He is now acting as special counsel for the attorney-general?—A. Yes, sir.

"Q. How long prior to the commencement of these proceedings in contempt against the Standard Oil Company did you employ Mr. Flagg?—A. Two or three weeks—less than a month.

"Q. Did you employ him to assist the attorney-general in instituting and conducting the proceedings in contempt?—A. I should say that would be most natural.

"Q. Did he come here to Columbus for a consultation with the attorney-general?—A. Yes, sir.

"Q. Did you come with him?—A. I guess I came on before.

"Q. You had your consultation with the attorney-general before he came?—A. Yes, sir.

"Q. You three had consulted together?—A. Yes, sir.

"Q. When did you employ Mr. Kinkead?—A. That was about the same time, not just exactly.

¹ See p. 285 as to holding oil land undeveloped.

² See p. 403. Compare Mr. Phillips, pp. 302.

³ See p. 393, middle.

⁴ See p. 559.

"Q. Was he brought into this conference by you?—A. Yes, sir.

"Q. At that time he was not employed by the State?—A. I do not think he was.

"Q. He was your private counsel?—A. Yes, sir.

MR. RICE'S OFFERS TO MR. ARCHBOLD.

"Cross-examination in relation to Mr. Rice offering to sell his property to Mr. Archbold.

"A. He (Archbold) wanted to know what I would take to go out of the business, and I told him \$250,000 and \$50,000 per year for 5 years; but several years before that he wanted to buy my plant and I offered to sell it for \$25,000 and \$5,000 for 5 years, and before that time I offered to sell it for \$20,000. I have a perfect right to ask what I please for my plant.

* * * * *

"Q. Did you authorize or request Mr. Orvis to have an interview with him (Archbold)?—A. No, sir; not at first.

"Q. Did you at any time?—A. I may have done so.

"Q. Now, coming to the second interview, did you have another interview in June, 1890, with Mr. Archbold, at his office in the Standard Oil building, at 26 Broadway, in New York?—A. I do not recollect.

"Q. Did you then make a similar offer to him?—A. I did not have a second interview with Mr. Archbold.

"Q. Did you at that time authorize Mr. Orvis to make an offer to sell your property for \$500,000?—A. Yes; I guess I did.

"Q. You were to get \$250,000 cash, and \$50,000 for 5 years?—A. I guess so."

"Q. What were you to give to Mr. Archbold for that consideration?—A. I was to sell out my plant and get out of the business.

"Q. Were you to refrain from bringing any further litigation?—A. That was to settle up the whole trouble; I was to do nothing further—have no litigation or anything of that kind."

Q. Have you a general statement to make with reference to the organization of the company?—A. I have a general statement I would like to make.

Q. (By Mr. PHILLIPS.) Just proceed with your statement.—A. I desire to say that this is a much pleasanter task to me than attempting to answer the allegations of the various witnesses. I did not come here, gentlemen, desirous of making this answer, although I am naturally under some feeling with respect to these charges so often and unfairly reiterated against us—to assail anybody harshly—and if I have been led into any expression that seems harsh at any time during the course of my answers I am sorry for it. It is out of the fullness of what I believe to be the correct answer, and a desire to make it as positive as possible, certainly not with any disrespect to this commission. It is a much pleasanter task for me to undertake, gentlemen, to say a word more particularly in defense of the organization with which I have passed almost my entire business life, intimately related with it, and in which I have the most personal pride. Shall I proceed?

Q. (By Mr. PHILLIPS.) Certainly.

LARGE CORPORATIONS A NECESSARY RESULT OF GROWING COMMERCE.

Trusts, or, speaking correctly, large corporations are the necessary—indeed, the irresistible—result of our rapidly growing commerce. In adopting them we are but following the example of that greatest of all commercial nations, England, under whose commercial charters capitalization and scope are practically unlimited. Any legislative restrictions imposed here would operate alone to the benefit of foreign commercial competitors. The claim that such restriction would help the weak and incompetent of our own country as against the strong and aggressive is too puerile to call for serious answer. I speak to-day especially in defense of the aggregation of capital and experience in the petroleum business, on the ground of its absolute necessity, for the successful development and promotion of that business. I am here to defend the Standard Oil Company organization, also, on economic and ethical grounds. Not to indulge in undue length, I will lay down a number of leading propositions in support of my position, which may serve as texts for more extended discussion, if you so desire.

GOOD RESULTS OF THE RISE OF THE STANDARD.

The early years of the petroleum industry were marked by a chaotic and crude condition in all branches of the trade, namely, the production, manufacture,

¹ See Mr. Rice, p. 749; Mr. Page, pp. 785, 786; Mr. Rice's affidavit, pp. 793, 794.

transportation, and marketing; and the average quality of the refined products was inferior and unsatisfactory. The advent of the Standard Oil Company aggregation changed this entirely. It brought to the business ample capital, and combined into effective working shape the best possible talent in all branches of the business. It improved quality and greatly reduced costs. It supplanted old and inferior methods and refineries with the newest and most progressive methods and most perfectly equipped and favorably located refineries. It has been ever on the alert to engage the best obtainable practical and technical talent for the development and improvement of the business in all its branches. It inaugurated new systems of transportation,¹ which not only gave to the producer the most efficient possible service at greatly reduced cost, but a daily continuing cash market for his product on a basis of the best price obtainable in the world's markets. Further, it reached out and occupied the markets of the world for American petroleum. Individual effort could not have accomplished any such herculean task in many times the same period, and, indeed, the efforts of the Standard Oil Company were none too quickly made.² If there had been as prompt and energetic action on the part of the Russian oil industry as was taken by the Standard Oil Company the Russians would have dominated many of the world's markets which have been made to inure so largely to the benefit of the American oil industry. Later in the history of the trade Russia and other oil-producing countries have followed in the footsteps of the Standard Oil Company in the general markets of the world, and I now hand you a statement, partial in character, of the oil companies of Russia, the Dutch East Indies, Galicia, Japan, and other countries, which will give you some faint idea of the menace which even now threatens the American oil industry; and when you reflect, gentlemen, that there has been brought into this country during the past thirty years from the exportation of petroleum and its products nearly \$1,500,000,000 you will appreciate the importance of this subject.

LIST OF CORPORATIONS AND INDIVIDUAL FIRMS PRODUCING AND REFINING PETROLEUM.

Russia.—Production on the Peninsula Apsheron, on the west shore of the Caspian Sea: Nobel Bros., capital 15,000,000 rubles (\$7,500,000), bonds \$3,750,000; Russian Petroleum and Liquid Fuel Company, formerly Tagaieffs, capital £1,200,000 (\$6,000,000); Anglo-Caucasian Company (Rothschilds); European Petroleum Company; Anglo-Russian Petroleum Company, Limited, capital £120,000 (\$600,000); Sheibieff Petroleum Company, capital £750,000 (\$3,750,000); Baku-Russian Oil Company, capital £1,500,000 (\$7,500,000); Mantashoff's property, capital 26,000,000 rubles (\$13,000,000); Société Caspienne (Rothschilds), capital 6,000,000 rubles (\$3,000,000), but money invested much larger; Caspian Oil Producing and Trading Company, capital 2,000,000 rubles (\$1,000,000); Mirzoff Brothers Oil Producing Company, capital 2,140,000 rubles (\$1,070,000); Ropes Refining Company, capital 1,200,000 rubles (\$600,000); Troovianoff, Billsky, Asadoolaeff, Zeitlin & Zirkvich, Caucasian Oil Company, Toomayeff & Co., Kaplan & Lev, Kascheyeff, Lianozeff, Viziereff, Nagieff Moosa, O. Leites, Kvarenstron, Lootch, Zeinaloff & A. Dembot Bros., Hatzasiantz, Pogossoff, Hagan & Zeitlin, Metrofanoff, Beneinson, Egiazaroff, Nedezda, Shagidanoff, Melikoff, Mananoff, L. M. Leites, Sarkiesoff, Chicnaverooff, Adamoff Bros., Sergaieff Bros., and ten other smaller concerns.

Grosni.—Oil territory in northwest from the Caspian Sea oil territory: Grosni Company, of Akhverdoff, capital 1,500,000 rubles (\$750,000); Moscow Oil Producing Company, Grosni, capital 3,000,000 rubles (\$1,500,000); Maximof & Co., Petersburg Petroleum Company; Ronsanofsky; Belgian Company, at Soupsa, near Batoum, Black Sea, capital 575,000 rubles (\$287,500).

Galicia.—Anglo-Austrian Petroleum Company, Limited, capital £125,000 (\$75,000); Mineral Oil Company, Budapest (Rothschilds); Anglo-Galician Oil Company, Limited, capital £560,000 (\$2,800,000); Galician Petroleum Company, capital 1,000,000 florins (\$400,000); and the following oil territories are offered for sale: T. Laszez at Kobylouka, 71 acres; Mad Jodwigo Biechomka, 569 acres; G. Kropiwnsk at Schodnica, 250 acres; Veadomir Podhorodezki, 125 acres; Mad Malwine Szezpanaska, 57 acres; W. Posteuski at Swoboda, 426 acres; Kosimerz Lipinski, 128 acres, and a great many others.

Roumania.—Roumania Oil Syndicate, capital £500,000 (\$2,500,000), bonds \$1,000,000; Roumania Oil Trust, capital £710,000 (\$3,550,000), bonds \$1,250,000; Holland Roumania Petroleum Company, capital 1,000,000 florins (\$400,000); Neth-

¹ Compare, as to pipelines, Mr. Lee, p. 237; Mr. Boyle, p. 489; Mr. Emery, p. 604; as to tank cars, Mr. Boyle, p. 412.

² Compare Mr. Phillips, pp. 600, 602; Mr. Emery, pp. 626, 628.

erlands Roumania Petroleum Company, capital 500,000 florins (\$200,000); Amsterdam Roumania Petroleum Company, capital 1,000,000 florins (\$400,000); Roumania United Oil Company, Limited, capital £720,000 (\$3,600,000), bonds \$600,000; Estate Prince Cantacuzino; Estate Harnia, Campine; Estate Prince Montiosa, Buzen; and many concessions for drilling granted to natives and foreigners.

Borneo, Dutch East Indies.—Netherlands, India Industry and Trading Company, capital 2,000,000 florins (\$800,000), but \$1,750,000 invested; Bolangan Exploring Company, capital 150,000 florins (\$60,000); Kotei Exploring Company, capital 300,000 florins (\$120,000); Martapoera Mining Company; Tarakan Mining Company, capital 240,000 florins (\$96,000); Bombay Burnah Trading Company, British Borneo, capital large.

Sundries in East Indies.—Doda Mining Company, Celebes, capital 125,000 florins (\$50,000); Boela Company, Ceram, Molucca Islands.

British India.—Burmah Oil Company, Limited, Rangoon.

Alsace, Germany.—Pechelbronn Oil Works, capital 3,000,000 marks (\$750,000); Rudolf Biblisheim Company, capital 1,200,000 florins (\$480,000); Gute Hoffnung Company; Alsace Petroleum Company, capital 2,000,000 florins (\$800,000); the Petrolia Company.

Japan.—Mitsumata oil field, Ogidaira oil field, Kitayama oil field, Tatsuno oil field, Yamatera oil field, and Amase oil field are worked by Nippon Petroleum Company, capital unknown; Tokyo Petroleum Company, capital unknown; Osaka Petroleum Company, capital unknown; Echigo Petroleum Company, capital unknown; Oriental Petroleum Company, capital unknown.

Miyagawa oil field, Nagamine oil field, Hirayama oil field, Nita or Samata oil field, Akata oil field, Miyohoyi oil field, Abnaradan oil field, Jabani oil field, Ida oil field, Betsuyama oil field, Koshi oil field, Katsubo, Uruse, Katsurazawa, Tsubakizawa, Mijyaji, Asoda, Mizuana, subdivisions of Koshi oil fields, are partly worked by individuals and the above companies. In addition there are about 20 more oil fields, of which are most prominent as to their production the following: Niitsu oil field, Shiodani oil field, Koguchi oil field, Niigata oil field, worked by individuals and the above companies.

Sumatra.—Royal Dutch Company, capital 5,000,000 florins (\$2,000,000); bonds, (\$1,200,000). Sumatra Palembang Petroleum Company, capital 7,000,000 florins (\$2,800,000); Boissevain Syndicate; Moera Enim Petroleum Company, capital 10,000,000 florins (\$4,000,000); Netherlands India Exploration Company, capital 300,000 florins (\$120,000); Moesi Iir Syndicate; Sumatra Petroleum Company, Limited, capital 2,400,000 florins (\$960,000); Shanghai Langkt. Tobacco Company, \$500,000; W. T. Wisse; Deli Company; Banjoe Asin Exploration Company, capital 120,000 florins (\$48,000); Nagel Concession, Ali Cohen Bengkoelen Concessions, Kessler Concessions (about 5,000,000 acres), Petroleum Company Hiran, capital 1,200,000 florins (\$480,000); Belang Mining Company, capital 140,000 florins (\$56,000); Palembang Exploration Company, capital 250,000 florins (\$100,000); Langsar Petroleum Company (Acheen), capital 800,000 florins (\$320,000), and many millions of acres under concession to private parties.

Java and island of Madoera.—Dordt'sche Petroleum Maatj., capital 15,000,000 florins (\$6,000,000); bonds, \$2,000,000. Rembang Petroleum Company, capital 500,000 florins (\$200,000); Japara Petroleum Company, capital 500,000 florins (\$200,000); Company Insulinde, capital 3,000,000 florins (\$1,200,000); Toan Lok Sourb. Petroleum Company, capital 300,000 florins (\$120,000); Eastern Exploration and Exploiting Company; Tegal Petroleum Company, capital 500,000 florins (\$200,000); Netherlands, The, India Petroleum Company, capital 700,000 florins (\$280,000); Java Petroleum Company, capital 1,000,000 florins (\$400,000); Batavia Japara Petroleum Exploration Company, capital 200,000 florins (\$80,000); East India Exploration Company, capital 300,000 florins (\$120,000); Rotterdamische Petroleum Company, capital 1,500,000 florins (\$600,000); Gabaes Petroleum Company, capital 600,000 florins (\$240,000); Sourabaya Petroleum Company, capital 250,000 florins (\$100,000); Central Java Exploration and Exploitation Company, capital 240,000 florins (\$96,000); Polynesia Petroleum Company, capital 2,400,000 florins (\$960,000); Temajang Rembang Petroleum Company, capital 500,000 florins (\$200,000); Bantjar Development Company, capital 500,000 florins (\$200,000); Madoera Petroleum Exploitation Company, capital 100,000 florins (\$40,000); Archipelago Exploration Company of Amsterdam, and many millions of acres under concession to private parties.

It is true beyond a question that the result to the public of the operations of the Standard Oil Company has been highly beneficial, and not hurtful, as its enemies claim. As has been already stated, it has given the public goods of vastly improved quality at greatly reduced prices.¹ It has, by its effective system of distribution, supplied this most necessary article for domestic consumption promptly

¹ See Mr. Lee, pp. 272, 277; Mr. Monnett, p. 317; Mr. Westgate, pp. 371, 372.

and cheaply to the most remote sections of our country and, indeed, to the world. Beyond all this, however, it has given to the community at large an opportunity for investment in the business itself, which it could never have had under the old system. Thus there are to-day partners in the Standard Oil Company, as shareholders, to the number of fully 8,500, where less than one-twentieth of that number would have been interested as partners under the old system.

NO TROUBLE WITH LABOR.

It has been most beneficial in its effect on labor. There could be no stronger evidence that the labor involved in its vast operations has been well paid and contented than lies in the statement that for more than a quarter of a century, since the Standard Oil Company began its operations, it has scarcely had a serious strike of any kind among any branch of its employees—one or two temporary strikes among some special classes of workmen in sympathy with other labor organizations who were striking, constituting the sole disturbances. Indeed, it is not too much to say that to the loyalty, zeal, and intelligence of its vast army of about 35,000 employees the company is largely indebted for its strength and efficiency.¹

I unhesitatingly express the opinion that, when the history of our time is written, it will appear that the marvelous commercial and industrial evolution which we are experiencing in this great country during the year 1899 marks one of the most important steps of progress in our country's history. It will prove to be of immense value to all classes of our population. The investor, the consumer, and the laborer will all be benefited by it; the investor by the better security which arises through amplitude of capital for the business contemplated, and the combination of talent in the various departments of administration; the consumer, through improved processes resulting in better products at lower prices, and more efficient distribution; the laborer, by steadier employment at better wages, and a better opportunity for improvement in condition, if special talent is shown.

The outcry, gentlemen, against corporations does not come from the great, busy, industrial classes, but from impractical sentimentalists, yellow journals, and political demagogues; from the latter, perhaps, more than any other. It is a veritable attack upon thrift and prosperity. To listen to their voice to the extent of imposing restrictive legislation would mean a frightful step backward in the commercial development of our country.

NATIONAL CORPORATIONS THE NEXT STEP OF PROGRESS.

If you should ask me, gentlemen, what legislation can be imposed to improve the present condition, I answer that the next great, and, to my mind, inevitable step of progress in the direction of our commercial development lies in the direction of national or Federal corporations. If such corporations should be made possible, under such fair restriction and provisions as should rightfully attach to them, any branch of business could be freely entered upon by all comers, and the talk of monopoly would be forever done away with. Our present system of State corporations, almost as varied in their provisions as the number of States, is vexatious alike to the business community and to the authorities of the various States. Such Federal action need not take away from these States their right to taxation or police regulation, but would make it possible for business organizations to know the general terms on which they could conduct their business in the country at large. Lack of uniformity in the laws of various States, as affecting business corporations, is one of the most vexatious features attending the business life of any great corporation to-day, and I suggest for your most careful consideration the thought of a Federal corporation law.

Q. (By Mr. JENKS.) Have you any further statement with reference to the organization of the Standard Oil Company itself?—A. That will be included in the statement Mr. Dodd will submit; or the data regarding the organization, I think, will be in that.

PETROLEUM CONCERNS IN RUSSIA AND ELSEWHERE.

I want to hand you, in connection with this paper, this most interesting statement, which I think, perhaps, is the first general compilation of the information that has ever been made in the country here; almost a surprise to us, who are daily familiar with the oil business, as showing a tremendous growth of the foreign petroleum business. I will only refer by name to the countries in which petroleum is now successfully mined and prepared for market. Capitalization,

¹ See Mr. Lee, pp. 285, 286.

so far as we are able to obtain it, and the names of the companies which, as I think, are substantially accurate, appear on this statement.

Q. (By Mr. SMYTH.) Could you give us anything like the proportion?—A. I have the statement which I think shows the proportion of business done. It will be a little surprise to you to see the enormous capitalization of the business attaching to the Russian development, and I may say in a word of oral explanation that the business there is getting to be in strong hands. When I mention the name of the Rothschilds, that will be a sufficient guaranty as to the strength of the company; and they are growing now enormously in the extension of their business in the various markets of the world.

The Nobel Brothers are there competing for the business with tremendous energy. Recently, perhaps within the past year more than in the aggregate time before, English capital and English corporate organizations have engaged in the petroleum trade in Russia to an enormous extent; the largest concern perhaps being the Shell Company, Sir Samuel Samuels, late lord mayor of London. I hand you this list showing firms in Russia, and this showing list of corporations in Galicia, a further statement from Roumania, one from Borneo, and sundry places in the Dutch East Indies, in British India, in Japan, and in Alsace, Germany. It will probably be an item of information to many of you that the production of petroleum is assuming great proportions in Japan. They are now very rapidly progressing, are coming to the front in improved methods of production, and will ultimately become a formidable competitor to our American industry. The system of petroleum refining in Japan is by corporations and individual firms going out into the different fields and producing and refining. In Sumatra the business has already attained large proportions, and in Java and the island of Madeira.¹

Q. (By Mr. SMYTH.) Is there any American capital represented in these firms?—A. There is no American capital that I know of. But they have sent out and taken from our oil-producing country here many artisans.

Q. (By Mr. A. L. HARRIS.) Then the Standard Oil Company is not represented in any of those corporations?—A. Not in any way.

Q. Not even in the Nobel Brothers?—A. Not a dollar of interest in any way, or relationship or understanding.

Q. (By Mr. SMYTH.) I suppose English capital being interested in Russian refining is one of the causes of attack on the American oil in London?—A. Undoubtedly, but as I said this morning, I think the attack was undoubtedly made by the people directly and largely interested now in the Russian distribution in the different countries. It may be of interest to read a short letter from our foreign exporters:

NEW YORK, September 1, 1899.

J. D. ARCHBOLD, Esq., *Building.*

DEAR SIR: I beg to hand you herewith the statements you desired, in duplicate, and wish to say that the Russian production is on the peninsula of Apsheron, on the west coast of the Caspian Sea, and the Grosni district, northwest from the same.

We estimate the Russian production at present to be about 160,000 barrels per day, and Grosni about 10,000 barrels daily. The Galician production is about 2,000,000 barrels crude, and Roumania 500,000 to 600,000 barrels, per annum, and the Alsace production about 175,000 barrels crude annually. The Dutch East Indies, about 3,400,000 barrels; Burmah, about 2,000,000 cases refined per annum, and Japan will probably amount to about 2,000 barrels crude oil per day.

Of course we give you these figures as near as we can get to them, and where we give you the output of refined we have no reliable figures as to what it may represent in crude.

Yours, truly,

C. F. ACKERMANN.

I have here another statement. This covers the information which you ask as to the percentages of these various countries. It is for the year 1897. Unfortunately we have not the full data at hand with which to give you the 1898 figures. This statement shows the business of all countries of the world producing refined oil. Some little percentage of it, as you will observe, is not the production of our country, but is shown in this way because the country named compels, by its tariff laws, the bringing into that country of the crude petroleum for refining there; but the larger items are the production of this country, as you will observe.

The total production in the world of refined petroleum illuminating oil, for the year 1897, was 39,338,991 barrels, of 50 gallons each, and was divided as follows. I will give the percentages, if you please.

¹ List on pp. 563, 564.

Q. (By Mr. JENKS.) Yes.—A. United States, 64.23; Russia, 23.28; France, 3.25; Austria-Hungary, 2.66; Sumatra, 2.32; and the remainder, Scotland, Canada, Java, Roumania, India, Spain, Mexico, Cuba, Brazil, Germany, Peru, Italy, Japan, and Porto Rico are all fractions of less than 1 per cent, making the grand aggregate of 100 per cent; the great factors, as you will see, for the year, being the United States and Russia; and a rapidly increasing factor, of course, in Austria-Hungary and Sumatra.

World's production of refined illuminating oil, 1897.

Product of—	Barrels of 50 gallons.	Per cent of total.	Product of—	Barrels of 50 gallons.	Per cent of total.
United States	25,268,628	64.23	Mexico	104,287	.27
Russia	9,100,700	23.28	Cuba	58,413	.15
France	1,277,701	3.25	Brazil	35,306	.09
Austria-Hungary	1,046,359	2.66	Germany	34,822	.09
Sumatra	914,000	2.32	Peru	19,193	.05
Scotland	331,857	.84	Italy	15,136	.04
Canada	251,843	.64	Japan	13,689	.03
Java	230,332	.59	Porto Rico	8,236	.02
Roumania	230,000	.59			
India	180,685	.46	Total	39,338,991	100.00
Spain	157,684	.40			

The population of the world is 1,349,140,091; the production of illuminating oil is therefore equal to 1.5 gallons per capita.

Q. (By Mr. CLARK.) Do you suppose there has been an increase since these statistics were given?—A. The business of Russia is increasing rapidly. Here is a further statement of crude oil, the world's production, which may be of interest in looking over in a general way.

World's production of crude petroleum, 1897.

[Barrels of 42 gallons.]

Country.	Barrels.	Per cent of total.	Country.	Barrels.	Per cent of total.
United States.....	60,496,499	47.96	France	70,000	.06
Russia	57,094,303	45.26	Peru	68,452	.05
Austria-Hungary	2,087,617	1.66	Argentina	21,000	.02
Sumatra	1,777,560	1.41	Italy	18,149	.01
Scotland (1896)	1,316,894	1.04	Other countries (esti- mated)	200,000	.16
Canada	809,199	.64			
Java	726,373	.58	Total	126,136,528	100.00
Roumania	570,886	.45	Total production 1896 ..	118,298,631	.....
India (1896)	430,203	.34			
Japan	283,571	.23	Increase	7,837,897	6.6
Germany	165,822	.13			

Crude oil production by States, years 1896, 1897.

[Barrels of 42 gallons.]

States.	1897.		Increase or decrease.	Increase or decrease.	Average value per barrel.	
					1896.	1897.
						<i>Per cent.</i>
Pennsylvania	19,795,779	18,439,180	1,356,599	6.9	\$1.186	\$0.795
New York	738,606	771,606	35,000	4.8	1.179	.796
West Virginia	10,005,906	13,078,011	3,072,045	30.7	1.180	.788
Ohio (Pennsylvania oil) ..	3,365,365	2,877,193	488,172	14.5	1.180	.788
Ohio (Lima oil)	20,575,139	18,682,677	1,892,462	9.2	.739	.620
Indiana	4,046,952	4,110,356	536,596	11.5	.630	.456
Kentucky	1,680	322	1,358	80.8	.550	.500
Tennessee	4,325	4,377	52	1.2		
Missouri	43	19	24	55.8	4.30	9.16
Colorado	361,450	477,499	116,049	32.1	.883	.810
California	1,252,777	1,903,411	650,634	51.9	.990	.900
Kansas	113,571	81,098	32,473	28.6	.450	.400
Wyoming	2,878	3,650	772	30.3	8.00	8.00
Illinois	250	500	250	100	5.00	4.00
Texas	1,450	65,975	64,525		.720	.570
Indian Territory	170	625	455		4.000	3.30
Total ..	60,864,401	60,496,499	367,902		.900	.676
Total value of production, 1896					\$58,518,709	
Total value of production, 1897					40,929,611	
Decrease					17,589,098	

Total production in the United States, 1859 to 1897, inclusive (38 years) 837,494,059 barrels, on the basis of 5.6 cubic feet to 1 barrel of oil. This amount of crude oil would fill a pipe line 6.9 feet in diameter, extending entirely around the earth. It would cover a surface if 10,000 square miles to a depth of 0.3 inches, or fill a reservoir having an area of 1 square mile and a depth of 167 feet.

PETROLEUM EXPORTS FROM THE UNITED STATES, 1861 TO 1898.

Q. (By Mr. FARQUHAR.) Have you furnished the commission to-day with the total exports of the Standard Oil Company, from the first, all over the world out of the United States?—A. I do not think I have submitted any statement. It may be among these statistical reports given that there are such statistics, but I hardly think so. I have for periods given the exports.

Q. (By Mr. JENKS.) Can you furnish the exports year by year?—A. From the day we began.

Value of exports.

Total value of petroleum products exported from United States for the years 1861 to 1871, inclusive, amounted to	\$199,030,333
Value of exports from 1872 to 1898, inclusive (i. e., since the organization of the Standard Oil Company)	1,246,846,381
Value of exports by Standard Oil Company	1,126,401,021
Standard Oil Company, 90.84 per cent of total.	

PRICES UNDER COMPETITION—WOULD NOT ADVISE GOING BELOW COST.

Q. With reference to the effect of the Standard Oil Company on prices, you have made the general assertion that through the influence of the Standard Oil Company, in your judgment, prices of refined oil have been very greatly lessened to the consumers. Is it generally true that the prices at the present time are considerably lower at competitive points than at those where you have little competition?—A. Well, I can not speak with any precision regarding that matter. I have no manner of doubt that, when we are closely pressed with competition at any point, we try to hold our trade. That is a natural law of trade, to which we are, of course, subject.

Q. And your general practice is, if a competitor comes into the market that you have had before, to put down the prices and hold the market?—A. I think,

as a rule, the history of our transactions would be that the competitor forces the fight.

Q. About what proportion of the refined oil of the country do you supply?—A. Well, the grand aggregate is there.

Q. Can you state generally?—A. I should say that of this country it would be, approximately, the same as the whole; that is, about 82; 80 to 82 per cent.

Q. Do you think that an organization that controls 80 per cent of the goods that go into the market will, generally speaking, have the power, within moderate limits, of course, to fix the prices and force their competitors to follow?—A. It might temporarily have such power. If it exercises it unjustly or arbitrarily it would surely lead to its own downfall.

Q. That is, if it attempted to push the prices too high it would call in competition?—A. It would invite competition.

Q. And if there is fierce competition between large institutions, prices cut in any locality—prices will go down how low; to the lowest rates?—A. Personally, I would never advise selling goods at a loss. I expect it is done in some cases. I would not personally advise selling goods at a loss. I think when you get to cost you are low enough.

Q. You would say, then, as regards your own methods of competition, that where the fighting is forced by competitors you do not cut prices below your cost?—A. I hope not when they get to that point, because I would rather keep my works going and labor employed there than to shut down, even at the cost point.

Q. You would not, temporarily, in a special locality, go below the cost point for the sake of freezing out a smaller rival, with the expectation of keeping or getting control of your market?—A. I do not believe I would. There might be a greatly aggravated case where such a thing would seem advisable, but it would be a rare one.

Q. You would not say that your company had never done that at all?—A. I would not say that it was never done it at all—no.

Q. So far as an organization of the size of the Standard Oil Company is concerned, if you put prices down to cost you can afford to hold them there, of course, very much longer than a smaller rival could?—A. I think so.

Q. And I presume you are in the habit of doing that to get rid of a competitor at times?—A. We are in the habit of fighting vigorously to hold our trade and advance it.

Q. To the extent of holding prices down to cost until the rivals give way?—A. Yes.¹

HOPES THE STANDARD GETS PRICES SLIGHTLY ABOVE COMPETITIVE PRICES.

Q. Now, the general result then is this: By virtue of your greater power you are enabled to secure prices that on the whole could be considered steadily somewhat above competitive rates?—A. Well, I hope so. I think we have better merchandizing facilities, better marketing facilities, better distributing facilities, and better talent than a competitor can have.

Q. I am not asking with reference to your power of making profits, but it is with reference to getting the prices from the consumer.—A. Prices are what make the profit. If we had a better average price, we could get a better profit.

Q. You think, generally speaking, that you get prices for oil slightly above competitive prices?—A. Well, I should think so; I could not answer—that is a very general question and very difficult to answer. I could not answer that specifically. I hope that we do.

Q. Of course, in this investigation we are seeing if we can get some general principles on which legislation might be based, and these questions are to bring out, if we can, the power that so great an organization has in fixing prices. Would you say, then, that in the case of an organization that controls perhaps 80 per cent of the markets of the country, there is a monopolistic element that enters in which enables them to hold prices above the regular rate? Is there a monopolistic power that comes merely from the power of capital itself?—A. Undoubtedly, there is an ability, and when that ability, as I have said, is unwisely used, it is sure to bring its own defeat.

Q. If that ability goes to get an exorbitant price, of course it will invite competition, but when that ability is kept within modest limits, would you still say that it was in the power of such an organization to get the benefit of the monopolistic power that comes merely from the power of capital itself?—A. Well, I should say that that would be a very restricted power, a very restricted limit. The competitors in this country are very active.

¹ See Mr. Lee, p. 270; Mr. Monnett, p. 317; Mr. Clark, pp. 331, 337, 340, 350; Mr. Westgate, pp. 366-370.

Q. What?—A. The competitors are very active; they are alert at all points with their small offerings in the hope to find just such a condition as you describe.

Q. Certainly.—A. But, as I say, as business is and as it has been for many years, we could not have that ability to any considerable extent as merchants.

Q. If the ability were operative only to a slight extent, would it still be enough, do you think, to make a difference between what we may call a moderate dividend, say 6 or 7 per cent, and a pretty high dividend of between 15 and 20 per cent?—A. Well, that involves so nice a question that I could hardly undertake to answer it; but generally, as to the effect on the community, I should say—

Q. Generally on the prices in the United States?—A. I should say that the lessened cost incident to doing business in a large volume would more than compensate the consumer for any ability in getting higher prices.

Q. Then that leads to this point, whether the large capital does itself give an organization the power to get a somewhat higher price than it could in the market provided the competitors were substantially equal in power?—A. Oh, it may be so; but that is a difficult question to answer.

BY-PRODUCTS.

Q. In your business has there been any decided increase within the last 10 or 15 years in the by-products that come from the refining of oil?—A. Oh, my, yes; oh, yes. Their utilization has been greatly improved, and the uses of the by-products throughout the world have been enormously increased.

Q. Will you give us a few specific illustrations from your own business?—A. Our leading by-products are the light gasoline and naphtha products, the paraffin product that is used in candle making and kindred uses; lubricating oils for all classes of machinery, as taking the place of the animal and vegetable oils; the vaseline products, and numberless small products that I do not at the moment, perhaps, recall. I have named the leading ones.

Q. Can you say whether it would be possible for these various by-products to be secured to as great an advantage by an organization that had in its control, we will say, only half a million dollars?—A. I don't think it possible for them. I don't think they could undertake the different branches of the business involved in the producing of these various articles to which I have referred with anything like the advantage that we have in a large specialization.¹

Q. That is what you would put down as one prominent advantage that is secured by this large aggregation of capital—the use of the by-products?—A. I do; the use of the by-products. It may be rather surprising to know that the by-products of petroleum now equal substantially in value the illuminating oil itself.

OIL SOLD BELOW COST IN THE FAR EAST—BUT FOR THE BY-PRODUCTS.

Q. If so large an income is secured at the present time from the by-products, would it be possible for you still to make profits, even though the main product of the refined petroleum were sold substantially at cost?—A. Well, we may possibly, yes, secure a profit. It may be. However, we count the profit from the by-products as part of the whole profits in the management of our business; we take it as a whole.

Q. (By Mr. SMYTH.) Which is the larger profit, from the by-products or from the oil?—A. Well, I should say—I do not know which is the larger—from the by-products. In estimating the outcome from a barrel of crude, we consider the whole proposition as to what we get from the by-products and the ruling prices for the illuminating oil, and base our prices as a whole on that. Of course, it is to our interest somewhat, or in special cases, if not to our interest, these gentlemen who are our competitors in the near-by market and do not have to face the problem that we do, more particularly in competition with Russia and in the markets we have reached in the far East, will force us to do the best we can. We have been basing our calculation on the expected output; made the prices for refined oil in competition with them there, which would have given no margin of profit whatever to us here. We have had to do that so as to hold those markets for the general American trade as against the Russian aggression.

Q. If I understand you, you say that in the eastern market you have done it?—A. On a very low basis; I should say at below cost, figuring transportation and the ordinary charges.

Q. And secured your profits from the by-products?—A. Yes; been satisfied with that.

¹ Compare Mr. Lee, p. 269; Mr. Boyle, p. 441; Mr. Emery, p. 627.

GENERAL IMPRESSION THAT THE MARGIN HAS NOT INCREASED IN SIX YEARS.

Q. As regards the home market here, the statement was made by you that the prices had been steadily lower. If we take the margin between crude petroleum and the refined petroleum, we find that for a number of years past this margin does not seem to have lessened very materially in spite of the increased profit that has come from the by-products?—A. There is a basis below which it is not possible to go very much.

Q. How far?—A. I think the experience of our competitors is perhaps the best proof of the fact that with reference to the business as a whole it is pretty close. It has been carried on a pretty fairly close basis.

Q. Would you say that the margin of profit now in the refining industry was no greater, if we take the period of, say, the last 3 years, than it was 8 or 10 years ago?—A. Well, I could not speak from memory as to 8 or 10 years ago.

Q. About 6 years ago, your general impression is—A. That it is not. My general impression is that it is not. I speak of all these matters with some little reservation, from memory. I am just as accurate as I can be from memory. I should not like to be incorrect.

Q. On account of the many assertions which have been made on all sides on this question, I should like to get as close as possible.—A. I will answer you just as well as I can. If I err, I will endeavor to err on the safe side.

BUYING CRUDE IN PENNSYLVANIA—REFINED CHEAPER THAN CRUDE?

Q. The general question has been asked as to the general effect of the Standard Oil Company upon the price that is paid the producer for crude oil. Do you know about what proportion of the Pennsylvania product you purchase?—A. Well, I think the percentage of the business done by us as a whole would be perhaps the best illustration of that.

Q. Can you recall, offhand, the figures?—A. Perhaps our percentage of the Pennsylvania would be less than 82 per cent, because a larger proportion of the competitive business is done in Pennsylvania than in Ohio. I should say in the neighborhood of 80 per cent.

Q. Your purchases in this Pennsylvania field are made through your pipe line. Have you a general purchasing agent?—A. Not through the pipe line.

Q. It is through your general purchasing agent?—A. Mr. Joseph Seep, of Oil City.

Q. The prices that Mr. Seep there gives are fixed by you?—A. Well, they are suggested, as a rule, by us.

Q. He is your general purchasing agent, and there are various subagents there?—A. Yes.

Q. Do you recollect about how many?—A. I should say forty or fifty.

Q. The prices are fixed for it generally, as you say, from your office. As covering the principles on which those prices are fixed, a circular Mr. Seep issued some time ago was produced here, stating that the prices that he would pay would be fixed, in general, by the world's markets.¹ The implication would be that the prices would not vary probably very frequently or very violently. Has it been true, generally, that prices have kept stable for the crude oil of Pennsylvania?—A. Well, the prices have varied somewhat during the past several years, according as the outlook was for the production, and as the demand was. It could not be better stated by me than the circular states it. We have before us daily the best information obtainable from all the world's markets, as to what the offerings are, and as to what it is possible to sell for; and we make from that the very best possible consensus of prices, and that is our basis for arriving at the current price.

Q. Generally speaking, are the relative prices of the crude oil and the refined oil kept substantially uniform?—A. We know all about it every day, of course.

Q. And is the relation kept substantially uniform?—A. Oh, substantially so. Of course, it is not always the same. Of course, it seems possible sometimes to get a higher price, and we are glad to avail ourselves of the opportunity; and sometimes we have to take a closer margin and still buy the crude, and there, of course, we suffer a loss.²

Q. Statements have been made here by some of the witnesses to the effect that there have been times when refined oil at the seaboard was selling lower than the crude.³—A. I should say that is a very exceptional case. I do not recall.

Q. Can you suggest any circumstances where that would be the condition of affairs?—A. I do not recall any such period. The answer is already given by me that, in competing with the Russians at certain times for certain markets, we have made prices for refined that were as low as the crude products and have

¹ See p. 436.² See tables, pp. 437-439.³ See Mr. Lee, p. 270.

taken our returns on the profits from the by-products; but they have been very exceptional cases, and it is not the case to-day; it does not at all exist to-day.

REASONS FOR DISMANTLING REFINERIES.

Q. You have at times purchased the plants of your competitors and dismantled them? Instances of that kind have occurred?—A. Oh, my, yes.

Q. Will you state the business conditions which, in your judgment, justified that?—A. I endeavored to do that as directly as possible in my general argument.

Q. Will you sum it up again?—A. It is this, that we have at times bought refineries with the expectation of succeeding to the volume of business done by them. We have universally replaced the capacity of these refineries by better ones and better equipped construction at more favorable points. We would not buy refineries and dismantle them for the pleasure of doing it. We have done it because of a carefully considered business proposition, that being in the direction of economy in the business.

Q. I will call your attention to the case of some refineries that were bought up at Titusville. Perhaps you can explain somewhat in detail those cases.—A. They were no exceptions to the rule. We had opportunities to utilize some of that property quite advantageously as small refineries. I think one of them was taken to Porto Rico. One was taken to Kansas, where it was put in after the new production; and one to Porto Rico, where we were compelled by the tariff laws to refine.

Q. (By Mr. SMYTH.) Is the production equal to the demand?—A. Oh, always vastly in excess of it; vastly in excess of it.

Q. (By Mr. JENKS.) You made the statement that the dismantling of the plants at different times had not lessened your output.—A. Oh, no. Of course there has been at all times an excess of capacity as compared with the demand. The capacity of the refineries is never run full—on very rare occasions—I should say, never. And the sole purpose in the abandoning of any plant would be to conduct the business at a point where it might be more economically done.

Q. Incidentally, in connection with that, it might be a more convenient way of holding your market in the locality where competition would figure?—A. Precisely.

Q. That would enter as one factor?—A. That would enter as one factor; yes.

NOT THE STANDARD'S POLICY TO MAKE PRICES SPECIALLY HIGH AFTER THEY HAVE BEEN CUT SPECIALLY LOW.

Q. The assertion is frequently made—I do not recollect whether it has been made on the stand—that in certain localities where you are compelled, in order to keep the control of your trade, to put prices down for a time until a rival withdraws from business, prices are afterwards put up above what they were before in order to recoup the losses incurred?—A. There is no such policy in that business.

Q. You have no such policy?—A. We have no such policy. It is possible that, in the zeal and anxiety to serve of some overzealous servant, such a case might occur. If so, and if it was known, it would not be approved.

Q. That is not your policy?—A. No; that is not our policy. We fully realize that if we survive with our business we must treat the public very fairly.

THE STANDARD DOES 75 PER CENT OF THE CANADIAN REFINING—NO RAILROAD DISCRIMINATIONS IN CANADA.

Q. Statements have been made several times of late in the papers with reference to special discriminations in freight rates that have been secured by the Standard Oil Company in Canada. It is said that they affect very unfavorably other American refineries.—A. I am not familiar with it all. I know there have been such agitations in the newspapers, but I have considered it as one of the usual class of such agitations. I will gladly inquire about it, if you wish, and see what information I can secure about it. I do not know of any discriminations in our favor; that is, any rates to the exclusion of other shippers of like character at all. Mr. Rogers says Mr. Harris asked a question in that direction, as to our being interested in the refining business in Canada. I did not hear him.

Q. Will you please tell us about your interest in the Canadian business?—A. We are interested in the Canadian refining business and are doing our best in the business there to get it on a fairly profitable basis. It has been very much disorganized there for some time, and we have come into relationship there with that in the past year or so.

Q. How large a proportion of the Canadian refining interest do you control?—
A. I think about 75 per cent; about 75 per cent.¹

Q. Have you of late, to your knowledge, made any contracts with the Canadian Pacific and the Grand Trunk with reference to advancing rates from Buffalo and Toledo?—A. Well, sir, I have not any personal specific knowledge about the matter; I will gladly inquire about it.

Q. Will you look it up and send us a reply?—A. I will.

Q. You will get full information on that subject?—A. I will. The advance in rates on American oil from Buffalo and Detroit was made by the Canadian roads in their own interests and is in no way discriminatory in favor of the Standard Oil Company, but rather to the contrary, for that company pays these advanced rates in full and ships over 75 per cent of the American oil consumed in Canada.

DOES NOT KNOW OF ANY RECENT CHANGES IN FREIGHT RATES.

Q. Aside from the question of special rates or special favors by the railroads, the statement has been made that at times you have been enabled to influence the railroads to put rates over certain lines so high that it would work to the disadvantage of competitors who had to use those lines more than you did. For example, Mr. Westgate testified that in shipping oil into Canada he had found himself at a disadvantage on account of this increase in rate of which I have spoken and of which you say you have no knowledge, and that in attempting to ship to Canada by another route, through the State of New York, he found that rates from his refinery to the northern part of New York State were very much above the rates that might be considered normal there, judging by the rates on other goods. For example, he found that on other goods the general freight rates to those places in northern New York were Boston rates; but on oil they were special rates. He felt that he was put at a disadvantage on account of the location of his refinery, and that the Standard Oil Company had succeeded in influencing the railroads there to make those special rates to the disadvantage of their competitors.² What would you say on that general question?—A. I do not know.

Q. The matter would be entirely within the law, of course?—A. I don't know of any such condition at all. I have no knowledge of the rates—the tariff rates on petroleum—having been changed in New York State or any place else for a long period. I don't know that to be so. It is within the bounds of possibility, but I should be disposed to doubt it exceedingly.

Q. You would be likely to know in detail with reference to the arrangement of freight rates?—A. In New York State?

Q. In New York State and in Rhode Island.—A. I think I would. I can make inquiry about it. I would say, with reference to the question of coming into relationship with the Canadian refining interest, the question of rates was considered in connection with the refining, but, as I say, I don't know of any rates that are not open to all comers.

Q. That is not the question. Competitors say that rates over one line have worked to their peculiar disadvantage and not to yours?—A. I don't know of any such condition. I would say that it would be to the interest of the Canadian roads naturally to encourage business in their own territory. I don't know about that at all as to any preferential condition with us.

REPORTS ON COMPETITORS' BUSINESS NOT SECURED BY IMPROPER OR QUESTIONABLE METHODS.

Q. In the testimony of Senator Davis a statement of this kind was made: That a man in his employ had been approached by a Standard Oil official and offered pay regularly if he would inform the Standard Oil Company with reference to their shipments.³ Does the company under any circumstances get information from the employees or officials of their competitors?—A. The company does nothing of the kind. If any such case occurred—and it might as an exceptionally rare case on the part of an overzealous employee, who, in his anxiety to know about his competition, might do a foolish thing—it is not approved by the company. When Mr. Davis or Mr. Westgate or anybody else says that we in New York get down to our offices to get our reports early in the morning from the spies we have out, it is utterly untrue. We do nothing of the kind. We are not figuring on Mr. Westgate's or Mr. Davis's business; we are figuring on our own business.

Q. Do you make the general statement that no reports are secured from your

¹ See Mr. Gall, p. 673; Mr. Page, p. 788.

² See pp. 373-379. Compare also the testimony of Mr. Gall.

³ See p. 356. Also Mr. Monnett, p. 316.

agents with reference to the business of competitors?—A. I don't say that. I should say there would naturally be reports, such reports as they could rightfully secure; but that they should secure them by improper or questionable methods of any kind would not be approved by any member of the Standard Oil Company; and I would be only too thankful to have any such case brought to our attention.¹

STANDARD OIL TRUST DISSOLVED, BUT THE AGGREGATION HAS WORKED AS
HARMONIOUSLY AS BEFORE.

Q. You have said that the general information with reference to the organization of the company would be furnished in the answer to the schedules of inquiries that were given you. But there are some matters that would not be covered in that, particularly. From Attorney-General Monnett's testimony,² the different forms of organization of the Standard Oil Company are brought out somewhat. You had earlier the trust organization; afterward the trust was dissolved. I believe, and you had a different form of organization. Will you sketch briefly the changes in organization that the Standard Oil Company has gone through since the dissolution of the trust?—A. Would it not be vastly preferable to have that in such succinct shape as Mr. Dodd would furnish it?

Q. That is not covered directly in the schedule?—A. I think it would be so much more intelligently stated from the records than I could give it from memory in an oral statement, and I would like very much if you would await that.

Q. I think it possible that some of the commissioners would like to base some questions on your statement, and then we shall have that for record from Mr. Dodd.—A. Well, briefly stated, the Standard Oil Trust, as such, existed from the year 1882 to 1892; formed in 1882 and dissolved in 1892. In 1892, at the time of the dissolution, the majority of the stocks of the various companies concerned or involved in the Standard Oil Trust were distributed to the equitable owners, and that distribution has gone on steadily until this time in the hands of liquidating trustees.

Q. Nevertheless, since that time the different Standard Oil companies have worked together in harmony, have they not?—A. The ownership has naturally brought them into harmony of action; the like ownership, of course.

Q. The general way in which the control has been kept uniform has been this, that the men who were the former trustees have held the majority of stock in each one of these different companies?—A. Exactly so.

Q. So that the Standard Oil combination, as we may say, has worked together as harmoniously since the dissolution of the trust as before?—A. It is hardly fair to call it a combination, but you might call it an aggregation.

Q. An aggregation?—A. An aggregation.

Q. But as a matter of fact it has worked as harmoniously as before?—A. Yes.

THE AMOUNT OF TRUST CERTIFICATES OUTSTANDING IS SMALL.

Q. Will you explain also briefly—because that was dwelt on also at length by Attorney-General Monnett—the method of distributing the profits to the stockholders under the trust and since?—A. Under the trust the profits, of course, were centralized into the hands of the trustees and distributed ratably.

Q. Distributed to the certificate holders?—A. Since then the dividends have gone directly to the owners of the shares of the various companies. They have kept the same in one case as in the other, of course.

Q. (By Mr. PHILLIPS.) Have they been paid on the original Standard Trust certificates?—A. To the extent that those remained out, they have.

Q. Is there a very large per cent of them remaining out?—A. Not very large.

Q. (By Mr. JENKS.) Do you recollect what per cent?—A. I could not state; it is becoming very small.³

Q. (By Mr. PHILLIPS.) The market quotations are based on the original trust certificates?—A. I supposed the quotations were based in New York on stock.

Q. (By Mr. JENKS.) Will you repeat your answer?—A. Well, it covers some equitable ownership, as it was.

Q. (By Mr. PHILLIPS.) It is largely distributed now?—A. Largely distributed now.

Q. On the original trust certificates?—A. No; oh, no; not largely, but to a very small extent only.

Q. And was for quite a time after the dissolution?—A. Yes; but it is very rapidly being extinguished.

¹ Compare Mr. Clark, p. 335, 341; Mr. Westgate, 306-308; Mr. Emery, pp. 614, 615; Mr. Gall, p. 684.

² See pp. 299-307.

³ See Mr. Monnett, pp. 303, 306, 315.

Q. When the Standard is quoted in the neighborhood of \$500,000,000, or \$490 a share, do we understand that to be the quotation on the original Standard?—A. On what was represented by the original Standard.

Q. On what was represented by the original Standard?—A. By the original Standard Trust.

TRUST CERTIFICATES EXCHANGEABLE FOR STOCK OF THE NEW JERSEY CORPORATION REPRESENTING SUBSTANTIALLY THE SAME INTERESTS.

Q. When a purchaser buys on the market 100 shares or 50 shares of what is nominally the Standard Trust certificates and takes it to the company to transfer, what do you give in the place of that? If I should buy 100 shares of Standard Trust certificates and take it to you—A. You would be entitled to receive a share or an equitable interest in the various companies composing the Trust.

Q. What form is that now in when it is transferred?—A. It may, if it is so desired, be in the form of a certificate of stock in the various companies.

Q. They take it in that way when they purchase, transfer, or sell?—A. They do.

Q. Do they take it in a divided form, or do they give them a certificate representative of these aggregations?—A. What is the question? What he would be entitled to? What he would be entitled to would be his interest in the business of the various constituent companies.

Q. Yes; and what form of paper do you give for that in the way of a certificate? If I buy 100 shares on the market at, say, 490 or 480 or 500, and take that for transfer, or if a man dies and it is sold and transferred to some other person, what kind of a certificate do you give that person; will it represent all these aggregations?—A. We give him, if he so desire—we could not at all reissue a certificate of the Standard Oil Trust; we won't issue any new certificate of the Standard Oil Trust, that being in final liquidation—we would give him his stock in the various companies, or, as some of us are now doing, holding our stock through the New Jersey corporation, he would hold his interest in that way. We would give him a certificate in that representing substantially the same interests.

Q. Have you such transfers being made?

Q. (By Mr. SMYTH.) Have you got yours in the new stock?—A. Oh, to a small extent.

Q. (By Mr. FARQUHAR.) The question is whether the general Standard Oil certificate of stock is on the Stock Exchange of New York?—A. None on the Stock Exchange.

Q. Not at all?—A. No.

Q. Then you take up the eight subdivisions?—A. How many—seven or eight.

Q. And the New Jersey company?—A. And the New Jersey company.

Q. And the stock that is so quoted in the New York market is what?—A. It is the remaining fraction of the Standard Trust.

Q. Of the old Trust?—A. Yes. Although, I think, to a very limited extent, the stock of the New Jersey corporation, which substantially represents all, would be also quoted.

THE MANAGERS OF THE STANDARD HAVE NOT SPECULATED IN ITS STOCK.

Q. (By Mr. FARQUHAR.) The stock that is usually seen quoted in the New York market is what we might call little dribbles of stock?—A. That is it.

Q. Ends of estates and stock that has come from the division of property into their hands; in other words, the Standard stock is not in the market, in the general sense of the term, as a dealing stock?—A. No, sir; the listing of it on the Stock Exchange is carefully avoided, and they have never endeavored to make it a speculative affair at all.

Q. Have you never, of your knowledge, at any time, known when your stockholders and your directors or officers or others have dealt in those stocks?—A. Oh, I think to a limited extent there have been some transactions on the part of the officers in the stock, usually in the way of adding to their interest, perhaps, as opportunity has occurred. I think I have myself. I must myself plead guilty to the charge of having bought 100 shares and then resold them again within the past 10 years. I think that represents my entire stock transactions in 10 years.

Q. Are not usually the stock transactions confined to the officers and the present shareholders of the Standard properties?—A. There are a large number of shareholders—3,500.

Q. These are simply figures. It is the main fact that we want. The stock of the Standard Oil, the great properties, is not stock that is usually put into the New York market or any other market, but is property that is confined within a

circumscribed number—say, 40 or 50 people—who are the main great owners and managers?—A. Undoubtedly, the majority is held within as limited a number as that.

Q. Have you at any time in the history of your company ever sought to make a profit through your stock?—A. Oh, dear; no, sir.

Q. At any time?—A. Only in the promotion of the business, in the improvement of the stock as a whole, but not as a speculative thing in the stock itself. As I say, I have within the past 10 years personally bought and sold 100 shares. That shows the extent of my operations.

Q. (By Mr. JENKS.) Will a list of the dividends that have been declared on the stock, the value of it, and so on, be furnished in answers to the schedule?—A. Undoubtedly.

Q. Those answers have been made?—A. So far as I know; Mr. Dodd has the matter in charge, if that was called for.

THE STANDARD OIL COMPANY OF NEW JERSEY.

Q. Now, will you take a moment to explain the organization of this new New Jersey corporation out of the others?—A. It is simply that a New Jersey corporation, with a capital of \$100,000,000 of common stock and \$10,000,000 of preferred stock, is formed that shall be competent to own the stocks of these different corporations, to buy from all parties who own stock as they may desire to sell.

Q. It is expected that these other corporations will practically throw their stock into that?—A. Not the corporations; the individuals owning the stock.

Q. (By Mr. PHILLIPS.) Then would it not be a case of a hundred-million company absorbing a five-hundred-million stock? What would they give them in value for it?—A. It is substantially the same value that was represented in this Standard Trust ownership; substantially the same value, whether it is one hundred, two hundred, three hundred, or four hundred.

Q. This new stock would be put out at three or four hundred per cent premium?—A. No; there is no new stock being put out.

Q. (By Mr. SMYTH.) The capital is to be one hundred millions?—A. That is it.

Q. And it is simply a reissue under the New Jersey charter?—A. It has nothing to do with the issue; there is no new capital sold at all.

Q. Simply a reissuing of the present stock to the present stockholders under another name and another charter?

Q. (By Mr. PHILLIPS.) Necessarily carrying the same value?—A. In other words, the trust being dissolved and the parties in it receiving their equitable shares in the various companies, bring them and sell them to the Standard Oil Company, of New Jersey.

PREMIUMS ON CRUDE OIL MEAN USUALLY QUALITY; SOMETIMES COMPETITION.

Q. (By Mr. JENKS.) Will you explain to us briefly the system of premiums on crude oil in the districts where the crude oil is purchased?—A. In the producing districts?

Q. In the producing districts.—A. The premiums are usually the result of the question of value in the different parts of the district. I will not say that in some cases they have not been lower somewhat, caused by competition; where we have had private facilities in certain districts to take care of the oil, and other people have come in and tried to take it away from us, in some cases we may have paid more than we would like to pay. I can not say; perhaps that is so; but, as a rule, in the special case of the Franklin oil and the case of the Lima oil and Scio oil, that is not it. It centers entirely on the question of value.

Q. I infer from what you say that at times, in order to dispose of competitors, the premiums have been kept on till the competitors have been bought out and have been dropped afterwards?—A. As I said, when our business has been attacked we have endeavored to protect it.

Q. (By Mr. PHILLIPS.) I am somewhat familiar with the pipe-line business in the oil fields. Take our district, where an independent line went in a short distance from Oil City; a premium was put on that oil, and no one claimed that that oil was more valuable than Oil Creek oil or other oil. It was not put on there on account of the value of the oil.—A. As I have already said, that may be a case in point; where we have found, after providing these special facilities, which have no value for any other purpose, that our business was attacked by a newcomer, we have, of course, endeavored to protect it.

Q. You put on a premium on the oil which the Standard purchased after the American—you will remember that they built a line through to Philadelphia

and established refineries there, and it became quite valuable. Now you put on a premium both in Butler County and in Washington County, those very large fields at that time, did you not?—A. We undoubtedly did.

Q. It was taken off when you purchased, was it not?—A. Undoubtedly, and we would do the same thing again. We could not do less and be in the business.

Q. And you do not do that as a mode of discrimination?—A. We do not; we do that as a matter of self-protection.

Q. And when you think you can do it in a legal way you do it, whereas you can not give a rebate?¹—A. That is it, precisely.

Q. Now, there is a pipe line in the Scio field in Ohio, and there is an independent line there,² and there is a premium existing there?—A. There is, but it is a question of quality. The Scio oil is of very superior quality. We could not pay a premium for it with the light business that is being done were it not for the quality.

Q. But in the case I have referred to in Butler County and Washington County that was not a question of value, but of competition?—A. It was competition, unquestionably. There were very strong competitors, and we were there to fight them, of course.³

THE STANDARD'S STOCK IN INDEPENDENT COMPANIES.

Q. (By Mr. JENKS.) Several times in the course of the investigation statements have been made with reference to the very decided interest that the Standard Oil Company has taken in the Producers' Oil Company, Limited. Statements have been made as to their buying stock in that company and attempting to get control of it. Will you give your version of that?—A. We bought some stock in the Producers' Oil Company, Limited. We bought some stock also in the United States Pipe Line.⁴

Q. About what proportion of the stock did you buy?—A. Well, I could not state from memory—a fractional interest in the United States Pipe Line and a larger part in the Producers' Oil Company.

Q. A majority of the stock in the Producers?—A. No, no; I should say considerably less than a majority.

Q. At any time?—A. That is, in the Producers' Oil Company, Limited?

Q. Yes.—A. To the Producers' Oil Company, Limited, we found such difficulty in the way of admission—

Q. (By Mr. PHILLIPS.) I always understood that it was a little over half, and I want to be corrected by Senator Lee if that is wrong.—A. Senator Lee, I think, is mistaken, as well as yourself. We never owned more than one-half. The gentleman who bought ours, pending the ownership decision, did own a little more than half; we never did.

Q. It was under your control, and you worked in harmony?—A. It was until we sold it.

Q. You worked in harmony with the other person?—A. We generally work in harmony with him.

Q. You would in the management, if there had been a change?—A. If there had been a change we should have hoped for a better relationship, but it did not come. We bought that stock and were so opposed in the exercise of ownership that we sold it. We sold it in good faith, and the courts have upheld the ownership of Colonel Carter; that has been finally upheld in a most remarkable adjudication. The court held that he was the beneficiary, but because of some by-law on the books of the corporation he could have no voice in it whatever. We have no interest in it whatever, not even a dollar's worth. Our ownership in the United States Pipe Line was bought at a time when we thought that the business ought to become profitable. It was bought as an investment and with a view to having such knowledge as we could have rightfully through such ownership, as we should acquire in the progress of the affair. There is nothing covered about it. Our ownership was contested by the gentlemen in charge of the property, and the courts have passed upon it, upholding our ownership, our right to own, and giving us our place and recognition on the board, and we have never done a thing to hurt the business of the company. We have been greatly pained that the results from it have not been more profitable, and we do not understand why they have not been. We think that one of these days, if that iniquitous voting trust is ever dissolved, the shareholders will awake to a feeling that somebody else than those who have managed it could do something for it.

Q. (By Mr. PHILLIPS.) Did not all the shareholders agree to the voting trust?—

¹ See pp. 479, 562.

² See p. 581.

³ See Mr. Lockwood, pp. 394, 395; Mr. Boyle, p. 475; Mr. Monnett, p. 321; Mr. Rogers, p. 582.

⁴ Compare Mr. Phillips, pp. 552, 550; Mr. Lee, p. 270; Mr. Westgate, pp. 370, 382; Mr. Emery, p. 456.

A. You got all of them to agree to it, but there have been some that want to get out of it mighty bad.

Q. Then you did control, through Colonel Carter, in the Producers' Oil Company, Limited, a little over half the stock? That was carried up to the supreme court. It was organized, a partnership, limited, in which the law itself requires the person to be admitted by consent of a majority of interest and stock in order to vote, and the by-laws recognized the same thing. The supreme court decided that purchase would not make your party a partner in that concern any more than, if I should buy a partner out in the dry-goods business, I could force myself in. The law was gotten up for that special purpose, as it is understood in Pennsylvania, the same as the English law, was it not?—A. I must correct you very positively, once and for all, when you say that we are controlling through Colonel Carter. We have nothing whatever to do with Colonel Carter. The purchase made by Colonel Carter of the stock that we owned was made in good faith, and he owns it entirely. He can give it away or tear it up without raising any question with us or anybody that I know of. The question of the decision of the law I am not here to criticise. I am not criticising judges or courts. But the law was a very queer one, that a man should be adjudged by the court the equitable owner of a majority of the stock, and then it should be ruled that because of some by-law of which he had not been cognizant, passed by the company, he could be kept out of any voice in the company. That is a very queer law, whether in New York or Pennsylvania, or anywhere else.

Q. Did Colonel Carter buy that stock of his own instance?—A. He did buy it of his own instance.¹

Q. And without any consultation or agreement with the Standard Oil Company?—A. He was in a contention regarding the matter of his individual ownership, and he became enlisted in it and bought our stock, as I say, in the negotiation, the same as you, or I, or anybody else would buy it. We were glad to get out of it.

Q. You had purchased a large amount of stock?—A. We had purchased a large amount, and we sold it.

SUSPECTS FREIGHT DISCRIMINATIONS AGAINST THE STANDARD.

Q. (By Mr. JENKS.) You have stated emphatically several times that you have received no discriminating favors from railroads at all since the passage of the interstate-commerce law. The statement is frequently made that railroads are making discriminating rates on freights of different kinds at different times. Have you, in your own business, met with opposition of that kind, or have you had reason to believe that your competitors were receiving special favors against you?—A. Well, I would rather not go into that question. I do not feel that I am prepared to go into it. That we have strong suspicions on that line is true enough, but I am not here to make charges against other people. I am not here prepared to do it. There might arise exigencies in the course of the testimony where it would seem necessary for us to look up the records; and if so, I shall be glad to do it.

Q. You have no evidence to give on that subject?—A. I have nothing to present to-day on that subject.

FAVORS PUBLICITY OF ACCOUNTS UNDER A NATIONAL CORPORATION LAW.

Q. You made a suggestion near the close of your direct testimony with reference to legislation. Would you consider it advantageous to the country as a whole to have greater publicity regarding the business of all of the great corporations that now exist? For example, with reference to the amounts of stock that are represented by plant, the amounts represented by patents, by good will, the amounts that are water, and so on. In other words, would you consider it an advantageous thing for the country to have substantially the English corporation law apply in this country?—A. If it could be put into Federal hands, yes.

Q. Into Federal hands?—A. Into Federal hands; yes, by all means.

Q. And you would favor, then, the publicity of accounts, the making of reports to the Federal Government quite in detail?—A. Oh, unquestionably.

Q. Somewhat the same system as is applied to our national banks?—A. Unquestionably.

Q. You would favor any law of that kind?—A. I certainly would.

MARKET PRICE OF STANDARD STOCK.

(By Mr. PHILLIPS.) Will you state what the highest price is that the Standard Oil Company's stock has reached on the market?—A. I think the present is about the highest price.

¹ See p. 550.

Q. What is the last quotation?—A. I think 460 or 465.

Q. That would represent \$460,000,000 or \$465,000,000?—A. If it could all be sold at that price.

Q. Do you object to stating the amount of dividends you have been paying?—A. That is to go in the statement asked for.

(By Mr. JENKS.) I have furnished to Mr. Archbold one of the schedules prepared by the commission, and that is to be filled out and returned in 10 days.

NO REBATES ON OIL OF OTHER COMPANIES—NO COMPELLING REFINERS TO SELL TO THE STANDARD.

Q. (By Mr. RATCHFORD.) Has your company received any rebates on the transportation of oil of other companies?—A. It has not.¹

Q. What have you to say as to the charge, so generally made against your company, particularly, I believe, in the Western States, to the effect that small producers and refiners are forced to sell their product to the Standard Oil Company? That is a phase of the question which, I believe, has not been touched upon to-day.—A. I think we have gone into it very fully.

Q. What have you to say with reference to the charges, so generally made, to the effect that smaller concerns, individual producers and refiners, are forced to sell their product to the Standard Oil Company? This is a charge that is made in Colorado, and I want to give you an opportunity to deny if it is untrue.—A. It is untrue; there is no such compulsion of any kind, either with reference to the producers or refiners. In fact, we buy very little of the product of the small refiner—next to nothing.

Q. Your company has made no agreement with reference to such small concerns?—A. No.

Q. Did the paper you have submitted in evidence here to-day state that certain other companies have received rates of transportation from certain points cheaper than your company have ever received?—A. I stated only the one case in connection with transportation of oils furnished by the Central Railroad of New Jersey to the United States Pipe Line. I furnished a statement on that.²

Q. (By Mr. KENNEDY.) There was testimony in Colorado to the effect that a distributing company there took all the products of the two refineries of the Colorado field, and Senator Hill, of Colorado, who owns one of these refineries, testified that the distributing company, or merchandising company, which bought all of this refined product, was the Western concern of the Standard Oil Company.—A. They may do so, but it is entirely a voluntary act on the part of the company refining the oil. There is certainly no compulsion about it.

Q. You said they do not buy?—A. We do not here at the East—the Standard Oil Company. I did not have in mind the question of a possible purchase in Colorado of the local production; that might be so.

Q. (By Mr. RATCHFORD.) Is there not such a thing as cutting the prices on that distributing company and forcing them, through business reasons, to dispose of their product to your company?—A. I do not know how we could do so. It might prove they were incompetent buyers.

Q. They hold otherwise.—A. Their relation to the company—the distributing company—although I am not familiar with it, must be voluntary; certainly no compulsion about it.

AMERICA NOT IN THE MARKETS OF THE WORLD, BUT FOR THE STANDARD.

Q. (By Mr. SMYTH.) Do we understand from your testimony that you claim the Standard Oil Company has been of vast benefit to the oil industry in the United States and abroad?—A. I believe that it has been of vast benefit to the country.

Q. Do you believe it has been a benefit to the American people?—A. To the American people and the American producer of oil. I believe firmly that America would not have been in the markets of the world if it had not been for the Standard Oil Company.

OBSERVED THE STRICT LETTER OF THE LAW.

*

Q. Do you state, since the passage of the interstate-commerce law, in 1887, your company has not received rebates of any kind from the transportation companies?—A. I think we have observed the strict letter of the law in all that pertains to interstate transportation.³

¹ See pp. 556-559; Mr. Rice, pp. 706-709.

² See pp. 528, 530.

³ See p. 528, bottom.

CAUSES OF THE STANDARD'S PROSPERITY.

Q. Yet, since that period your company has prospered more than ever before?—
A. Yes.

Q. How do you account for that?—A. One of the contributing features, in my mind, is the greater stability that has attached to the trade since the passage of the law: the extension of business, growth of business, and better utilization of by-products, and all that; but very largely the stability of business incident to the stability of rates through the interstate-commerce law.

Q. I suppose the Standard buys the best that is to be had?—A. They are on the lookout for the best.

Q. And probably their success is due to their nerve and ability and money?—A. It is, undoubtedly, and to the further fact, which I must repeat, that we treat the trade fairly. We realize fully that no business can have any permanent success that is not carried on on honest principles, and you will not find customers of ours complaining of our treatment.

A NATIONAL CORPORATION LAW.

Q. (By Mr. CLARKE.) You have stated that you would favor the formation of national corporations. Would you have the capital of these corporations limited by law or by a national commissioner of corporations, or would you have it unlimited?—A. I would have it unlimited, but would put upon its issue such restrictions as to value involved as would fairly protect the community; I mean the general public.

Q. You would have these national corporations subject to the supervision of a commission or some other Government authority?—A. Undoubtedly, as is the case under the English corporation law.

Q. Do you not think one of the greatest evils of State corporations is the lack of supervision?—A. The lack of supervision, and the entire lack of uniformity as between the States.

Q. Do you think the formation of national corporations would overcome most of the objections that are now raised to combinations commonly called trusts?—A. I do. I believe it would do away with the talk of monopoly, make every business free to all comers, within the law and under the provisions as made.

Q. (By Mr. KENNEDY.) Favoring national charters and national supervision as you say, would you go to the extent of favoring inspection of the books and affairs of each concern, as the national banks are inspected by Government officials?—A. I have not made a study of the subject so as to make a statement in detail as to what the supervision and restriction should be. I should say that is a question that ought to be very carefully considered before expression is made, and I could hardly answer it to-day. On general principles, I favor all fair supervision and making of statements that would enlighten the public.

ADVANTAGE OF A GREAT AGGREGATION.

Q. (By Mr. FARQUHAR.) Is it not a fact that, since you control the products of petroleum in this country, when you acquire, by purchase or through the agency of your own men, the formula of a better oil and a better way possibly of producing oil, you can beat all competitors by the fact that you can put it into effect in every single one of your plants? Has not that been one of the great reasons of your success in carrying your oil under a Standard title all over this country, and accepted as a standard wherever sold?—A. Undoubtedly.

Q. An advantage that a smaller concern, independent or otherwise, can never obtain because they can simply work a formula within themselves, whereas you can put it in the hands of fifty or sixty?—A. That is entirely correct. That is one of the great causes of the success of our business, and comes from combination alike of capital and talent.

Q. (By Mr. PHILLIPS.) Have you any further or supplementary statement to make, Mr. Archbold?—A. Nothing.

Testimony closed.

WASHINGTON, D. C., September 9, 1899.

TESTIMONY OF HENRY H. ROGERS,

President of the National Transit Company.

The commission met at 10.30 a. m., Vice-Chairman Phillips presiding. Mr. Henry H. Rogers appeared and, after being duly sworn, testified as to the oil industry.

Q. (By Mr. JENKS.) You may state your name and residence.—A. Henry H. Rogers, New York City.

THE WITNESS'S CONNECTION WITH THE STANDARD OIL COMPANY.

Q. What connection have you with the Standard Oil Company, the Standard interests?—A. I am president of the National Transit Company.

Q. Are you connected with the Standard Oil Company of New Jersey?—A. I am one of the vice-presidents of the Standard Oil Company of New Jersey.

Q. Your position is such that you would be entirely familiar with the questions discussed in Mr. Archbold's testimony?—A. I think mainly so.

Q. You heard the testimony yesterday. Do you agree substantially with all that was said?—A. I do.

REASONABLENESS OF PIPE-LINE CHARGES OF THE STANDARD.

Q. You have been familiar with the pipe lines, their charges, etc., for several years?—A. I have.

Q. About how long is it since the charges on the pipe lines were lowered to 20 cents?—A. I think, as Mr. Archbold testified, it was about twenty years ago.

Q. Can you give us any explanation as to why it is that the pipe-line charges have remained substantially the same for twenty years, whereas the charges of railways and prices in general have decreased very decidedly?—A. You will understand the pipe-line charges of 20 cents are what are termed "gathering charges"—that is to say, the oil is taken from the wells of the producer and delivered to the stations of the pipe line and the tanks. Wherever the oil is found we run a line to it. We are frequently called upon to run a line 15 or 20 miles. We never object; we make no extra charge for that. In some instances we pump oil but a very short distance to the tanks, and in some instances we pump it 15 or 25 miles, so that we consider it an average charge, really, rather than an arbitrary charge.¹

Q. (By Mr. FARQUHAR.) You mean not an average but an equalizing charge?—A. An equalizing charge, if you please to term it so.

Q. (By Mr. SMYTH.) Based on the circumstances of the producers in the same field?—A. Yes; and because the producer, if he is a patron of our line, is at liberty to feel that no matter where he finds oil in the vicinity of the pipe line—it may be 15 or 20 miles away; but if he is a patron and has a producing well of paying size, we will spend the money and run the line to him and take care of his oil.

COMPETING PIPE LINES.

Q. Is there any competition in the pipe-line business?—A. Yes.

Q. What is the competition?—A. The competition in the Butler field is with the Producers and Refiners' Pipe Line. The competition in the Ohio field is with the Manhattan Oil Company, and in the Indiana field with the Cudahy Company.

Q. (By Mr. PHILLIPS.) Is there any competition in the Scio field in Ohio?—A. There is a trifling competition. The production in that field is about 6,000 barrels a day, and the run of the outside lines is probably between 400 and 500 barrels a day.

Q. (By Mr. JENKS.) These competing pipe lines run into the same territory, so that they might equally well take the product?—A. If they had the capacity to handle it.

Q. So far as the location is concerned?—A. So far as the location goes.

Q. Are the prices of these independent pipe lines in Pennsylvania the same as yours?—A. I do not know. I have hearsay evidence, but that is all.

¹ Compare pp. 588, 589; Mr. Lee, pp. 280, 284; Mr. Davis, p. 352; Mr. Phillips, p. 594; Mr. Emery, p. 666.

PREMIUM ON OIL IN VARIOUS FIELDS.

Q. (By Mr. PHILLIPS.) Have you any premium on oil in any competing field except the Scio field?—A. Yes.

Q. What other fields—the Tiona and Franklin field?—A. The Tiona—the Franklin field is a lubricating-oil field. The oil is superior to the ordinary petroleum.

Q. And the oil in the Tiona field is also superior, as it is generally understood?—A. Yes.

Q. Now, the Scio is a newer field. Do you understand that to be somewhat superior?—A. It is.

Q. Mr. Archbold testified yesterday that you had applied premiums on oil in fields where there was no special difference in the quality of the oil, as, for instance, in Butler and Allegheny and Washington counties, when there was competition there.¹ Do you understand that to be substantially correct?—A. I understand Mr. Archbold's statement to be absolutely correct.

A PREMIUM IS NOT A REBATE.

Q. He testified that you put these premiums on, but did not give a rebate.² I would like you to explain to the commission the difference between putting a premium of 10, 15, or 20 cents per barrel on oil and granting a reduction in transportation prices on it. Would it not in effect be the same?—A. First I would like to say that as I understand Mr. Archbold he did not testify that we had been the first to put the premium on the oil; that it had been brought about by competition. I do not think the money that goes into the pocket of the producer as an advanced price could be classed as a rebate, because he loses interest in the oil as soon as it goes into the pipe line. The pipe-line charges are paid by the man who transports the oil for refining, the exporter.

Q. Did not all who shipped in these fields get an advantage over other producers in other fields the same as if it was a rebate? Is it not another name for the same thing?—A. No; not nearly so, as I have explained. The producer loses interest in the oil from the instant when he delivers it to the pipe line. If he gets a premium on the oil, the producer is benefited by it. He has surrendered it to the man who owns it after it goes into the pipe line, for refining or for sale to foreign markets, for export. The producer has no interest in the oil after he parts with it at the well.

Q. Could he get a larger price for it if there was a larger price on that oil?—A. I could not answer such a hypothetical question as that.

NO PREMIUMS AT PRESENT EXCEPT FOR SUPERIOR QUALITY.

Q. (By Mr. SMYTH.) Do we understand, then, in the instances of fields where you say there is a premium, that it is due to the superior quality of the oil?—A. It is.

(By Mr. PHILLIPS.) At the present time?—A. Yes.

(By Mr. SMYTH.) I understand there is no premium now except in two cases where the oil is of superior quality?—A. There are three points.

Q. And at these points there is a premium?—A. There is a difference in the price of oil in Ohio. There are two fields in Ohio, the North Lima and the South Lima. The oil of the North Lima field is more valuable than that of the South Lima field, and there is a difference in price of 5 cents.

Q. That difference goes to the producer?—A. Yes.

DISCRIMINATING FREIGHT RATES IN CANADA.

Q. (By Mr. JENKS.) We received some information yesterday with reference to the interests of the Standard Oil Company in Canada; it was said you had some refining interests there. About what proportion of the refining in the Canadian fields do you do?—A. I am not familiar enough with that branch of the business to answer. Mr. Archbold, I think, will furnish that.

Q. Have you any information as to an advance of rates from Buffalo and Toledo through to Montreal or other Canadian points in the latter part of 1898 or first part of 1899?—A. I never heard of it.

Q. You did not hear that any complaint was made by Canadian oil dealers to the railroad committee of the Canadian Parliament with reference to discriminating rates on the part of the Canadian Pacific and Grand Trunk?—A. I heard something about it, but am not posted as to details.³

¹ See pp. 578, 577. Also Mr. Boyle, pp. 475, 476.

² See p. 577. See also p. 476.

³ Compare Mr. Archbold, pp. 572, 573; Mr. Westgate, p. 378; Mr. Gall, pp. 675-677.

THE DISSOLUTION OF THE TRUST—FRACTIONAL SHARES RECEIVE NO DIVIDENDS.

Q. When the Standard Oil Trust was dissolved, in what form did the certificate holders receive their claims on the various companies that had been combined in the Standard Oil Trust?—A. In what form of certificate?

Q. Yes.—A. First, I think, they had to surrender their trust certificates, and receive a certificate that gave them equitable ownership in these constituent companies, and then that certificate was exchanged for actual stock in the company.

Q. There were some twenty constituent companies?—A. Yes.

Q. In the case of a holder of two or three shares of stock, would he receive fractional shares in each one of these companies?—A. Yes.

Q. Did these fractional shares receive their dividends the same as others?—A. No.

Q. In that case, if a person had held less than twenty shares of the trust certificates he would not receive dividends from the different companies?—A. No; I believe it is for legal reasons.

Q. Does that mean that these holders of trust certificates, who have only fractional shares in these various companies, have not received any dividends since the trust was dissolved?—A. That is as I understand it.

Q. Is that a reason why the trust certificates have been surrendered so slowly on the part of many?—A. I could not answer that; I do not know.¹

AMOUNT OF OIL THAT THE PIPES HOLD—AMOUNT OF CREDIT BALANCES AND CERTIFICATES.

Q. (By Mr. PHILLIPS). About how much oil does it require to fill the pipe liner of the National Transit system in the Pennsylvania and Virginia field?—A. I never figured it. I can give you that information if you will give me twenty or thirty days' time; it is a mathematical calculation.

Q. One witness estimated the amount sufficient to fill the lines as about 4,000,000 barrels?—A. The amount of residuum in the bottom of the tanks is published every month by the National Transit Company. That is a matter of public record and can be had.

Q. About how much oil has recently been standing out in the shape of credit balances and certificates at the end of each month?—A. I can not answer, but we can furnish that from the monthly statements published in the office; that information is given to our Oil City and New York offices every month and published in the Oil City Derrick. Do I understand you would like to have it for a period, Professor Jenks?

Q. (By Mr. JENKS). Yes.—A. You are welcome to it.

Credit balances in National Transit Company.

[In barrels of crude oil of 42 gallons each.]

Time.	Barrels.	Time.	Barrels.
June 30, 1889	3,217,749.16	December 31, 1894 .	1,644,255.13
December 31, 1889	3,160,156.81	June 30, 1895	783,592.96
June 30, 1890	3,794,873.84	December 31, 1895 .	1,809,325.78
December 31, 1890	2,758,654.30	June 30, 1896	3,275,075.49
June 30, 1891	5,408,170.38	December 31, 1896 .	4,215,060.28
December 31, 1891	3,201,351.34	June 30, 1897	5,413,417.10
June 30, 1892	5,987,819.53	December 31, 1897 .	4,523,054.39
December 31, 1892	5,532,079.21	June 30, 1898	4,450,703.02
June 30, 1893	4,340,713.15	December 31, 1898 .	3,322,997.28
December 31, 1893	2,705,563.20	June 30, 1899	4,910,451.22
June 30, 1894	2,453,417.82	September 30, 1899	5,349,302.54

As to the capacity of the lines, that would be a very difficult thing to say. We probably have 85,000 miles of pipe, or more, scattered all over the country, 2 inches, 2½, 3, 4, 5, 6, and 8 inches in diameter. Now, to figure out just how many miles there are of each and how much oil it would take to fill it is a great mathematical problem.

Q. (By Mr. PHILLIPS). We only want an approximation. You could probably tell within four or five hundred thousand barrels.—A. We could do that, certainly.

¹ See p. 587. Compare Mr. Archbold, p. 574-576; Mr. Monnett, p. 307.

[Estimate supplied later: The estimated amount of what is known as Pennsylvania crude oil in pipes of 5 inches in diameter and over of the National Transit Company and connecting pipe lines, as of 7 o'clock a. m., October 1, 1899, in barrels of 42 gallons each, is 535,528 barrels.]

RELATIONS OF VARIOUS "INDEPENDENT" COMPANIES TO EACH OTHER AND TO THE STANDARD.

Q. (By Mr. SMYTH.) There was a matter mentioned yesterday that several of the commissioners did not thoroughly understand. That was in reference to the pipe lines in which the Standard Oil Company owned a half interest; I think it was in Pennsylvania.¹—A. The Oil Producers' Company, was it not?

Q. No; I understand the Standard Oil Company owned a half-interest and sold it to Colonel Carter, but under some decision of the courts of Pennsylvania he is not allowed to control or manage that company. We wanted to ask who owns the minority shares.—A. I only know from rumor; rumor is that Mr. Phillips and his friends—

Q. The Pure Oil Company?—A. Not the Pure Oil Company. The Pure Oil Company is a company, you understand, that contemplates the ownership of the Oil Producers' Company, the Producers and Refiners' Pipe Line, the United States Pipe Line Company, and numerous refineries in the oil regions and one or more at the seaboard. In practice, it would prove to be a repetition of the Standard Trust—a very wise thing to do, I concede.

Q. These individuals that own a minority of the stock, according to the testimony, really control the management of the company?—A. It would seem so.

Q. (By Mr. RATCHFORD.) Are they an organization?—A. I think an organization under the Pennsylvania law.

Q. (By Mr. SMYTH.) What is the name of that pipeline?—A. The United States Pipe Line is one and the Producers and Refiners' Pipe Line is another.

Q. Does this ownership that the Standard Oil Company sold cover both companies?—A. The Producers' Company, as I understand it, own and control an interest in the Producers Oil Company, Limited, and the Producers and Refiners' Pipe Line Company. The answer to Mr. Smyth's question is, as I understand, that the Producers' Oil Company own and control an interest in the Producers and Refiners' Pipe Line, which line gathers oil in Butler and adjoining counties, and the Producers and Refiners'.

Q. This company was the United States?—A. The Oil Producers' Company, Limited.

Q. And the minority of stock, you think, is held by individuals?—A. I think so, but I do not know.

Q. You state the Standard Oil Company has no interest in it?—A. None whatever.

MR. CARTER'S STOCK, AND HOW HE GOT IT.

Q. (By Mr. FARQUHAR.) Was it conceded in the opinion of the court that Carter did positively own a majority of the stock?—A. I so understood it.

Q. You could not positively give testimony as to that?—A. Only mere hearsay.

Q. (By Mr. PHILLIPS.) Was not Mr. Carter furnished the money to buy that stock by a trust company in New York?—A. That I do not know; I think not.

Q. And he was introduced to that company by a member of the Standard Oil Company?—A. What was the name of the company?

Q. I do not remember the name.—A. He may have been introduced to the company; I could not answer for the moment. I suppose if Mr. Carter or Mr. Phillips came to me I would feel perfectly free to introduce them.

Q. (By Mr. SMYTH.) It is not an unusual thing?—A. Not an unusual thing to borrow money.

Q. (By Mr. PHILLIPS.) Did we not understand Mr. Archbold yesterday to state that the Standard Oil Company, or the trust, or the United Pipe Line, controlled a majority of this stock at one time that was sought to be voted by Colonel Carter?²—A. He testified, I think, that the Standard Oil Company did not ever own any of the stock, but the parties in said—

Q. But the affiliated companies under the control of the Standard Oil Company did?—A. It seems to be a question of memory between Mr. Lee, Mr. Archbold, and me as to whether Carter owned a majority of the stock or we owned a majority of the stock before his purchase.

¹ See p. 580.

² See p. 577.

Q. Can these facts be fully ascertained by the proceedings and hearings in New York?—A. There were no proceedings brought there.

Q. I am not certain whether it was brought there or not, but I so understood it. There were some proceedings and some testimony taken in New York.—A. I never heard of it. I would like to say that Colonel Carter did commence an action in Pennsylvania, and the court decided that he was a bona fide owner of the stock and ought to be allowed to vote it, but under the rules or by-laws he could not do it.

Q. And that was carried to the Supreme Court and affirmed?—A. I could not testify to that; I know nothing about it.¹

Q. (By Mr. RATCHFORD.) I was going to follow my previous question with a second one, but others were interjected. This organization (and I would like to have you mention the name of it) is it an organization under the law of the State of Pennsylvania?—A. Which company do you refer to?

Q. The company to which you refer as "Mr. Phillips's friends," the oil producers, the Pure Oil Company.—A. The Pure Oil Company is an organization under the laws of the State of New Jersey.

A GENERAL FEDERAL INCORPORATION LAW IS DESIRABLE—ITS ADVANTAGES.

Q. (By Mr. CLARKE.) Are you acquainted with the antistock-watering laws of Massachusetts?—A. I am not.

Q. You favor Mr. Archbold's suggestion about conducting such large interests as you are now carrying on under a national corporation?—A. Most certainly, and I would like to explain. I think the English law, as referred to yesterday, is most desirable in its operation, and is most encouraging to capital and protecting to labor and to everybody interested.

Q. Would you be willing, in case there should be a general corporation law of the United States which seemed to be fair and equitable, to organize under that law and transfer or abandon your organizations under the State laws?—A. Most assuredly.

Q. You would favor publication of records and a supervision of stock issued by Federal authority?—A. Certainly.

Q. (By Mr. A. L. HARRIS.) I should like to ask Mr. Rogers whether he has investigated that question from the legal standpoint, to know whether it can be done under the present Federal Constitution?—A. I should judge, from all I have heard, that it can not.

Q. (By Mr. KENNEDY.) You would be in favor, then, of amending the Constitution so that it can be done?—A. I believe, if we are going to be the greatest commercial nation in the world, that the Constitution ought to be amended so that Federal charters can be granted on some such plan as the English.

Q. (By Mr. FARQUHAR.) Has not the United States already granted a charter in the matter of the Nicaragua Canal?—A. I understand special charters have been granted by the Federal Government under the old constitution; but to make such a change as is contemplated here it should be applied to no particular corporation, but should be general and should cover everything.

Q. You would rather have a general provision that they could incorporate under, without special authority of Congress?—A. I would practically use the same machinery in the Federal Government that is now used by the several States.

Q. As a business man, would you state the advantages that you see in these Federal corporations as to commerce and the public generally?—A. The advantage would be, in my judgment, the power to do business in the several States under the Federal law, subject only to such laws of the States as pertain to taxes and the police regulations that govern in our States.

Q. And that supreme regulation and supervision should be vested in the Federal authority?—A. Yes; so far as legislation is concerned it could rest with the Federal Government very largely.

Q. Also, I suppose, that would lessen litigation in respect to corporations?—A. I think so, decidedly.

Q. Is not that one of the features the Standard people would naturally propose as an amendment to the Constitution?—A. We are rather case-hardened. We are getting along in years, but we think the new and younger industries would be benefited very materially.

OVERCAPITALIZATION REGULATES ITSELF—GOOD WILL MUST BE ALLOWED FOR.

Q. Now, as to this question of overcapitalization?—A. That always regulates itself.

¹ Compare the testimony of Mr. Lee, p. 270; Mr. Phillips, pp. 589, 590.

Q. Do you take it now that the organization of these companies in New Jersey, with the enormous capitalization that some of them have and of which a large part, in a good many instances, is watered stock, is detrimental to business generally and ultimately amounts to swindling?—A. Of course, there may be a large amount of watered stock of that kind, and undoubtedly many of them could be reproduced for less money than is put into them; but we must not forget that in the organization of great businesses a great deal of time, labor, and money has been spent that can not be accounted for. Take a newspaper in New York City; it has a large circulation; its plant could probably be reproduced for a hundred thousand dollars; it would sell readily for \$1,000,000. Now, a certain amount of allowance for good will must necessarily go with any business. It is practically the same as the case of a lawyer. A man with years of experience and standing in the law very naturally receives larger fees than the younger man who has just taken his diploma.

Q. Is there only one thing covered by overcapitalization—that is, good will?—A. That is generally the thing. There may be another; that is patents.

Q. Would good will enter into the issue of bonds?—A. I should not say it would enter into the issue of bonds, because the party would probably examine the papers to see that there was absolutely enough property on which to rest his security.

Q. If a man is making a mortgage trust on it, do you suppose the good will would enter into that?—A. Not at all.

Q. So the foundation of your public security ought to rest, for the benefit of the public and the safety of the public, on intrinsic value instead of fictitious good will?—A. Certainly, on the underlying security.

SPECULATION CAN NOT BE REGULATED—WE SHOULD HAVE FEDERAL CHARTERS.

Q. Do you not think that in the enlargement of these great combinations in this country, the whisky trust and others, the great harm has come from issuing stock, as in England, and hoodwinking the public?—A. No doubt a good deal of that has been done, and many of these industries have gone to the wall for lack of management. You can not regulate speculation as long as it is born in us to gamble, and there happens to be a Wall street and a Lombard street. There is no law that compels a man to go into Wall street to speculate, and experience has shown that it is a dangerous place. I think we should say to the public, "Here is this property. You can investigate it if you want to, and if you are satisfied with the security you can put your money into it, and if you are not satisfied with the security don't put the money in."

Q. Do you think it is right for any State like New Jersey to incorporate these companies?—A. We can not very well discriminate.

Q. Do you think it is comity between the States that there should be such an open law as in New Jersey, and such a close law as in New York?—A. I think it would be decidedly better if all could agree upon something sensible and reasonable in that respect. Of course the laws of New Jersey have recently been followed by Delaware in liberality, and all the bad will naturally go to New Jersey and Delaware for incorporation. I think a Federal charter would do away with that evil.

Q. Remedy all these evils?—A. I do.

IS THE "GOOD WILL" OF A NEWSPAPER COMPARABLE WITH THAT OF AN ORDINARY BUSINESS?

Q. (By Mr. JENKS.) With regard to your illustration of a newspaper as an example of the value of good will in an enterprise, is it a fair parallel for ordinary business corporations? Is it not true that newspaper success depends upon the individual capacity of one man rather more than does the ordinary corporation?—A. I know very little of the newspaper business, but I know this: in a business way it is largely successful through the amount of enterprise put into it by the head of the newspaper, the standard of excellence, and capable people. The good will of the paper is established by reason of its money-earning capacity, and that might be true of a corporation.

Q. To the same extent?—A. That would depend on circumstances, amount of capitalization and amount of business. You can give the illustration of a valuable patent.

Q. That is exceptional also.—A. Yet at the same time it is monopolistic.

Q. That is it. The point of the question is this: In the case of a patent we have a monopolistic element capitalized; in the case of a newspaper we have the individual talent of the manager, influential to a greater extent than in ordinary cor-

porations. That might be capitalized.—A. Still men come and go, but newspapers continue and their value increases.

Q. Sometimes it decreases very rapidly when the head man goes?—A. I refer to the New York papers.

OVERCAPITALIZATION SETTLES ITSELF BY DEPRECIATION OF STOCK.

Q. (By Mr. KENNEDY.) You said that overcapitalization in combinations settles itself finally. Will you state how in your opinion that is done?—A. If the corporation is overcapitalized and unable to pay dividends on its capitalization, its stock will depreciate in value. Investors first look for the security and then at the amount they get for their money. They will take a little gamble on the overcapitalized company if it will pay them. They will invest in stock that sells at 75 and pays 6 to 8. They will take chances rather than put it away in their pockets.

Q. (By Mr. SMYTH.) You stated that you thought the question of good will ought not to enter into the valuation on which bonds should be issued; but do you not think that in the capitalization of a large industry or combination the question of good will enters into the value of the stock?—A. I do.

THE ATTITUDE OF NEWSPAPERS TOWARD THE STANDARD AND ITS OPPONENTS.

Q. It was stated by Mr. Boyle in his testimony that, of his knowledge, in Pittsburgh numerous articles attacking the Standard Oil Company were published from time to time gratuitously as communications, but that the replies of the Standard Oil Company, when made, always had to be paid for, even if published in the local or news column. Can you give us any information about that?—A. I do not think we have undertaken to answer these anonymous communications very much. I know of one case where I, at one time, undertook to get in a little communication in reply and I received a bill of \$12. I paid it.

Q. The Standard receives no favors from the papers in general in the way of defending them or publishing their communications?—A. I think the papers publish a good many things prejudicial to the Standard Oil Company, perhaps through ignorance about it. We are so busy we do not have time to think much about it, but I think the newspapers mean to be generally pretty fair. Undoubtedly they would open their columns freely if we cared to talk, but talk is so cheap we prefer to keep sawing wood. We have not had our side of the case fairly presented, perhaps.¹

THE STANDARD WILL DO WHATEVER IS FAIR FOR THE HOLDERS OF FRACTIONAL SHARES.

Q. (By Mr. JENKS.) You said some time ago that the holders of the fractional shares in the constituent companies that formerly composed the Standard Oil Trust did not receive dividends. Will you explain that a little more clearly? Does that mean, as has been intimated here on the stand,² that the holders of these fractional shares lost every opportunity of receiving any returns from these shares?—A. I think that is a legal question that I can not go into. I think the fractional shares we have issued have had as a denominator about 975,000, and the numerator would range—I could not say where, but it was very small, so that the participating interest was so trifling that it would be impossible to pay a dividend.

Q. In this reorganization that has lately been made by the New Jersey corporation is there to be an opportunity for the holders of these fractional shares to get their stock back in such a form that they can receive dividends?—A. Whatever is fair we will do. We will treat everybody fairly, and if there is anybody here that has anything of that kind I would like to confirm it now, and perhaps Mr. Archbold will indorse it.

THE CHARTER OF THE NATIONAL TRANSIT COMPANY.

Q. (By Mr. PHILLIPS.) What is the capital stock of the National Transit Company?—A. I think \$25,000,000.

Q. What kind of charter has it? By whom was it granted? Was it a special charter?—A. I think it was a charter granted by the State of Pennsylvania a good many years ago and termed a special charter. It was granted to a company of another name, but by due process in the Pennsylvania legislature we received this

¹ Compare Mr. Monnett, pp. 812, 821; Mr. Lockwood, p. 399; Mr. Boyle, pp. 404, 487.

² See p. 307. Compare p. 668.

special charter. Of course, after the constitutional convention in the State of Pennsylvania, held 20 years ago, no special charters were granted; so we have an advantage in that charter. Practically it is the same charter that the Pennsylvania Company has that is owned by the Pennsylvania Railroad, under which, in turn, the Pennsylvania Company owns the stocks of the lines west of Pittsburg.¹

Q. The charter is very liberal in its terms, is it not?—A. Yes; I think it is.

Q. What did the National Transit Company pay for that charter?—A. As I was not an officer or connected with it, I could not tell you.

Q. Do you not know there was a very considerable sum of money paid for that charter?—A. I should suppose every good thing had to be paid for; I should say a man who owned a charter of that kind would sell it at the best price he could get.

THE WITNESS DOES NOT KNOW THE COST OF GATHERING OIL.

Q. There was a question asked you about the expense of gathering oil, and you illustrated by pipe lines going out a long distance to take care of oil. You have no special knowledge in regard to what the cost would be in the gathering of this oil. Have you any idea of the profit in gathering this oil at 20 cents a barrel?—A. I could not answer that; but I could probably say and be confirmed by you that we are not in business for our health, but are out for the dollars; what that profit is I could not say.

Q. The charge is the same as it was when the transit company was first organized, notwithstanding the cheapening of everything and the new means of doing business? In your opinion it has cost 6 or 8 cents to do this?—A. I do not know.

Q. What is your charge for carrying oil to the seaboard?—A. Forty-five cents to New York.

Q. Was it not testified to by one of the members of your company, or an employee of the company, that the cost did not exceed 7 cents, or about 7 cents?—A. I never heard of such testimony.

Q. Well, have you an idea about what the cost is?—A. I do not think anybody knows. I do not know.²

Q. It is not a difficult matter to determine after a pipe line is established. I supposed that almost any member of the company would know, approximately, what the cost was, and I think it was a fair question.—A. Oh, no; of course it is not difficult—but you must let me say that there are a great many things I do not know.³

PIPES ARE TAKEN UP AND RELAID.

Q. (By Mr. SMYTH). The cost of laying pipe lines to-day would be immensely greater than it would have been one or two years ago, would it not?—A. I think the advance is as much as 100 per cent in some material.

Q. In the cost of pipe material?—A. Yes.

Q. Now, if a pipe line is abandoned on account of the giving out of the oil, of course, a pipe line in that locality is of no earthly use or value?—A. There is a certain amount of salvage; it can be taken up and used elsewhere. If the oil business were to die out, then the value or amount of the salvage would be very trifling; but so far as material is concerned it can be used a second time. It has a certain value.

Q. Do you ever take up pipe lines and transplant them?—A. We change from one field to another. We utilize our old material when we can.

Q. That, of course, is a great expense?—A. There is a great expense involved in doing it—labor chiefly.

THE CHARGE FOR PIPING DOES NOT AFFECT THE PRODUCER—TWENTY CENTS IS VERY REASONABLE.

Q. You do not think, then, that 20 cents a barrel, being the uniform price, is excessive?—A. I consider it very reasonable.

Q. Has there been any demand on the part of the producers to reduce that charge?—A. I think there have been demands of the producers: I think it has been pretty clearly established now that it does not matter to the producers what the pipe line charges are; it is the man that buys oil from the producers.

Q. The oil is generally bought from the producer at his well, practically?—A. Practically at his well. The receipts are given there for it by the pipe line, and the receipt is a merchantable receipt.

¹ See the testimony of Mr. Emery, pp. 607-609, 619-622.

² For the National Transit Company's contract to furnish the through transportation, exclusive of gathering, for 6 cents, see pp. 665, 666. For the same company's contract, possibly implying that the cost of gathering is about 5 cents, see p. 734, footnote.

³ Compare the testimony of Mr. Lee, p. 284; Mr. Phillips, p. 594; Mr. Emery, pp. 666, 667.

Q. In your opinion, the standard or average price per barrel for transporting this oil through pipe lines, regardless of cost, is best for all producers of oil?—A. We think so, because of the varying character of the business, the new fields that are constantly getting on, the decline of the oil, and the wearing out of the pipes, or rather their lack of usefulness.

Q. (By Mr. FARQUHAR.) How does 20 cents a barrel in pipe lines compare in cheapness with any other class of transportation—railroad, wagon, or otherwise?—A. Oh, it is so infinitely cheaper that it can not be compared.

Q. (By Mr. SMYTH.) What is the greatest distance you carry oil at 20 cents a barrel?—A. I do not think I can answer that specifically.

Q. Well, approximately?—A. Approximately, I think we carry 25 miles or 30 miles.

COMPETING LINES COVER ONLY LOCAL FIELDS—CIRCUMSTANCES OF THE BUSINESS

Q. That is cheaper than the railroad companies deliver?—A. Why, certainly. May I explain a little and say our affiliated interests, so to speak, of the pipe lines gather the oil in Ohio, Indiana, West Virginia, Pennsylvania, and New York? All competing lines gather in some small local field, as for instance, the Producers and Refiners' lines. It has occurred to me—I have heard that their charge was 15 cents a barrel for refiners, but they only gather within short distances. I do not know what they are. I will say that we are willing to run a line 15 or 20 miles, and do it for the patrons of our line at times. I do not know whether they do that or not; I do not think they do, because I think they are in a confined district.

Q. I suppose you investigate a well very thoroughly before running out 15, 20, or 25 miles?—A. Naturally we look into the business.

Q. But at the same time there is a certain amount of risk as to the perpetuity of the well?—A. Yes.

Q. All that risk you assume?—A. We do.

Q. (By Mr. FARQUHAR.) Is the only salvage the pipe, when you abandon a well?—A. That is all.

Q. (By Mr. SMYTH.) You have to buy the right of way generally?—A. Sometimes—we always expect to pay for it. It is worth having and worth paying for.

Testimony closed.

WASHINGTON, D. C., *September 9, 1899.*

TESTIMONY OF MR. THOMAS W. PHILLIPS.

At a meeting of the commission, Saturday, September 9, 1899, Mr. A. L. Harris presiding, Mr. Thomas W. Phillips appeared before the commission at 11.15 a. m., and, after being duly sworn, testified concerning trusts.

Mr. A. L. HARRIS. I have been called to the chair at the instance of the vice-chairman, in order that he may give some testimony as a witness to the commission. Mr. Phillips desires to make a statement in his own way.

PERSONAL STATEMENT—THE PURE OIL COMPANY; ITS VOTING TRUST.

The WITNESS. I desire to refer to the statement which two witnesses have made before the commission that I am connected with a trust. They assume that I am here, as a member of this commission, opposing trusts, thus giving the impression that I have prejudged the case. This is what they imply in alleging that I am connected with a trust.

I am free to state that I am connected with a corporate organization the object of which is to combine several interests in the same company, namely, the Pure Oil Company, organized under the laws of New Jersey. A fraction over one-half of the stock of this company is in a voting trust. The sole duty of the trustees is to act with the other stockholders in electing directors. The trustees have no right to manage the business affairs of the company. The stockholders have consented in writing to this voting trust. The reasons for creating it are as follows:

PRODUCERS' OIL COMPANY, LIMITED; ATTEMPT OF THE STANDARD OIL COMPANY TO CONTROL IT.¹

A very large number of the independent producers in the oil country organized a number of years ago what is known as the Producers' Protective Association.²

¹ Compare Mr. Lee, p. 270; Mr. Westgate, pp. 370, 382; Mr. Archbold, pp. 577, 578; Mr. Emery, p. 657.

² See Mr. Boyle, pp. 428, 429, 441-446, 449.

I was the first president of that organization. As a means of protection the Producers' Oil Company, Limited, was formed in June, 1891, with a capital of \$600,000. Shortly after the formation of this company the Standard Oil Trust, through one of its affiliated companies, the National Transit Company, commenced to buy stock in this company and continued to do so until it had accumulated a small per cent over half the stock. It paid in some instances as high as 220, or 120 per cent above par, and this at a time when the company had not yet earned any money, but had, in fact, lost money. The members of the Standard Oil Company say that they afterwards sold this stock; but before the time when they claim to have parted with it they turned it over to Mr. Carter, to whom they allege they afterwards sold it, and he attempted to vote it at an important meeting of the company as his own and secure control. This was in March, 1894. He returned it to the National Transit Company after his fraudulent attempt to use it as his own to accomplish a purpose which the Standard Oil Trust evidently desired. Subsequently, on the 16th day of January, 1896, the same individual alleged that he purchased the stock from the National Transit Company. It was proven in evidence that this person was introduced to a trust company in New York, from which he borrowed the \$300,000 with which the purchase was alleged to have been made. When it was attempted to show that this money came from the Standard Oil Trust, the witness, Mr. Archbold, and other agents of the Standard Oil Trust declined to answer all important questions touching the ownership of that money. The Producers' Oil Company, Limited, declined to permit Mr. Carter to vote the additionally acquired stock, amounting to \$297,000, without first being elected to membership by a majority in number and value of the interests remaining in the company.

This was in accordance with the statute of Pennsylvania of 1874 and the supplement of 1885, creating and regulating limited partnerships. A by-law of the company also provided that such election should take place before admission to membership.

As to his effort to vote this stock without being elected, the decision was against him in the court of common pleas of Warren County, Pa., after a two weeks' trial, and an appeal was taken by Mr. Carter, the alleged owner, to the supreme court of Pennsylvania. That court decided that both according to the letter and the spirit of the statute he was not entitled to vote that stock as a member of the company without having been elected as indicated above. That decision I have here and submit it to the commission as sustaining the position which the company took.

THE STANDARD OIL COMPANY GETS A MEMBER ON THE BOARD OF DIRECTORS OF THE UNITED STATES PIPE LINE COMPANY.¹

The Standard Oil Trust, through the same affiliated company, the National Transit Company, acquired large amounts of stock in the United States Pipe Line Company, another company organized by the independent oil producers and refiners. This company was formed to transport refined and crude oil to the seaboard. The aim of it was to cheapen transportation and to avoid discriminating rates. The United States Pipe Line Company excluded the Standard from its meetings on the ground that the Standard acquired its stock to compass its destruction and to get information that would lead to the destruction of the independent movement.

Mr. Archbold stated yesterday that one of the objects of the Standard in buying that stock was to secure information.² The National Transit Company brought a bill in equity to secure admission to the meetings of the company and permission to vote that stock. The decision in the lower court was in their favor. On appeal to the supreme court, the case was prepared on both sides with elaborate briefs for argument, and counsel on both sides were present in the supreme court to argue the case. When it was called, instead of proceeding to argument upon its merits, counsel for the National Transit Company moved to quash the appeal on the technical ground that the affidavit to show that the appeal was not "taken for the purpose of delay" was not made by the chief officer or secretary of the company; and the supreme court, because the statute required such an affidavit, quashed the appeal, and the case was not heard on its merits. It was then too late, under the statute, to take another appeal and have the case heard on its merits.

The entire stock acquired by the National Transit Company in the United States Pipe Line Company was \$383,000 out of a total of \$1,190,000. To defend these two

¹ Compare Mr. Lee, p. 270; Mr. Westgate, pp. 370, 382; Mr. Archbold, pp. 577, 578; Mr. Emery, p. 656.

² See p. 577.

companies from the hostile invasion of the Standard Oil Trust cost about \$15,000 in actual money, besides vast labor and trouble.

THE PURE OIL COMPANY NOT A TRUST.

Because of the attempt of the Standard Oil Trust to force themselves into these independent organizations, without invitation and against the will of all the independent members, it was thought wise in the organization of the Pure Oil Company to have at least half of its stock put into a voting trust in the names of men of known and tried loyalty to the independent interests. This was done solely for the purpose of securing that company against the hostile inroads of this giant monopoly and to prevent its destruction.

The Pure Oil Company is not a trust in the commonly accepted sense of that term. A trust, as I understand it, is a corporation or combination of corporations with vast capital, organized for the purpose of securing a monopoly in any branch of trade. The Pure Oil Company is not organized for the purpose of securing a monopoly, but to prevent a monopoly and preserve competition in the petroleum industry, its promoters believing that by fair competition the highest and best interests of producer and consumer can be secured and the public interest best conserved.

It was therefore incorrect for the witness yesterday¹ to state that the Pure Oil Company is a trust, or that any of the independent producers or refiners are members of a trust, in the obnoxious sense in which that word is understood, meaning monopoly.

The Standard's dividends will show, perhaps, without regard to the surplus they have accumulated, that they have at times made more profit on every barrel of oil they handled than they paid to the producer for it. I have known a producer to pay \$100,000 or more for a limited number of leases, on which wells were obtained which would flow from 2,500 to 3,000 barrels per day; and yet the profit that the Standard Oil Trust reaped on each barrel of oil from these wells was evidently more than they paid for the oil.

As to amount, or as to the principles involved, the tax on tea and other articles, against which our fathers revolted, was nothing in comparison to the tribute the Standard has levied on the oil producer and consumer.

THE STANDARD OIL COMPANY'S AVERAGE PROFIT.

During the time the Standard Oil Trust has been engaged in the oil business they have made more than \$1 per barrel on all oil produced. This is capable of easy demonstration. The entire production of what is known as Pennsylvania oil for 17 years in round numbers is 500,000,000 barrels. The market value of the Standard stock is very close to \$500,000,000. I believe it has been stated before this commission that it is at least \$450,000,000. This has been made chiefly out of the profits of the company; and it is practically equivalent to \$1 a barrel on all oil produced since they have been in business. During this period, or from the time the Standard came into power, oil has averaged about 90 cents a barrel; their profit has been more than a dollar per barrel. This does not take into consideration their enormous dividends nor their vast reputed surplus.²

PROFITS OF THE INDEPENDENT REFINERS.

Q. (By Mr. SMYTH.) That has been the profit of the independent refiners too?—A. No, sir; not by a great deal.

Q. You could not give an estimate of the profits made by the independent refiners?—A. Upon this I am not well informed. I will say this: For a number of years they lost a very considerable amount of money. They sold what is known as cut cargoes. At the close I will give all the information I can, and will submit a statement of all the companies with which I am connected. I have reason to believe the companies will not object.

Q. Will that statement be made to-day?—A. I should not have time to do that to-day, but will be willing at any time to submit a complete and full statement.³

¹ See p. 507. See also pp. 596-598; Mr. Boyle, pp. 443, 463, 488; Mr. Emery, p. 658.

² See table of annual production and average prices of Pennsylvania oil, pp. 539, 547; production of Lima oil from 1890, p. 561. Compare Mr. Lee, p. 298.

³ Detailed balance sheets of the Pure Oil Company, the United States Pipe Line Company, and the Producers and Refiners' Oil Company, Limited, were afterwards filed with the commission; together with a full analysis of profits and losses.

THE STANDARD OIL COMPANY—THE VALUE OF ITS STOCK REPRESENTS PROFITS.

Q. (By Mr. KENNEDY.) I should like to ask why, if you are able to state the profits of the Standard Oil Company, you are not able to state the profits of your own company?—A. That is very easy to answer, I think. I have given the facts of their stock; it is a very large concern, and we know the market value of their stock; we could not estimate the market value of our stock. For my own part I would not take a hundred per cent.

Q. (By Mr. SMYTH.) How do you know they have made a profit of a dollar a barrel?—A. Their capital stock has been selling at about \$500,000,000, and there has been about 500,000,000 barrels of oil produced since they organized and the average price of that oil has been about 90 cents. This is saying nothing about the enormous dividends they have paid—I believe last year it was \$35,000,000—nor anything about their surplus. There is no kind of question of my deduction and figures.

Q. That is only an estimate or a guess?—A. It can not be considered so in view of the fact that they built their lines and establishments out of their profits.

Q. How do you know that?—A. We have every reason to believe it, because of the capital stock with which the company was originally organized and the dividends that they have made. They built it in that way.

VALUE OF STOCK IN THE STANDARD AND IN THE PURE OIL COMPANY.

Q. (By Representative LIVINGSTON.) Have you any exact way of getting at the market value of your stock or the Standard Oil Company's stock? Are both of them listed on the market?—A. No; they are not. The Standard has always kept its stock from being listed on the market, though the papers give quotations of it from time to time. Ours is not listed on the stock market; there have only been individual sales; I can give the costs of our company, though, and the profits; then you can better judge what the value is.

Q. What would you take for your stock?—A. Now, since we have won against the greatest opposition that ever existed in the commercial world by cutting our way through to Germany and getting a market there, I consider this stock very valuable, even though we sell at lower rates.

Q. What will you take for your stock?—A. I would not, under the circumstances, take 100 per cent profit.

Q. At how much can you buy Standard Oil?—A. I think it was stated yesterday that the last market quotation is at the rate of about \$465,000,000. It has sold within a fraction of \$500,000,000 within a year.

PRODUCERS CAN NOT AFFORD TO SELL THEIR INDEPENDENT OUTLETS. THE STANDARD MAKES PRODUCERS AND CONSUMERS PAY FOR WHAT IT BUYS.

Q. (By Mr. KENNEDY.) You say you would not take 100 per cent profit?—A. I would not sell now. I will make a statement here in that regard, since the matter is brought up. In our best judgment, i. e., that of the most intelligent producers, when the Standard buys a pipe-line system and refineries they are charged up to the producers. At the time of one of their largest purchases the price of oil was put down 7 cents per barrel the day the purchase was made, or the next day after. They were then shipping about 60,000 barrels per day through the pipe lines; and that 7 times 6 would be 42—\$4,200 per day that they assessed to pay for that. And I heard Mr. Archbold say that the producers would never know what that pipe line cost them. And we do not know to-day; but the price was assessed, and a short time afterwards oil was dropped again. Now, along that line I could state this, that the Standard has bought very large amounts of property when oil is very low, and especially in 1895, when oil went up from less than a dollar to \$2.60. They bought a number of million dollars' worth of producing property. It is fair to say that that property did not cost them anything, because the world, the consumer, was assessed for it. In my best judgment the Standard in purchasing either pipe lines or producing property, since its organization, has not paid any money directly that they have not recouped indirectly. When they buy a pipe line they levy the cost on the producers by dropping the price of oil. They buy large amounts of producing property when oil is low, and then the price to the consumer advances.¹ They fix both the price at which they buy and the price at which they sell.

Q. You consider this stock to be worth a premium of 100 per cent on the par value?—A. Prospectively. You see, I would not sell it, because I am a producer of oil, and I am thoroughly convinced, and it is understood by the directors, that

¹ See Mr. Lockwood, p. 408; Mr. Archbold, p. 560.

if we were to get twice its cost from the Standard we should be assessed to pay it. We do not know how much money the producers have been deriving through the existence of these companies. We would not sell as long as we are producers; we keep the stock for self-preservation.

OIL MONOPOLY DUE TO LACK OF CONTROL OF RAILROADS.

The WITNESS (continuing his statement). Mr. Archbold stated before this commission¹ that he was in favor of the Interstate Commerce Commission. If there had been such a commission with proper authority over the transportation of oil, the Standard Oil monopoly would not be in existence to-day.

I am present as a member of this commission with a full determination to hear impartially, and to endeavor to the best of my ability to suggest such remedial legislation as will be for the greatest good of the greatest number; not only in regard to combinations, but also with respect to all industrial questions.

NEGOTIATIONS OF INDEPENDENT PRODUCERS WITH THE STANDARD OIL COMPANY.

In regard to the statement that I, in company with others² connected with the independent movement, called upon the Standard Oil Trust seeking a combination with them, I will state that we did call upon them some three or four years ago. It was after they, or their affiliated companies, had bought the large amounts of stock, spoken of above, in our independent companies. They had bought a number of the independent refineries connected with the independent pipe lines. They had made every possible effort to prevent our marketing oil in Germany and other places. They had bought out Mr. Poth, who was handling the oil of the independent refineries in Germany. They had got almost complete control of the German petroleum installation plants or receiving tanks. The remaining refineries, as well as those who had sold out, had met with great losses in handling oil in Germany, selling what they call "cut cargoes."

The object in calling upon them, as far as I personally was concerned (and I believe it to have been the object of the other persons who were with me at the time, and who were men of the highest character), was to obtain from the Standard Oil Trust cessation of hostilities, both in regard to piping the oil and in regard to selling it. It was to secure the right to deliver in New York, without their opposition, the capacity of the then existing lines, which would not exceed seven or eight thousand barrels of oil per day.

We believed then and still believe that the opposition to laying our pipe lines across the State of New Jersey to reach the harbor of New York was instigated by the Standard.³ I am informed that Mr. William Rockefeller, a trustee in the Standard Oil Trust, is a director in the principal opposing road, the Delaware, Lackawanna and Western Railroad.

The members of the Standard Oil Trust with whom we conversed—and Mr. Archbold was one of them—refused absolutely to grant us any concessions, or to allow us, on any fair basis, to ship and market oil without such aggressive opposition as Mr. Archbold admits they employ to defeat competition. But in lieu thereof they proposed to buy our pipe-line system, a proposition which we did not entertain.⁴ It was then proposed by one of the members of the Standard Oil Trust to buy our producing property. This was also rejected, as we did not desire to go out of the producing industry. No proposition was made to those gentlemen by me or by any gentleman with me, to the best of my knowledge and belief, on that occasion or any other, that any fair and honorable business man could not make to another.

I had not then and have not now any conscientious scruples about anything that was said to them, and should be perfectly willing, were it possible, to have all the conversation that occurred repeated now before this commission.

THE STANDARD OIL COMPANY DESIRES THE COOPERATION OF THE INDEPENDENT PRODUCERS.

In regard to the statement⁵ that they had not entertained a proposition for combination because of lack of faith, both in the legality of the proposition and in the men connected with the independent movements, I have this to say: That there has never been a time when I should have been willing personally to go into a com-

¹ See p. 527.

² See pp. 530, 531.

³ Compare testimony of Mr. Archbold, p. 530; Mr. Lee, pp. 264, 267; Mr. Emery, pp. 650-655, 663.

⁴ See Mr. Lee, pp. 271, 292, 293.

bination with the Standard Oil Trust. In proof of this I will state that in the year 1890 I sold to the Standard Oil Trust quite a large oil field in Butler County, Pa., composed of 7,500 acres of land held by lease, with 125 producing wells. The chief reason for selling this property to the Standard Oil Trust was that at that time they had purchased the Union Oil Company's interests and those of the Anchor Oil Company and the McKinney Brothers' property and also the Forest Oil Company's property, these being the largest oil properties in the country.

The Forest Oil Company was negotiating for my property before they sold to the Standard. After having sold their interests they stated that the Standard would purchase mine if I so desired and the price could be agreed upon.

Fearing the power of the Standard, fearing that they might reduce the price of oil, and considering that they had bought the largest properties in the oil field, I concluded to enter into negotiations with them for the sale of this property. The negotiations continued for two days at their office, 26 Broadway, New York. During this period, at two or three times when we differed in regard to the value of the property, they asked me whether I would act in harmony with them. At each time I absolutely refused to consent to this proposition, and finally stated that if they should insist upon that as a condition I would not sell; that I was willing to sell the property, but would retain my individuality; that I had nothing to sell but my property. They bought the property for \$750,000, which was paid partly in cash and partly in stock. I subsequently sold the stock for a less price than I took it at in payment for the property, not desiring to be connected with them in any way.

As further evidence that the Standard Oil Trust desired my cooperation: A few months after the sale of this property, while spending a short time at Lake George with my family, I met Mr. Dodd, the attorney of the Standard Oil Trust, at the Fort McHenry House. In talking to my son and myself in regard to the Standard Oil Trust, he said that the Standard always sought connection with successful men, and, turning to my son, said they had sought "your parent." This conversation is fixed most distinctly upon my mind because of the use of the word "parent."

As a result of these large purchases which the Standard made, the vendors became active in the producing departments of the Standard Oil Trust. I presume that it was there that they desired my work or influence.

There is not now and there never was any inducement that the Standard could hold out to me sufficiently strong to induce me to become an active participant in their business.

The statement that they declined any business arrangement with the independent producers because of lack of faith in them can not be true and is a gratuitous insult to a large body of business men of high character. For four years they have been trying to force business relations with us by buying large blocks of stock in the companies and going into court to force us to receive them as business associates, and they have so far succeeded as to have a director in the United States Pipe Line Company. The statement is, therefore, both false and slanderous.

COST OF PIPE-LINE TRANSPORTATION.

Q. (By Mr. KENNEDY.) What is the cost per barrel of transporting oil through the United States pipe line?—A. I am informed that with the line carrying half its capacity, about 3,000 barrels a day, it is about 5 cents per barrel to the terminal in New Jersey, and with full capacity of the line it would cost less than 4 cents. In the gathering in the field I have had personal experience connected with lines, and we estimate from 3 to 5 cents per barrel, and yet the Standard's price is 20 cents per barrel.

Q. Twenty cents?—A. Yes; and it is the same now as when they were organized.¹

NO RECENT OVERTURES TO THE STANDARD OIL COMPANY.

Q. It was stated under oath yesterday,² I think, that you had called upon Mr. Archbold for the purpose of combining with the Standard Oil Company since the organization of this commission, and you state positively under oath that this is false?—A. I positively state it is false. I have had nothing to do with them except as I have set forth here. If others have called upon them, it was without my knowledge, advice or approval.

THE PURE OIL COMPANY—ITS VOTING TRUST.

Q. You stated that this voting trust, in this company with which you are connected, vote simply for directors and have no voice in the management of the

¹ Compare Mr. Rogers, pp. 581 and 588; Mr. Lee, p. 284; National Transit Company's contract, pp. 605, 606; Mr. Emery, p. 606.

² See p. 580.

business affairs of the company. Do not the directors, who are their creatures, have the control of the affairs of the company?—A. Oh, yes; those who are elected. The trustees have a majority of the stock, and they vote with the other stockholders and elect a board of directors. They expect to elect men of character and ability to conduct the business affairs of the company, just as any other corporation would be conducted. It is expected that everything will be open to inspection. It will be if I have my way. I do not think there will be any objection to furnishing to this commission at any time, or to the State or to the United States, a statement of any of these lines, or a full statement of the Pure Oil Company, which will probably absorb the other lines in the manner I have stated.

Q. Well, is it not true that this voting trust of five members, who vote more than the majority of the stock, do manage the affairs of the company through this board of directors?—A. Yes. The voting trustees are fifteen. The number was made large in order that they might be very representative throughout the oil country. They do elect the directors. That is the object of it, and I have fully stated the reason why it is done, to prevent being crushed by this great monopoly. It was the only means of safety, as we have learned by experience. And I will further state that voting trusts are not uncommon either in Europe or America. It is nothing new to have a voting trust.

THE PURE OIL COMPANY'S VOTING TRUST NOT SIMILAR TO THE STANDARD OIL TRUST.

Q. Will you state how this voting trust feature of your company differs from the old Standard Oil Trust's manner of doing business?—A. The voting question?

Q. Yes.—A. At the present time?

Q. Yes.—A. I know nothing about their methods of later years, except that one suit was brought against them in Ohio to dissolve their trust, and they agreed to dissolve it. I know of persons holding certificates of the same trust and receiving dividends on them up to a very recent day; but it was also acknowledged here yesterday that they were still paying dividends on these trust certificates.

Q. Was not the old Standard Oil Trust, through a voting trust, electing a board of directors to manage the affairs of the trust?—A. No; they were a close corporation, as I understand.

Q. A what?—A. What we would call a close corporation. I mean a trust, a body of men associated together in the most secret form, probably, that exists in any business enterprise of magnitude. They themselves conducted their business, and they would make no statement to the public. The most I heard, at the time when they bought this property, from another individual, was this: He said that he had had the privilege to look at what he called their quick assets, and they were enormous. That was in 1890. I do not know about their business affairs since that.

Q. You state then that this voting trust feature of yours is not similar to the old voting trust feature of the Standard Oil Company?—A. Not in any way, manner, or form. It has been fully explained, and the object of it has been fully explained. I have nothing to conceal about my public transactions in connection with that business or anywhere else.

Q. I ask because the Standard Oil officers have testified in respect to this that you began where they left off.¹—A. Well, if they said that, they said what is not the truth. The matter is fully before the commission, and the only object of the voting trust is the one I have stated.

THE REPRESENTATIVE OF THE STANDARD OIL COMPANY ON THE BOARD OF THE UNITED STATES PIPE LINE.

Q. (By Representative LIVINGSTON.) I have an allegation here, by a party who signs his name to it, that the Standard purchased stock in the name of a spy sufficient to place one director on the board of each of "the following companies," and yours is included, the Producers'. What do you know about that?—A. From what do you read?

Q. I am reading from a letter signed by a man. It does not make any difference who he is now. Has the Standard Oil Company a member on your board of directors?—A. Yes; they have a member on the board of the United States Pipe Line Company. They failed to secure an election in the other company, although they had a majority of the stock, as I explained. One of their members, one that is openly connected with them, though not in a managing capacity, is on the board.

Q. On your board?—A. On the board of the United States Pipe Line. I have stock in it, and I am also a director in it, and I have met with him.

Q. There are several companies here mentioned in which they did purchase stock enough to put one member on the board, among them the Producers and Refiners'

¹ See Mr. Boyle, p. 438.

Oil Company and the United States Pipe Line Company. Now, this man charges that the Standard Oil Company and your company and these other two companies are one and the same thing, by a private understanding, to this extent—that you sold stock enough to the Standard to authorize them to put a member on your board and on these other boards. Is that correct?—A. No; it is absolutely false.

Q. Do you mean it is false in toto—that you have not any member?—A. No, I said we had a member, but we did not consent; the stock was bought without our knowledge and consent, and he was forced there by law.

Q. I understand that. They had purchased stock enough to force a member on your board?—A. And forced him on us. They said they would not be associated with any of these affiliated companies because of lack of faith both in their ability and in their honesty.

Q. Of what advantage to the Standard Oil is that member of the board of directors in your company? How can they utilize him?—A. They get all the information. That is, he is called to all the meetings and treated like any other member of the board.

Q. Then they find out all your secrets in that way?—A. The witness, Mr. Archbold, yesterday testified that it was one object in purchasing the stock—to get information.¹ We have never had a doubt of their purpose in any of these purchases; that the purchases were made for the purpose of destroying or crippling our industry and breaking down opposition to them.

Q. I will show this letter both to yourself and to the representatives of the Standard Oil Company. [Representative Livingston here produced a letter and handed it to the witness.]

Q. I just request, if I am not present when you get through with the letter, that if any representative of the Standard Oil Company be present he may have the same use of it.—A. If any use is made of it by one side the other shall have the same privilege.

"MONOPOLIES"—THE STANDARD OIL COMPANY NOT A MONOPOLY BY LAW.

Q. (By Mr. RATCHFORD.) In the early part of your testimony you observed that your company is not a trust, but is a combination. Do we understand that it is chartered under the laws of the State of New Jersey, as is also the Standard Oil Company?—A. Just recently the Standard Oil Company has been chartered, as has been testified here.

Q. You also define a trust to be a monopoly.² Now, I want to ask whether the laws of New Jersey give to the Standard Oil Company any advantage that is not given to your company?—A. Not so far as I know. All these large combines that have been organized under the laws of New Jersey are organized alike, as I understand it; some have preferred and common stock, and others just common, etc.

Q. The combination or trust has no privilege before the law, as you understand it. That being the case, then the Standard Oil Company is only a monopoly in the State of New Jersey providing they are able to monopolize the business. Is that right?—A. Yes.

Q. If that be correct, then it follows that your company will also be a monopoly, provided you are able to monopolize the business?—A. Both companies have a perfect right—

Q. (Interrupting.) They have the same right under the law?—A. Yes. We organized under the same law.

Q. What I meant to ask was whether they had any special privileges under the law?—A. I understand all of these great industries organized in the State of New Jersey are organized under this same law and have the same privileges.

THE PURE OIL COMPANY ABSORBS ITS ALLIES—THE STANDARD ABSORBS ITS COMPETITORS.

Q. Another statement I understand you to make is that the Pure Oil Company will eventually absorb the other lines.—A. It will purchase a majority of the stock of the independent lines.

Q. This is the company you are interested in?—A. I am interested in all of them; I am interested in all four of the independent companies.

Q. From your standpoint I want to ask if the absorption of smaller enterprises is not the greatest objection that has been urged against the Standard Oil Company?—A. Certainly; but these independent companies are practically one already. The producers formed one organization, and then another and another. The stockholders are the same, or very nearly the same. They are simply getting together

¹ See p. 577.

² See p. 591.

because the Standard was likely to absorb them in detail. But if organized in this protective form, with a voting trust, it will be impossible for the Standard to buy the stock and control these companies. It is self-defense.

Q. But is it not in every case the purpose of the larger companies to absorb the smaller competitors?—A. I do not know the purpose of others, but it was the purpose of this Pure Oil Company to unite—if you please, to consolidate—the companies in one, because practically the stockholders were the same. It was not to get control of any other person's business; it was simply to put our own business in such a form that we could not be destroyed by this giant monopoly.

Q. In your experience with the Standard Oil Company has that not been one of its objects—to absorb the smaller concerns?—A. The smaller concerns that have been absorbed have been independent and opposition companies. These are not, and the cases are not similar.

THE PURE OIL COMPANY, UNLIKE THE STANDARD, DOES NOT DESIRE A MONOPOLY—
THE WITNESS WOULD REFUSE TO BE CONNECTED WITH A MONOPOLY.

Q. (By Mr. CLARKE.) Did your company compete with the Standard Oil Company in any operations in the fields?—A. Yes.

Q. You would get business away from them if you could honestly and fairly?—A. Certainly; that is, in an honest, fair manner. Competitors will always do that.

Q. You would get away all of their business if you could honestly and fairly, I suppose?—A. It would be very difficult to do that.

Q. Well, suppose you could?

Q. (By Mr. FARQUHAR.) There is the same object before the two trusts, your company and the Standard?—A. I would not say so. I would say that we only want a fair portion of the competitor's business, not the whole of it. I would not be connected with a monopoly. I would not control a great product and fix the price at which I would buy, transport, and sell. It is too great a responsibility for any one man to have, and it is a greater responsibility than tyrants as a rule assume toward their subjects. The profits are enormous which have been fixed by this trust.

Q. Now, you wish us to understand that if this company should become large and be an octopus you would sell out and be no longer connected with it?—A. I would not be connected with it.

Q. If your company should be large enough to monopolize the business by means of fair competition, you would no longer have anything to do with it?—A. I would not have anything to do with it if it pursued the methods of the Standard, influencing legislation and preventing others from doing business. If it grew naturally and the profits were fair, I should be willing to accept them, but I certainly should not want the responsibility of monopolizing a great industry and fixing the prices. I do not think that such a power should be in any hands. I would be in favor of throwing it open to Government inspection and of requiring public statements and of putting it under any laws that would be fair and just to the people.

Q. You would not, then, if you could, by perfectly fair and legitimate means, irrespective of the means of the Standard Oil Company, monopolize the oil business in any way?—A. I would not. I say I would not have the responsibility of fixing, according to my own judgment, what my profits should be from a great community. I would rather die poor than have it.

Q. That would be a matter of your own conscience?—A. Yes.

Q. How would it be under the law? Do you consider that it is not legal for any company to gain all the advantages that it can fairly and legitimately?—A. Well, now, I have pretty strong views in regard to competitors and competition, and being a member of the commission, I would rather not enter into this subject and give my views in regard to it now.

“TRUSTS”—DIFFERENT MEANINGS OF THE WORD—THE PRODUCERS' OIL COMPANY
AND THE STANDARD.

(By Mr. FARQUHAR.) The witness states here that the Pure Oil Company, so led, is not a trust. Will you explain to this commission why it is that your articles of agreement all through characterize it as a trust? There are five articles in your agreement. It explicitly declares in the first article (reading):

“First. The equitable ownership of the trust shares and all interests therein shall be subject to the terms of this trust agreement. Such ownership of the shares, or interests therein, may be sold at the will of the holder; but no sale, transfer, or conveyance of such ownership or interests shall give to the purchaser any rights other than are provided for in the by-laws, rules, and regulations of the

company; and in accordance with this trust the trustees hereunder shall at all times be recognized as the legal owners and holders of the trust shares to carry into effect the purposes of this trust, and all equitable owners of trust shares or interests therein shall specifically agree in writing to the terms of this trust, and no transfer of any such shares or interest shall be made, or be effective if made, unless the transferee of such equitable ownership or interest shall have agreed in writing to receive and hold the same subject to the provisions of this trust."

The objects set forth in the original trust of the Standard are the same objects, with just one exception, as are claimed for this Pure Oil Company. How can it be possible to escape the idea that this Pure Oil Company is a trust? What explanation have you to make?—A. It is a voting trust. The company itself is organized under the laws of the State of New Jersey, and all those trust papers, as I understand it, were drawn solely for the purpose of protecting the stockholders in voting this stock and electing directors. The stock itself was put into a trust, a voting trust, so that it could not be sold or alienated or monopolized, and if the stock were sold the trustees would have a voice in electing directors.

Q. How do you explain here in the fourth subdivision of this agreement [reading]:

"Fourth. This agreement may be canceled, and the trust hereby created dissolved, only by the winding up of the Pure Oil Company, or by the consent in writing, duly executed, of the equitable owners of four-fifths of the shares held in trust hereunder, and of four-fifths of all the other shares of the company, after providing in full for the redemption or purchase at \$110 per share, in cash, of all the preferred and common shares of the company at the time outstanding."

Is not that trust pretty nearly perpetual? Is not that company a perpetuity?—

A. I do not so understand it, because it provides for its own method of dissolution.

Q. How do you provide for dissolution? Because, under the general laws, that is under the power of the trustees, and you have trustees here who hold the entire property in their hands; they make their own board of directors; the administrative power of your whole concern is in men who are creatures of your trustees. How much worse than that is the whisky trust or the Standard Oil?—A. I have defined my meaning of the word "trust," and it has been often repeated that the intention in that agreement was only to preserve this stock intact, so that the Standard Oil Company could not monopolize it. I have explained how they attempted to monopolize one of the companies.

ADVANTAGE TO PRODUCERS FROM THE EXISTENCE OF INDEPENDENT REFINERS.

Q. Do the producers who sell oil to independent refiners get better prices than producers who sell to the Standard?—A. That varies at different times. In the beginning, when the Standard had so stopped the outlet abroad and had so monopolized everything and thrown everything in the pathway, the producers got together and made sacrifices for the benefit of the refiners. They were selling cargoes at great loss, and we gave them a reduction in the pipe-line charges. There were other times, when the market was good, when the pipelines have sold to the refiners at a profit. Now, in this recent advance the Producers and Refiners' Pipe Line advanced the oil 3 cents more than the Standard. The Standard in a few days came up to it; and then they advanced again to \$1.37 and this line advanced it to \$1.40. They were very anxious, however, to get the oil to win the fall trade.

Q. That was simply incidental?—A. Yes; incidental. They have been competitors in every way.

Q. Now, at the present time, is not the market on all fours to the producers, whether they are sellers to the independents or the Standard? As prices go, does it pay the producers to sell to the independent refiners as well as to the Standard?—A. Yes; they have the privilege of selling to other pipe lines. There is sometimes, as I said, an advance by the one and not by the other. But this line has never paid the producers less than the Standard was paying. It has always kept pace with the Standard in advancing, and very frequently has advanced 1 or 2 or 3 or 5 cents more. We are handling the high-grade oil—Pennsylvania oil. That is very desirable both at home and abroad.

Q. Now, I would like to know what the character of the competition is that caused the United States Pipe Line to put it up 10 cents more. Was it the Standard?—A. That forced the United States?

Q. Or the refiners or other pipe lines?—A. No; we did not do that.

Q. I thought you said they raised 3 cents and then the Standard raised 3.—A. Yes.

Q. Was it the presence of the Standard that forced them up?—A. I do not know how that would be.

¹ See modified form, p. 511, footnote.

² See Mr. Boyle, pp. 443, 444.

Q. Well, it is a business proposition?—A. It is a business proposition that in order to benefit their friends the refiners were perfectly willing to make the advance; furthermore, it was the time of year when they wanted to get this oil to ship abroad and to supply the markets at home.

Q. What I want to get at is whether the producers expect greater benefit through this pipe-line company or through the Standard in selling their oil.—A. We believe that were it not for these companies the price of oil would be much less than it is. We believe that as large producers we have reaped great benefit from the competition, limited as it is. It is remarkable what a little competition may accomplish; they do not overlook small things. They have the power of a giant, and they use it as a giant.

Q. I want to know if these producers are any better off in connection with this independent organization than they are with the Standard, as far as prices go; then I want to have the question answered, after that, whether the refiner pays the extra profit that is paid into the hands of the producers.—A. There is no doubt, in my judgment, that the producers are better off on account of this independent movement. There is no doubt that the independent refiners are better off. If it were not for these pipe lines none of these independent refiners would be living to-day. It is for mutual protection that these people have united. We believe we have received much better prices for oil; the last year the refiners have given much better prices than they would have given if there had not been this independent movement.

Q. You have stated repeatedly, or, rather, it has been stated repeatedly before this commission, that the Standard has made inordinate profits. Now, is it a fact that the independents are not making as much money, either as refiners or producers, as the Standard people are? I am not talking about commercial reasons at the seaboard. I am speaking about the field, because the producer is not concerned with anything outside of the Pennsylvania field and Ohio field.—A. I think that as far as production is concerned they are substantially on a par; but as far as the selling is concerned the Standard have an advantage, because they have an accumulated capital to handle all the by products with, and so on, as the others have not.

Q. So we come to this plain business proposition, that the producer is just as well off dealing with the Standard as he is with this Pure Oil Company.—A. No, indeed; I would say not.

Q. Why is he not?—A. Because when there is no opposition they pay much less prices. My judgment is, while we could not prove it, that the price of oil has been so much better that we have already paid for the plant out of the increased prices that the Standard has paid for oil on account of this opposition.

Q. You said one minute ago that the advance made by the independents was 8 cents, and was met by the Standard with another advance.—A. How do we know but the oil would be 50 or 60 cents to-day if it were not for this organization?

Q. That is entirely hypothetical. I want to know if they are any better off.—A. I said that they are better off; the producers are better off, probably by 25 cents per barrel, on account of this opposition to the Standard.

PROFITS IN THE OIL BUSINESS.

Q. These men that are engaged in the independent movement have made money out of the oil business?—A. A great many of them are quite well to do, but a majority of the producers are comparatively poor.

Q. Many of them are millionaires?—A. Some of them have made a great deal of money.

Q. So these men who are cooperating with you are millionaires and the Standard is simply a greater aggregation of millionaires?—A. I do not know the wealth of those gentlemen, but very few are considered millionaires. I am quite sure they would have much more wealth if prices had not been depressed by the Standard.

Q. Of course that is a business question, just like railroading. The largest corporation is going to make the most money.—A. I have given facts and figures here which will convince anybody, I think, that the Standard have been making more profit on each barrel of oil than they have paid for it. Now, that affects both the producer and the consumer.

Q. What I wanted was to find out whether these producers are able to get their share of the proper profits that belong to them?—A. The producers could not have received their share of the profits when it is a fact, as has been shown, that the Standard makes more on each barrel of oil than they pay the producer for it.

CAPITALIZATION OF THE INDEPENDENT COMPANIES—VALUE OF THEIR STOCK.

Q. (By Mr. SMYTH.) Will you tell us what is the capital of the Pure Oil Company—the amount it is capitalized at?—A. Something over \$400,000; but there has been an application to increase it. It is my recollection that the authorized capital originally was \$1,000,000, \$377,000 of which was paid in.

Q. What was the value of the different companies associated with or controlled by the Pure Oil Company?—A. None of them are controlled by it as yet. It is a marketing company; but there is an effort, which we presume will be successful, to combine a majority of the stock of the others, as I have explained, into this Pure Oil Company, with an increased capital.

Q. What would be the aggregate value of these companies?—A. There is about \$3,000,000 invested in all these companies to-day, as I understand it.

Q. Then you propose to increase the capital of the Pure Oil Company?—A. Yes; it has been proposed to increase it.

Q. Has it been decided to what amount?—A. It has been thought we would probably increase it to \$10,000,000.

Q. Now, in your judgment, the value of that stock would be about \$20,000,000?—A. No, not at all.

Q. I understood you to say a short time ago that you would not take a hundred per cent advance for your stock?—A. I should not feel like taking a hundred per cent for my stock in all these companies, because I think I am benefited in various ways by getting a better price for my productions.

Q. (Interrupting.) Now, you think that this Pure Oil will be a competitor in the market for the benefit of the consumer?—A. For the benefit of the consumer and the producer.

THE FOREIGN MARKET—THE STANDARD WAS NOT THE PIONEER.

Q. Can you tell us what portion of the products of these companies with which you are connected goes abroad?—A. About 40 per cent of the crude we handle, I am informed by the president of the company.

Q. How long have you been exporting 40 per cent of your crude?—A. About two or three years.

Q. Was your company the first to export oil, or was the Standard Oil Company the first to open up the market?—A. Oh, they were not; there was a large amount of oil shipped abroad before the Standard existed.

Q. One must have been first.—A. The Pure Oil Company was organized in 1895, and the Standard Oil Trust, I am informed, was organized in 1882, and of course shipped oil abroad before the Pure Oil Company; but millions of barrels of oil was exported before the Standard Trust existed.

Q. They did not go into the refining business as the Standard Oil Company for a number of years after the discovery of oil?—A. No.

Q. You do not consider the Standard Oil Company the pioneer in building up the export business?—A. Not at all; no.

Q. At the same time they had a large proportion of it to meet?—A. Oh, certainly they did, but they were not the pioneers.

Q. And covered the world, as we learned yesterday from Mr. Archbold?—A. Yes; but others preceded them in almost all countries. I do not believe, as was stated by Mr. Archbold yesterday, that they have better talent than others engaged in the same business.¹

AGAIN THE QUESTION OF MONOPOLY.

Q. Now, the charter of the Pure Oil Company is taken in the State of New Jersey, and the charter of the Standard Oil Company is now being taken there. You spoke of the Standard Oil Company as the Standard Oil Trust. Yet you deny that the Pure Oil Company is in any manner a trust; how do you distinguish them?—A. The Standard is a monopoly. The Pure Oil Company is not.

Q. How can the Standard Oil Company be a monopoly when the Pure Oil is not? The Standard Oil Company handles only 80 per cent of the product.—A. It does not require all of any commodity to make a monopoly and fix prices; anyone knows that. They do have a sufficient control to make a monopoly.

Q. You stated just now that you had advanced the price of the crude oil to the producers, and then the Standard had. So you were not alone in fixing the prices?—A. That was in one locality, and in advancing crude oil.

Q. But, as a fact, it was done?—A. Yes; that is, where our pipe lines went; and I may say the advance was universal over the field.

¹ See Mr. Lee, pp. 277, 278.² See p. 563.

FREIGHT RATES AND REBATES—THE INDEPENDENTS HAVE NOTHING TO CONCEAL.

Q. Mr. Archbold stated that he was distinctly and clearly in favor of the interstate-commerce law, and since the passage of that law in 1887 he affirmed and gave positive testimony that no rebates, no special rates of freight, no advantages of any kind, had been offered by any railroad company or transportation company or canal, or accepted by the Standard Oil Company or asked for by them. Do you say the same for the Pure Oil Company and the companies with which you are connected?—A. Yes; to the best of my knowledge and belief there has been nothing of that kind.

Q. No special rates have been given to your company at all?—A. No; not unless you consider contracts made when we could not get through to New York. Of course there was a rate through to New York when our pipe line reached a certain point in New Jersey, and when it reached a certain further point there was a lower rate, etc. The freight was very large, and it was the only way we could get oil through to the market. It was an open rate.¹

Q. It was a special rate to your company?—A. No; it was an open rate. They probably had no other shipper of crude oil from that given point, but it was in proportion to the rate from other shipping points, from Oil City, for instance, through.

Q. Wasn't it less than by competing lines?—A. Not that I know of.

Q. Could it have been without your knowledge?—A. Yes, possibly.

Q. You could not say from your own knowledge?—A. I will say that there are other witnesses that will come here and give you the facts. We are perfectly willing to aid you and show whatever there is in the whole business. We have nothing to conceal whatever.

Q. Would you be willing to give a list of the dividends paid by your companies?—A. Yes. I am assuming this, that we would be perfectly willing to have all our companies, and certainly I should be willing to have anything that I am in, open to State and governmental inspection; and if it was doing any injury I would not object to having it either abolished or restricted.²

Q. You stated positively that, to your knowledge, no rebate has been received or accepted by any of your companies since the passage of the interstate law?—A. Not to my knowledge.

Q. Do you know of any such rebate being given to the Standard Oil Company?—A. Personally I have no absolute knowledge on this question, but have been told and believe they have received such rebate. I will qualify my former statement. Pipe lines may have sold to independent refiners at special rates, as stated heretofore.

Q. To that extent it was a special rate extended to the Pure Oil Company?—A. No; it was to the refiners. The Pure Oil Company is a marketing company.

THE FOREIGN MARKET—RUSSIAN OIL—DISTRIBUTION OF PETROLEUM WOULD HAVE BEEN WIDER IF THE STANDARD HAD NOT EXISTED.

Q. When you entered the German market you found the Standard already there?—A. Yes.

Q. And you got in and competed with them?—A. Yes; we entered into competition, as anybody had a right to, and we found the competition a very bitter one. At least the refiners did.

Q. Did you find the Russian competition there?—A. There is very little Russian oil sold there now.

Q. In Germany, as far your knowledge goes?—A. There is very little Russian oil shipped to Germany.

Q. But there was a very large amount of Russian oil shipped to Germany before the Standard went in?—A. They were not the pioneers. My own judgment is that there would have been a better distribution of oil, better both for producers and for consumers, and they would have been more fairly treated, if there had been competing companies instead of this monopoly.

Q. You do not think the Standard Oil Company has been a benefit?—A. The Standard Oil Company? I don't believe I should be willing that one railroad should control 80 per cent of the passenger traffic and the freight traffic of this country and have the absolute power to fix rates. I think we should have had wider distribution of petroleum, and the public would have been better served, and the producers would have been better remunerated, if it had not existed.

Q. (By Mr. FARQUHAR). Do you believe that any of the independent refiners or

¹ See Mr. Archbold, pp. 529, 530; Mr. Emery, p. 653.

² See p. 591, footnote 3.

producers of this country, any number of them, could ever have reached the field that the Standard have all over the world unless they combined?—A. Yes; the markets of the world were largely reached before the Standard combination.¹

PROFITS OF THE STANDARD OIL COMPANY AND OF THE PURE OIL COMPANY.

Q. (By Mr. KENNEDY.) Can you state what profit the Pure Oil Company makes per barrel of oil?—A. I will have the officers present that. I have not gone over it in detail. We have no public records of the amount.

Q. You have private records?—A. Yes; but I have not examined into this matter. I will present the exact figures.² It has varied at different times. We have met with great losses, and sometimes we have made some profits. I would state this, that the profit would be less than 10 cents a barrel at the present time.

Q. While the Standard profit is more than a dollar a barrel?—A. It seems to me that the data given show conclusively that the profit is more than a dollar.

Q. And the Standard can make a profit of a dollar a barrel and you can only get a profit of 10 cents?—A. We have met with this great opposition. We expected to make more than that perhaps after a time; but if we should average 10 cents a barrel and could do one-fourth of the business the Standard does, the company would get enormously rich. If a party of capitalists had purchased the right from the Standard in the State of Pennsylvania—where we could not get any free pipe line for a long time—to manufacture and sell one-fourth of the oil that the Standard did when they were organized, they could have made two or three hundred million dollars very readily had they been willing to exact the prices the Standard did. It would have been a splendid investment to have bought the right from the Standard to do business in this country without their opposition.

THE STANDARD OIL COMPANY HAS AN ADVANTAGE IN THE USE OF BY-PRODUCTS.

Q. You have stated that the Standard Oil Company has made more profit from a barrel of oil than the Pure Oil Company. Is that in any measure due to the fact that they use the by-products?—A. Yes; that has considerable to do with it.

VALUE OF STANDARD AND PURE OIL STOCK—PROFITS.

Q. (By Mr. SMYTH.) You wish us to understand that your company, on a profit of 10 cents per barrel, is to be considered worth 200, whereas the Standard Oil Company, on a profit of a dollar a barrel, is only worth 465?—A. I have tried to explain that before. I am a producer of oil, and as a producer I would not sell my stock for twice the amount; and then I do anticipate very fair profits in the near future.

Q. Do you think the Standard Oil Company makes a thousand times the profits you do?—A. For a long time we made nothing, as has been testified, and I think some of the witnesses testifying in the interest of the Standard charged us with using people's money in some of these companies and not paying them any return;³ but we do not know how much the return has been in the advanced price of crude oil.

Whereupon the commission took a recess until 2 o'clock p. m.

WASHINGTON, D. C., *September 11, 1899.*

TESTIMONY OF MR. LEWIS EMERY, JR.

The commission met on Monday, September 11, 1899, Vice-Chairman Phillips presiding. Mr. Lewis Emery, jr., appeared at 10.55 a. m., and, being duly sworn, testified as follows:

PERSONAL STATEMENT.

The WITNESS. Mr. Chairman and gentlemen of the commission, in advance I desire to beg your indulgence in giving my testimony from this fact, that I have been absent from my home, in the State of California, for the past two years. Under the extreme weight of business and cares I broke down in health, and it was only on the 15th of August that I returned to this part of the country; and since that

¹ Compare Mr. Archbold, p. 563; Mr. Emery, pp. 626, 628.

² Filed with the Commission.

³ See Mr. Boyle, p. 445.

time I have been very busy with the many points in business that were left for me to decide. I have not been able to give the questions that are propounded to me to-day the full attention that I should have done.

I desire the privilege, with the consent of the commission, of referring to my memoranda, or to some of my colleagues, that I may refresh my memory, for this reason, that I have this question for the years from 1872 to 1898 in my memory, excepting my testimony in 1888 before the Committee on Commerce in the city of Washington.

I desire to say that I hold no animosity toward the Standard Oil people or any association. They were thirty-four years my companions, and I only meet them here to-day upon fair and equitable terms. They believe in their method of doing business, and I believe in mine. We agreed to separate. Many of the stockholders of the Standard Oil Company have been associates of mine all these years in the ownership of property, and I own property with them at the present time. We simply differ on methods of transacting business. Therefore I feel that there is no one here in this room who will say I tell an untruth because I may differ from him or because of testimony that I may give in answer to the questions you may ask.

Q. (By Mr. PHILLIPS.) Where is your residence?—A. Bradford, Pa.

Q. Your name in full?—A. Lewis Emery, jr.

Q. What is your occupation, and what has it been?—A. My occupation for the past thirty-four years has been in the production and refining of oil.

CONNECTION WITH VARIOUS OIL COMPANIES.

Q. (By Mr. KENNEDY.) I should like to ask your present connection with the independent companies—producing companies, pipe-line companies, and the Pure Oil Company?—A. I am connected with them.

Q. In an official connection?—A. I am not an official, except that I am trustee of some stock.

Q. (By Mr. LIVINGSTON.) How do you stand in relation to all these companies?—A. I am a stockholder in three of them.

Q. Which three?—A. United States Pipe Line, Pure Oil Company, and the Producers' Oil Company, Limited.

Q. Any connection with the Standard?—A. No; none whatever.

EARLY HISTORY OF THE OIL BUSINESS.

Q. (By Mr. PHILLIPS.) You can proceed in your own way and make a statement to the commission as to the facts.—A. The discovery of oil was in 1859, in the vicinity of the city of Titusville. The commodity was new and practically unknown to the commercial or scientific world.¹ The oil was transported from the wells down Oil Creek, near which the first well was drilled, by teams, or by pumping the oil into boats, or, rather, at that time it was carried in buckets into flatboats made of inch lumber. These flatboats ran down Oil Creek to Oil City, Pa., and from there the oil was transferred into larger bulk boats and carried down the Allegheny River to the city of Pittsburg.

The first refineries for putting this oil into a merchantable condition were in the State of Pennsylvania, the natural and most economical place for the manufacture. The business was free and untrammelled from 1859 up to 1872. The transportation by boat gave way to transportation by pipe line and by rail. The production of oil in 1865, at which time I came into the business, was about 6,000 barrels a day. In the meantime the refineries had dotted the Oil Creek Valley and the Allegheny Valley and reached as far south as Cincinnati and Louisville and as far north as Portland, Me. In 1872 we find these refineries all in active operation, north and south from the points named. From 1859 up to 1865 the oil was drawn in barrels by teams from the interior of the district, Pithole and Cherry Creek and numerous other places I could mention, each team carrying, according to the condition of the road, from 3 to 7 barrels. A barrel of oil was about 450 pounds at that time. Then, in 1865, the pipe lines were introduced. This business was free and open to all the railroads, all the people, and all the world up to 1872. If the commission will kindly refer to this little pamphlet which I have prepared:²

THE FIRST PIPE LINES.

“The first successful effort to transport oil from the well to the railroads by pipe line instead of in barrels by teams was made in 1865.”³

¹ See pp. 405-407.

² Lewis Emery, jr., to the Industrial Commission, 1899.

³ See pp. 409, 413.

"The idea of transporting oil by a pipe to the Allegheny River originated with Thomas C. Bates, of Syracuse. A company was formed with a capital of \$100,000, Joseph Casey as president, and Thomas C. Bates as vice-president. Colonel Brackett and S. M. Spencer completed the arrangements, and David Kirk was appointed superintendent. The laying of the pipe was commenced in November, 1865, and the first oil was piped on the 10th of December, 1865. From that time to January 28, 1866, the company piped 20,000 barrels of oil. The pipe was 6 inches in diameter, extending from Pithole to Oleopolis, a distance of 7 miles, and run entirely by gravity. It had a fall of 360 feet between the field and the river. This company was known as the Pennsylvania Tubing Transportation Company.

"Another company was organized in the spring of 1865—the Rochester and Oleopolis Petroleum Company—with a capital of \$100,000.

"The Miller Farm and Pithole Pipe Company commenced to lay pipe August, 1865, and completed its line in October, 1865. The length of the line was 5½ miles. It was a 2-inch line, and originally four pumps were used, but afterward only one pump was found necessary to do the work."

To give you an idea of how crude men's ideas were at this time I will mention that it was thought necessary to place a pump at the foot of each hill in order that the oil might be carried over that hill into the next valley. In a distance of 5 miles there were four distinct relays of pumps. It would have been held absurd to think that oil could be pumped 4 miles. Now we put oil into a pipe and pump it a distance of 100 to 150 miles with one stroke of the pump.

"The men who were interested in this enterprise were: M. E. Van Sycle, of Jersey City; Henry C. Ohlen, of New York; Charles Hickox and Charles W. Noble, of Cleveland, Ohio.

"The Titusville Pipe Company was organized by H. E. Pickett and G. J. Sherman, of Titusville. They commenced laying pipes in January, 1866, and completed the line in April, 1866. There were two lines of 2-inch pipe from Pithole to Titusville, 9½ miles. The line cost \$120,000.

"Harley & Co. line, from Bennihoff Run to Shaffer, 2 miles, was built in 1865.

"The Vandergrift & Foreman pipe line, from Bradensburg to Oil City, in 1866.

"A charter granted in 1864 to the Western Transportation Company, from the Noble & Delemater well to Shaffer.

THE BEGINNINGS OF PIPE LINE COMBINATION.

"In 1866 the whole of the Van Sycle's line, from Miller farm to Pithole, fell into the hands of William H. Abbott and Henry Harley.

"The Avery & Hedden line, from Shamburg to the Miller farm.

"In 1867 Abbott & Harley acquired control of the Western Transportation Company. Under its charter they combined the Western and their own two lines as the Allegheny Transportation Company. The first board of directors, in 1869, were Henry Harley, president; W. H. Abbott, secretary; Jay Gould, J. P. Harley, and Joseph Douglass; T. W. Larsen, treasurer; William Warmcastle, general superintendent.

"Harley effected a combination, reorganized the Allegheny and Commonwealth as the Pennsylvania Transportation Company, with a capital of almost \$2,000,000, and 500 miles of pipe to Tidioute, Triumph, Irvineton, Oil City, Shamburg, Pleasantville, and Titusville, centering at Miller farm. Among the stockholders were: Jay Gould, Thomas A. Scott, William H. Kemble, Mrs. James Fisk, and George K. Anderson. This enterprise absorbed a swarm of small lines, and was considered the acme of pipe-line achievement.

"The Star Pipe Line was built by Vandergrift & Forman in 1867.

"In 1871 the Commonwealth Oil and Pipe Line Company was organized in the interest of the Oil Creek Railroad.

"Under the act of 1874 of Pennsylvania, Vandergrift & Forman organized the United Pipe Lines, into which a number of lines were merged.

"I desire here to submit, as the initial acts of Pennsylvania, that eventually merged the oil business of the United States into a monopoly—the Standard Oil Trust—"

Q. (By Mr. FARQUHAR.) In the detailed statement you have made of the organization of these various lines, I fail to find in the case of any of these lines any of the members, the chief officers, or directors of the Standard Oil Company itself — A. We have not come to that yet.

Q. You mean to state now that the initial one of the carrier combinations started after the United Pipe Line was formed?—A. Yes; that is what I propose to show.

That was in 1874?—A. Oh, no; the act was of 1874; the organization was in 1871.

Was not the United Pipe Line afterwards the Commonwealth Line?—A. No.

Are you referring to the old line of Vandergrift & Forman the year they made the junction of the oil lines in the United Pipe Lines in 1872?—A. We will come to that again. I can not answer that question until I come to it. I intended to show the consolidation of all these lines under the proper period.¹

THE PENNSYLVANIA RAILROAD PERMITS A PIPE-LINE LAW FOR EIGHT COUNTIES TO PASS.

"The charters for oil-transportation companies, granted by the legislature, were few in number and only to a favored few, the legislature steadily refusing to enact a general law. In 1872, after the exposure of the South Improvement scheme, the legislature was constrained by the popular indignation thus aroused to pass a free-pipe law covering the oil-producing counties—Erie, Crawford, Forrest, Warren, Venango, Butler, Clarion, and Armstrong. Under that law 18 lines were built from the producing districts to the railroads, the length varying from 5 to 30 miles."

I desire to make a remark here. In 1872, when the people of the oil field were so aroused over the report of the South Improvement Company's organization, they demanded from the legislature the repeal of the South Improvement Company's charter and the passage of the free-pipe law, giving pipe-line companies the right of eminent domain. Myself and many others went to Harrisburg and asked the legislature to give us such a law. We met Mr. Scott, of the Pennsylvania Railroad Company—people all-powerful in the legislative body at that time, and I do not think their strength is in any way lessened at the present.

I asked Mr. Scott, president of the Pennsylvania Railroad, to permit this law to become general. He refused. He said that he would permit us to have a law for the eight counties named, but he would not permit us to have a law by which we could run our pipes to the city of Pittsburgh. Our hope was to get a law by which we could reach competing lines of railroad and the Ohio River, so that we might transport our product by water. He said he would permit a law to pass for the eight counties named, but he would provide in the law that no pipe should go within a mile of the State line, or within a mile of any railroad but the Pennsylvania. The oil-producing people would not accept that provision in the bill. By force of circumstances, and almost a resort to arms, it was finally conceded that we should have the eight counties, but we were not permitted to have Allegheny County, that we might get to Pittsburgh for the competition named. This is personal experience.

RISE OF THE MONOPOLY.

"After the adoption of the new constitution, the Wallace Corporation Act, carefully excluding from its provisions transportation of oil, was passed by the legislature, and in less than two years the old South Improvement combination, now known as the Standard Oil Trust, had, by a corrupt bargain with all the railroads, forced all but one of these lines built under the act of 1872 into bankruptcy, and, practically, sale to itself."

This is where these were consolidated—the Vandergrift & Forman, but they were forced in by the monopoly.

Q. (By Representative LIVINGSTON.) Explain what you mean by monopoly; whether the word is used advisedly or not.—A. It was at that time. Perhaps I might say the word monopoly there would be a little premature, because it had not accomplished all its plans to get absolute control of the business.

Q. (By Mr. KENNEDY.) Has it ever had absolute control of the business?—A. Absolutely so.

Q. Competition wiped out entirely?—A. Entirely so; there was a time when I did not know of a living independent refiner.

Q. (By Representative LIVINGSTON.) The word monopoly means the Standard?—A. It does.

Q. We would rather hereafter you would say the Standard Oil Company.—A. It will not suit when I get a little further along.

Q. There are so many monopolies that I do not know which you are speaking of.

Q. (By Mr. KENNEDY.) Is there any monopoly now?—A. If you will allow me to go on, I will get to these things; there will come a time when you can shoot all the shot at me you want to; but to answer that question would be a little premature until you have heard all my argument.

Q. I withdraw that question.

¹ See p. 630.

² See pp. 423, 424.

"The old oil fields are now entirely at the mercy of the monopoly; and upon the development of the new Bradford district, the monopoly through its transportation—the United Pipe Lines and the American Transfer Company—took possession of that field also. Since 1876 the whole oil district, covering nine counties (and with the Pennsylvania Railroad or one of its branches within from 1 to 20 miles of every well), has been under the complete dictation of this trust. A brief statement of the history of this trust, its methods and policy, its influence upon the crude and refining industries and upon the oil regions generally, together with certain inferences to be drawn therefrom, may enable the commission to form some estimate of its future, and possibly to suggest some relief from its baneful influence. Twenty-nine years ago the Standard Oil Company was a corporation located at Cleveland, Ohio, with a capital of less than a million dollars."

SIZE OF THE STANDARD OIL COMPANY IN 1870.

Now I wish to digress; I wish to show the holdings of the Standard Oil Company. I propose to give the commission the testimony of Mr. Flagler, which I heard at the time, and which is of record in this book. The book is the report of the investigation of the sugar trust and the Standard oil trust by the Committee on Manufactures of the House of Representatives in 1888. (House Reports, Fiftieth Congress, first session, vol. 9.)

Mr. Gowen asks the question (p. 288):

"Were you a stockholder of the Standard Oil Company of Ohio, as well as an officer?—A. Yes, sir.

"Q. From what time? When did you first become such?—A. From its organization.

"Q. In what year was that?—A. I think early in 1870.

"Q. Were you not connected in any manner with the oil trade or with associations or corporations interested in or connected with the oil trade prior to the formation of the Standard Oil Company of Ohio?—A. I was a member of the firm of Rockefeller, Andrews & Flagler.

Where was it located?—A. Cleveland, Ohio.

What was their business?—A. Refining oil.

That was a private partnership, was it not?—A. Yes, sir.

Did it engage directly in the business of refining?—A. Yes, sir.

Did that firm erect refining works, or did they buy them from some one else?—A. They bought works from two firms, one of which, I believe, was Rockefeller & Co. and the other Rockefeller & Andrews. They succeeded those two firms.

"Q. Were you interested in either before you became a member of the new firm?—A. I was not.

"Q. Were you in business with them or connected with them in any way?—A. I was not.

"Q. When your own firm came into existence, or after it had gone into business, what was the extent of its refining capacity?—A. As well as I can recollect, 600 barrels a day of crude oil.

"Q. Your firm practically, therefore, formed the Standard Oil Company of Ohio and turned its works over to that company?—A. Yes, sir.

"Q. And accepted stock in that company in consideration of its theretofore private ownership in the firm?—A. Yes, sir.

"Q. What was the capital of the Standard Oil Company of Ohio?—A. One million dollars."

That is as far as I need to go; and I want this commission to bear in mind now that the Standard Oil Company of Ohio owned, in 1870 and 1871, 600 barrels refining capacity. I will call your attention later on to their ownership in 1879, in testimony before the Hepburn committee, which was appointed by the New York State legislature. I will leave that part of the subject for the present.

RAILROAD MAGNATES BECOME STOCKHOLDERS IN THE STANDARD.

Soon after this it was reorganized, when Scott, of the Pennsylvania Railroad; Vanderbilt, of the New York Central Railroad; Jewett, of the Erie Railroad; Watson, of the Lake Shore Railroad, and other railroad managers became interested in it as large stockholders. With the influence thus gained it attempted the establishment of the South Improvement Company. This attempt failed.

Just there I desire to call your attention, on page 6 of this pamphlet, to the incorporation of the South Improvement Company.

CHARTER OF THE SOUTH IMPROVEMENT COMPANY.

AN ACT to incorporate the South Improvement Company.

SECTION 1. *Be it enacted by the senate and house of representatives of the Commonwealth of Pennsylvania in general assembly met, and it is hereby enacted by the authority of the same, That S. S. Moon, R. D. Barclay, John A. Fowler, or a majority of them, their associates, successors, and assigns, be, and they are hereby, authorized and empowered to form and be a body corporate, to be known as the South Improvement Company, which shall be, and is hereby, vested with all the powers, privileges, duties, and obligations conferred upon the act to incorporate the Pennsylvania Company, by the act of the legislature of Pennsylvania, approved the 7th day of April, A. D. 1870, and the supplement thereto.*

SEC. 2. *That the stockholders of said company, by and with the consent of the holders of not less than two-thirds of the shares of stock, be, and they are hereby, authorized to change the name and title of the said company and designate the location of its general office, which changes shall be valid after the filing of a certificate in the office of the secretary of the Commonwealth, signed by the President and attested by the seal of the said company.*

JAMES H. WEBB,
Speaker of the House of Representatives.
WILLIAM A. WALLACE,
Speaker of the Senate.

Approved the 6th day of May, A. D. 1871.

JNO. W. GEARY.

CHARTER OF THE PENNSYLVANIA COMPANY.

I desire to have this act read, because I was asked this morning by one of the commissioners what power they had under the South Improvement Company charter. I should like to reply to that question before the commission, if I dare, what a very eminent judge said in our section of the country relative to the powers of this company, but as it is not perhaps preliminary, I will tell the story afterwards. I desire to have Senator Lee read this incorporating act. I do that because I wish this commission to hear the unparalleled privileges granted under the charter and why they sought it; and I desire to follow this along and show you that years after that time they acquired the same charter under a different head. Charters were for sale. They were manufactured by the legislature of the State of Pennsylvania for that purpose. I know; I have spent seventeen years of my life there.

AN ACT to incorporate the Pennsylvania Company.

SECTION 1. *Be it enacted by the senate and house of representatives of the Commonwealth of Pennsylvania in general assembly met, and it is hereby enacted by the authority of the same, That Andrew Howard, J. S. Swartz, G. B. Edward, J. D. Wellsto, and J. T. Malin, their associates, successors, and assigns, or a majority of them, be, and they are hereby, authorized to form and be a body corporate, to be known as the Pennsylvania Company, and by that name, style, and title shall have perpetual succession and all the privileges, franchises, and immunities incident to a corporation; may sue and be sued, implead and be impleaded, complain and defend in all courts of law and equity, of record and otherwise; may purchase, receive, hold, and enjoy, to them, their successors, and assigns, all such lands, tenements, and leaseholds, estates and hereditaments, goods and chattels, securities and estates, real, personal, and mixed, of what kind and quality soever, as may be necessary to erect depots, engine houses, tracks, shops, and other purposes of said corporation, as hereafter defined by the second section of this act; and the same from time to time may sell, convey, mortgage, encumber, charge, pledge, grant, lease, sublease, alien, and dispose of, and also make and have a common seal, and the same to alter and renew at pleasure, and ordain, establish, and put in execution such by-laws or ordinances, rules, and regulations as may be necessary or convenient for the government of the said corporation, not being contrary to the constitution and laws of this Commonwealth, and generally may do all and singular the matters and things which to them shall appertain to do for the well being of the said corporation and the management and ordering of the affairs and business of the same: *Provided, That nothing herein contained shall be so construed as to give to the said corporation any banking privileges or franchises or the privilege of issuing their obligations as money.**

SEC. 2. *That the corporation hereby created shall have power to contract with any person or persons, firms, corporations, or any other party, howsoever formed,*

existing, or that may hereafter exist, in any way that said parties or any of them may have authority to do, to build, construct, maintain, or manage any work or works, public or private, which may tend or be designed to include, increase, facilitate, or develop trade, travel, or the transportation or conveyance of freight, live stock, passengers, or any other traffic, by land or water, from or to any part of the United States or the Territories thereof; and the said company shall also have power and authority to supply or furnish all needful material, labor, implements, instruments, and fixtures of any and every kind whatsoever, on such terms and conditions as may be agreed upon between the parties, respectively, and also to purchase, erect, construct, maintain, or conduct, in its own name and for its own benefit, or otherwise, any such work, public or private, as they may by law be authorized to do (including also herein lines for telegraphic communication), and to aid, cooperate, and unite with any company, person, or firm in so doing.

SEC. 3. The company hereby created shall also have the power to make purchases and sales of or investments in the bonds and securities of other companies, and to make advances of money and of credit to other companies, and to aid in like manner contractors and manufacturers, and to receive and hold, on deposit or as collateral or otherwise, any estate or property, real or personal, including the notes, obligations, and accounts of individuals and companies, and the same to purchase, collect, adjust, and settle, and also to pledge, sell, and dispose thereof on such terms as may be agreed on between them and the parties contracting with them; and also to indorse and guarantee the payment of the bonds and the performance of the obligations of other corporations, firms, and individuals, and to assume, become responsible for, execute, and carry out any contracts, leases, or subleases made by any company or companies, individuals, or firms whatsoever.

SEC. 4. The company hereby created shall also have power to enter upon and occupy the lands of individuals or of companies on making payment therefor or giving security according to law for the purpose of erecting, constructing, maintaining, or managing any public work, such as is provided for or mentioned in the second section of this act, and to construct and erect such works thereon, and also such buildings, improvements, structures, roads, or fixtures as may be necessary or convenient for the purposes of said company, under the powers herein granted; and to purchase, make, use, and maintain any works or improvements connecting or intended to be connected with the works of the said company; and to merge or consolidate or unite with the said company the improvements, property, and franchises of any other company or companies on such terms and conditions as the said company may agree upon; and to fix and regulate the tolls or charges to be charged or demanded for any freight, property, or passengers traveling or passing over any improvement erected, managed, or owned by the said company, or on any merchandise or property transported over any road whatever by the said company, and to make, from time to time, dividends from the profits made by the said company; the several railroads managed by said company shall continue taxable, as heretofore, in proportion to their length within this State, respectively; and the said Pennsylvania Company shall be taxable only on the proportion of dividends on its capital stock and upon net earnings or income, only in proportion to the amount actually carried by it within the State of Pennsylvania, and on its earnings or income derived from its business beyond the limits of this Commonwealth shall not be liable for taxation.

HOW THE NATIONAL TRANSIT COMPANY (STANDARD) GOT THE SAME CORPORATE POWERS WHICH THE SOUTH IMPROVEMENT COMPANY HAD HAD.

I simply wanted the commission to understand the powers given under this incorporation. I desire to call your attention, incidentally, now to page 154 of this pamphlet: "When the popular excitement raised against the South Improvement Company, which resulted in the repeal of the act to incorporate it, had subsided, the trust, for the purpose of its transportation business in Pennsylvania, secured a franchise substantially as follows:

"An act to incorporate the Overland Contract Company was approved March 23, 1871."

That is the act for transporting oil by pipe line throughout the State of Pennsylvania; and the provisions of the Southern Railway Security act, or the Overland Contract Company act, are the same as the Pennsylvania Company, or the South Improvement Company act identically. It is simply the same act with another head. I can refer you, if you choose, to some twelve or fifteen similar charters. The body of the act has been read under another name.

Q. (By Mr. KENNEDY.) Can you refer the commission to the full text of the act?—A. That is the identical act.

Q. The one you read, incorporating the Pennsylvania Company?—A. Yes. What I mean to say is that this act as read by Senator Lee is the identical act under which the National Transit Company is organized and from which they get all their privileges; and there is nothing not set forth in that act.

Q. Do they get their powers and privileges from this old corporation without having to go to the secretary of state for any charter?—A. The National Transit Company people bought this charter under which the National Transit Company is organized on March 8, 1881, for \$16,250. The provisions of that law are just the same as the provisions of the South Improvement Company act—one and the same, in every word, letter, and line.

Q. (By Mr. FARQUHAR.) How long was the South Improvement Company in existence?—A. About three months.

Q. And immediately after, the other company was organized with the same rights and privileges, but not the same title. How did they come to get the privilege when they applied?—A. It is another company.

Q. And contemporaneous?—A. No; in 1881.

Q. When was the South Improvement Company act repealed?—A. March 25, 1872.

Q. Then how was it possible for another company, except by an entire reenactment, to take all the privileges of the South Improvement Company?—A. The body of the South Improvement Company act is just the same as the body of the Southern Railway Security Company act. As I have said, there were twelve or fifteen other charters of the same character, with the same body.

THE OIL BUSINESS WAS FREE TO ALL AT FIRST.

Now, from 1872, of which I have given you a history, up to the purchase of this charter in 1881, I will endeavor to show you what relations the South Improvement Company have had to the Standard Oil Company; and I come simply now to the South Improvement Company charter. I must travel along to 1874 before I can give you the connection. I have occasion, however, to refer to this; but bear in mind you are speaking of the Standard Oil Company, and perhaps I may be speaking of the National Transit Company, which is one of the lines of the Standard Oil Company of Pennsylvania. I desire you to understand this franchise carried with it all the powers and privileges exercised by the South Improvement Company, of unlimited capital and power.

Q. The question is, did other companies of Pennsylvania have just as good privileges at that time?—A. No; the business was in everybody's hands at this time. It was just as free for you to go into the oil business and transport your oil down the Allegheny River and on the railroads as for you to go and fish in the Potomac. You could put your money into a well or pipe line, or anything you wanted to. It was absolutely free and open to everybody. There were no encroachments, no hampering at that time.

Q. Was there any attempt on the part of any of the other refiners and producers to get a charter of equal privileges with this South Improvement Company?—A. Not to my knowledge.

Q. From 1872 to 1881?—A. I do not know about that.

DRAWBACKS AND REBATES MADE THE TROUBLE.

Q. Was it the lack of taking advantage of combination at that time that handicapped the parties who did not combine as these parties had?—A. A man was at that time, I believe, and undoubtedly is at this, disposed to obey the laws of the country. The old constitution of the State of Pennsylvania, the new, and I think every other constitution of any of the States of the Union, prohibited undue discrimination. It was against the law.

The whole difficulty arising to-day is due to the discriminating rates. The railroads of this country are responsible to-day for the existence of these trusts, because they gave the favored shippers such drawbacks and rebates that finally the Standard Oil Company, with its privileges, drove the entire oil industry into its own hands. I do not say for a moment but that these people had the right to do this if they wanted to, but I do say that when they did do it they were violators of the common law, and that I would not connect myself with them on that ground. I was an original. I was there; I had my refineries; I built my pipe line in 1868 and in 1870, long before I knew anything of these people. I did not see fit to place my fortunes in their hands. Dollars and cents—yes; it would have been millions to me if I had, but I did not feel that I could surrender my principles under the arrangement, or the law, set forth under the South Improvement Company. But the most damnable thing that followed was the contract. While it has been given

in evidence upon this floor that the Standard Oil Company are not responsible for the acts of the South Improvement Company, but the contract that followed—that was framed in Cleveland and brought to the Pennsylvania Railroad and they accepted it, and the contract was signed by J. Edgar Thompson, president of the road at that time.

Q. Were not all the railroads wildcatting at that time, anyway?—A. No, sir. I do not doubt but railroads were giving discriminating rates; I have expressed myself firmly upon that question. You know it—as a business man, you know it; and I will show you before I leave this floor that discriminations have been made right up almost to the present time.

THE CONTRACT BETWEEN THE SOUTH IMPROVEMENT COMPANY AND THE PENNSYLVANIA RAILROAD COMPANY.

Now, I desire to call your attention to the contract between the South Improvement Company and the Pennsylvania Railroad, dated January 18, 1872, and I propose to show you before I quit that this contract went into existence absolutely and was signed by the president, although it has been denied upon this stand that it ever went into operation. Page 85 of my pamphlet—

Q. (By Representative LIVINGSTON.) For what purpose?—A. It is to show you the contract that was made between the Pennsylvania Railroad and the South Improvement Company.

Q. Is that a verified statement you read?—A. I will read the contract itself, signed by the Pennsylvania Railroad.

Q. That is a verified copy, is it?—A. Oh, it is in the investigation of 1871, and it is all in the Congressional report of 1888, and the Hepburn committee's proceedings, and in all investigations that have been going on. It seems to me that investigations don't amount to a cent. It is printed; in all the libraries in the United States it can be had, or in any town library—the history of this very business I am relating. [See Fiftieth Congress, first session, House Reports, vol. 9, pp. 357.]

“Agreement made and entered into this 18th day of January, in the year 1872, by and between the South Improvement Company, a corporation organized and existing under the laws of the State of Pennsylvania, party hereto of the first part, and the Pennsylvania Railroad Company, on its own behalf and on behalf of all other railroad companies whose roads are controlled, owned, or leased by it, or with which it has sufficient running arrangements, which other roads are herein described as the connections of the said Pennsylvania Railroad Company, party hereto of the second part, witnesseth:

“Whereas the party hereto of the first part has been organized for the purpose, among other things, of increasing, facilitating, and developing the trade in and the conveyance and transportation of petroleum and its products, and for that purpose proposes, among other things, to expend large sums of money in the purchase, erection, and construction of, and maintaining and conducting works for storage, distillation and refining, warehousing and transportation, and in various other ways, upon the inducement, among other things, of this contract;

“And whereas the magnitude and extent of the business and operations proposed to be carried on by the party hereto of the first part will greatly promote the interest of the party hereto of the second part, and make it desirable for it by fixing certain rates of freight, drawbacks, and rebates, and by the other provisions of this agreement, to encourage the outlay proposed by the party hereto of the first part, and to facilitate and increase the transportation to be received from it.

DIVISION OF PETROLEUM TRAFFIC.

“And whereas it has been agreed by and between the party hereto of the second part, for itself and its connections, the Erie Railroad Company, for itself and its connections, and the New York Central Railroad Company, for itself and connections, that the business of transporting by railroad crude petroleum and its products toward the Atlantic coast, from the points of production and refining on their lines of road, shall be allotted by the party hereto of the first part to the said three companies in the proportion of 45 per cent of the whole to the Pennsylvania Railroad Company, for itself and its connections, including the Philadelphia and Erie Railway, the Northern Central Railway, the Allegheny Valley Railroad, Camden and Amboy Railway, the Pennsylvania Company, and all other railroads which are or may be controlled, owned, and leased by it or with which it has or may have sufficient running arrangements; 27½ per cent of the whole to the Erie Railway Company, for itself and its connections; and 27½ per cent of the whole to

the New York Central Railroad Company, for itself and its connections, and that the transportation beyond Cleveland and Pittsburg over the railroads of the said companies and their connections, in other directions than toward the Atlantic coast, west from said points of production and refining, shall be allotted by the party hereto of the first part in the proportion of one-third thereof to the party hereto of the second part, for itself and its Western connections, and the remainder to other railroads."

That means this: that all oil going to the Atlantic coast shall be divided as set forth, 27½ per cent to the Erie, 27½ per cent to the New York Central, and 45 per cent to the Pennsylvania, leaving the balance of trade, which was apportioned to be about 10 per cent,¹ to the Western country, and it should be divided between three roads. Do you understand? That is to say, the 10 per cent going to the West for the Western consumption, the rebate agreed by the railroads to pay to be upon the same basis, and shall be divided third and third, the Pennsylvania Railroad paying into the hands of the South Improvement Company 27½ per cent, etc. That is the division.

"Now, therefore, this agreement witnesseth, that the parties hereto, for themselves and their successors, in consideration of the premises, of the mutual execution hereof, and of the mutual advantages hereby conferred, have covenanted and agreed, and do hereby covenant and agree, each with the other, as follows:

"ARTICLE FIRST.

"The party hereto of the first part covenants and agrees:

"1. To furnish to the party hereto of the second part, for transportation, such a proportion of the crude petroleum and its products owned or controlled by the party hereto of the first part as shall give to the party hereto of the second part 45 per cent of all the crude petroleum and its products sent from the points of production and refining toward the Atlantic coast by the said Pennsylvania, the Erie, and the New York Central railroads and their connections, and 33½ per cent of that which is sent west of Pittsburg and Cleveland by those railroads and their connections.

"2. To provide suitable tankage at the points where petroleum is produced on the railroads of the party hereto of the second part and its connections in which to receive crude petroleum preparatory to shipment, with the necessary pipes, pumps, racks, and other appliances for its convenient transfer bulk into railroad cars.

"3. To deliver to the railroads of the party hereto of the second part and its connections at the places of shipment and to receive from them at the places of destination all crude petroleum and its products transported over their railroads for the party of the first part.

"4. To provide at the places of destination on the seaboard necessary and suitable yards, wharves, warehouses, sheds, tanks, pipes, pumps, and motive power for the reception of petroleum and its products and loading vessels therewith."

I want you to follow this contract right there. I propose to show to you that this contract has, in fact, been carried out to the letter from the day of its inception, in spite of the repeal of the South Improvement Company charter.

"5. To provide, maintain, and operate the works necessary to refine crude petroleum upon the largest scale practicable, and with such skill and on such a system of organization and division of labor as will secure both efficiency and economy; and for that purpose, and for the purpose of developing and increasing the petroleum trade of the country, to provide and maintain all suitable and necessary means and facilities.

RECORDS OF THE TRANSPORTATION OF ALL PETROLEUM AND ITS PRODUCTS.

"6. To keep records of the transportation over the railroads of the party hereto of the second part, and its connections, and, so far as it can obtain the same, over the Erie and the New York Central railroads and their connections, of all petroleum and its products"—

That they may ship under this contract—bear that in mind—of all petroleum and its products.

"Showing the number of barrels of 45 gallons each in bulk and the number of barrels of 47 gallons in barrels carried by each road, with the points of receiving and delivery and the amount of freight received by each road, for such transport-

¹ NOTE.—27½+27½+45=100.

tation, which records shall at all reasonable times be open to the inspection of the duly constituted representatives of the party hereto of the second part."¹

That is to say, the railroads are open, absolutely, to the inspection of this company; that they had the right to go in at any time and take down from the place of deposit those books and look over them and see that which I ship or anybody else ships.

"Monthly abstracts of all such records shall be regularly sent to the party of the second part."

See how complete. That an abstract of those books must be sent to the office of this company that they may look into the business of Governor Harris, Mr. Phillips, or Mr. Farquhar—anybody, it does not matter whom. That was the power given; and I simply say, if you will take the evidence of the investigation of 1871 and 1872, take the investigations of the Hepburn committee, take the investigations of the State of Pennsylvania, and every scintilla of evidence produced, and you will find that this contract has been carried out to the letter, even up to the present time. There is no secrecy in my business to-day. My business is known every twenty-four hours, just exactly what I do. I make that assertion because I can produce the evidence.

Q. (By Mr. FARQUHAR.) Possibly these parties entering into contracts with the railroads are a little afraid of the railroads themselves cheating?—A. That might be so.

"7. To pay the party of the second part weekly for all transportation over its roads and its connections of petroleum and its products such gross rates and half rates of freight as are hereinafter specified, less the rebates and drawbacks hereinafter provided to be retained by the party hereto of the first part for its own use.

REBATES AND DRAWBACKS TO THE SOUTH IMPROVEMENT COMPANY ON ALL OIL SHIPPED BY IT OR BY OTHERS.

"ARTICLE SECOND.

"The party hereto of the second part covenants and agrees:

"1. That the party hereto of the second part will pay and allow to the party hereto of the first part for its own use, on all petroleum and its products transported over the railroads of the party hereto of the second part and its connections, for the party hereto of the first part, rebates, and on all transported for others, drawbacks, at the rates hereinafter provided, except in the case specified in article third."

Not only what they ship themselves, but what every individual shipped; whatever oil was shipped at that time.

"2. To deliver to the party hereto of the first part, for all petroleum and its products in packages, transportation over the railroad of the party hereto of the second part, and its connections, by whomsoever shipped, and consigned to the party of the first part, at the warehouses of the party of the first part, at the seaboard and inland, at the depots of the party of the second part, at the places of destination, and to deliver all petroleum and its products, in bulk, owned by or consigned to the said party of the first part, at any point required on the line of the railroads of the party of the second part and its connections.

OPEN RATES.

"3. To transport and deliver petroleum and its products over the railroads of the party of the second part, and its connections, at gross rates, which shall at no time exceed the following, without the consent of both parties hereto:

"From any point on the Oil Creek and Allegheny River Railroad to Oil City, Union, Corry, Irvineton, which are herein designed as 'common points,' on each barrel of 45 gallons in bulk and on each barrel of 47 gallons in barrels, 30 cents.

"On crude petroleum.

From any common point (for each barrel of 45 gallons) to—

Cleveland	\$0.80
Pittsburg .....	.80
New York	2.56
Philadelphia	2.41
Baltimore	2.41
Boston	2.71

¹ Party of second part is the Pennsylvania Railroad Company.

"All other points except those on the Oil Creek and Allegheny River Railway to the places of destination last named, the same rates as from the 'common points.'"

"On refined oil, benzine, and other products of the manufacture of petroleum."

From Pittsburg (for each barrel) to—	
New York	\$2.00
Philadelphia	1.85
Baltimore	1.85
From Cleveland (for each barrel) to—	
Boston	2.15
New York	2.00
Philadelphia	1.85
Baltimore	1.85
From any common point (for each barrel) to—	
New York	2.92
Philadelphia	2.77
Baltimore	2.77
Boston	3.07

"From and to all points intermediate between the points aforesaid, such reasonable rates as the party of the second part shall from time to time establish on both crude and refined."

"From Pittsburg, Cleveland, and other points to places west of Pittsburg and Cleveland, such reasonable rates as the party of the second part may deem it expedient from time to time to establish."

REBATES AND DRAWBACKS.

"4. To pay and allow to the party hereto of the first part on all petroleum and its products transported for it over the railroads of the party of the second part and its connections the following rebates, and on all transported for other parties drawbacks of like amounts as the rebates from the gross rates, the same to be deducted and retained by the party hereto of the first part for its own use from the amounts of freights, payable to the party of the second part."

"On the transportation of crude petroleum."

[Rebate per barrel.]

From the gross rate from any common point to—	
Cleveland	\$0.40
Pittsburg .....	.40
New York	1.06
Philadelphia	1.06
Baltimore	1.06
Boston	1.06

"From the gross rate from all other points and the six places of destination last named rebates the same as on the rates from the common points."

"On the transportation of refined oil, benzine, and other products of the manufacture of petroleum."

From the gross rates from Pittsburg to—	
New York	\$0.50
Philadelphia .....	.50
Baltimore .....	.50
From the gross rates from Cleveland to—	
Boston .....	.50
New York .....	.50
Philadelphia .....	.50
Baltimore .....	.50
From the gross rates from any common point to—	
New York	1.82
Philadelphia	1.82
Baltimore	1.82
Boston	1.82



Now I will refer to page 43.

"From the gross rates to and from all points intermediate between the above points a rebate or drawback of one-third of the gross rate shall be paid.

"From the gross rates from Pittsburg, Cleveland, and other points to places west of the meridians of Pittsburg and Cleveland a rebate or drawback of one-third of the gross rates shall be paid.

TO CHARGE ALL OTHER PARTIES NOT LESS THAN THE GROSS RATES ABOVE.

"5. To charge to all other parties (excepting such as are referred to in article 3) for the transportation of petroleum and its products rates which shall not be less than the gross rates above specified, and should at any time any less rate be charged, directly or indirectly, either by way of rebate, commission, allowances, or upon any pretext whatsoever, the same reduction per barrel shall be made to the party hereto of the first part from the net rates provided for them on all transportation for them during the period for which such reduction shall be made to others.

"6. To permit the party hereto of the first part, if in its judgment the currents of trade should so require, temporarily to increase or diminish the proportion, as herein provided, to the party hereto of the second part, for itself and its connections, as the whole business of transporting petroleum and its products, as between the party hereto of the second part, the Erie Railway Company, and the New York Central Railroad Company. The party of the second part in such case to receive from the party hereto of the first part, in full payment or indemnity for the excess or deficiency, one-half the net schedule rates on such excess or deficiency, the other half to be paid pro rata to the said other companies whose apportioned quantity of transportation shall thus be varied; but such diversion of business shall not at any time exceed 1 week, nor be repeated without an interval of at least 60 days—"

That provision means that if it became necessary, in order to crush out any particular individual, they had the right to exercise the privileges of clause 6; but it should not be done for more than one week in each interval of sixty days.

"Unless with the consent of the party hereto of the second part. Also that whenever, from time to time, as aforesaid, a temporary diversion of a part of the apportioned transportation of the party of the second part to the other railroads aforesaid, or to either of them, shall become necessary, cars of the party of the second part may be loaded by the party of the first part and sent away over such other railroads, or either of them, but the cars so sent away shall be returned, without unnecessary delay and in as good order as when taken, to the railroads of the party of the second part, and mileage at the usual rates paid for their use while absent.

"7. To furnish with as much regularity as possible at all times good and sufficient cars and other means suitable and necessary for the safe and prompt transportation of all crude petroleum and its products, either bulk or in barrels, which the party hereto of the first part shall desire to send from one point to another (and which shall be supplied with as much regularity as possible) on or over the railroads of the party of the second part and its connections.

ALL DETAILS OF SHIPMENTS BY OTHERS TO BE REPORTED TO THE SOUTH IMPROVEMENT COMPANY.

"8. To make manifests or waybills of all petroleum or its products transported over any portion of the railroads of the party of the second part or its connections, which manifests shall state the name of the consignor, the place of shipment, the kind and actual quantity of the article shipped, the name of the consignee, and the place of destination, with the rate and gross amount of freight and charges, and to send daily to the principal office of the party of the first part duplicates of all such manifests or waybills."

Now, do you understand that? Sending in waybills and everything connected with that shipment. The name of the shipper even must be in that report.

SUCH REPORTS STILL MADE TO THE STANDARD.

Just here I want to give you a sample. I want to state from personal experience the carrying out of that contract within a brief space of time. It grew out of this: I shipped a carload of oil. I will not call the name of the road. I shipped a carload of lubricating oil and refined oil—that is to say, a mixed car—from Bradford, Pa., where my little refinery is located, to Dubois, which was a station down in the coal country, in Elk county.

Q. (By Mr. CLARKE.) When was this?—A. A little less than a year ago. I loaded this oil, and there was a gentleman who owned a sawmill in that section, and who had been an old acquaintance of mine for thirty-odd years; he was an employee of the road and is upon the road to-day. He runs the fast passenger

train upon that road. He says: "I want two barrels of oil sent down to my mill." I put those two barrels of oil on top of a carload of stuff. I took the precaution not to put the oil in that car until after business hours. The car was sealed by the officer of the road. It was to have left the yard the next day, but through some mistake it did not leave. The engineer got off his engine, and, without taking off his overalls, he came up Main street to my office, and he said: "Who in the devil is giving away your business?" I said: "What's the matter?" Said he: "When I got off my engine at Dubois, ——— said" (calling the engineer by name): "'You are buying oil from Emery. You have bought two barrels of oil from Emery. I was advised this morning by the agent at Dubois that I had been derelict in my duty in not selling you that oil—in permitting Emery to sell it. I am threatened with discharge.'" The gentleman turned around to him and said: "How the hell do you know I bought any oil from them; and if I have, what business is it of yours?" He left. Now, I swear that that oil was put in that car on the top of those barrels without a single man's knowing anything about it excepting the man who put it in and my son, who has charge of the business. I say again that is only one instance of the carrying out of this part of this section I have read. I have no doubt, and I know in my own mind, that my business is followed to this day under the provisions of that section, the same as it was in 1872. I speak not for anyone else, except as I speak of the evidence as set forth in 1871 and 1880. Those cases are numerous. It is not the only instance. I could give you a hundred others if necessary and the time could be taken, and I say that although the charter of the South Improvement Company was repealed and the provisions of this contract were annulled, they have been constantly carried out and are, in my opinion, being carried out at this very moment.'

Now I am coming to the most interesting article of all in this contract, and I call your particular attention to it:

EQUAL OPPORTUNITIES TO "ANY OTHER PARTY WHO SHALL FURNISH AN EQUAL AMOUNT OF TRANSPORTATION."

"ARTICLE THIRD.

"And it is hereby further covenanted and agreed by and between the parties hereto that the rebates hereinbefore provided for the party hereto of the first part may be made to any other party who shall furnish an equal amount of transportation and who shall possess and use works, means, and facilities for carrying on and promoting the petroleum trade equal to those possessed and used by the party hereto of the first part."

I desire to have questions asked upon that point. It has been claimed that anybody—yes, everybody—could enter the oil business. It is true, but they must enter the business as set forth in the articles on pages 44 and 45 of my pamphlet.

"And it is hereby ———" I am reading article fourth.

Q. (By Mr. KENNEDY.) Why not give it to us, Senator?—A. It is a question that has been denied upon the stand time and time again.

Q. (By Mr. FARQUHAR.) The statement was made on this stand that the Standard Oil Company enjoyed no other or greater privileges than were enjoyed by any other company.—A. That is true under that section. Now, here is a contract that provides for the shipment of petroleum, all of it, at that time; or rather, had the provisions of the contract been carried out as set forth in the charter, as well as in the articles of agreement, how in the world could anybody else have that which they possessed themselves—all the oil, all the rebates, and all the transportation? Would it have been possible for you to go into the business and possess an equal amount of oil, equal facilities, equal refineries, unless you had behind you a railroad company as strong as the railroad combination itself? It was impossible, absolutely impossible, for any set of men to go out and get equal contracts, because they had got all of the roads then leading to the Atlantic coast and into the western country. There was no chance whatever for a man with a single pipe line. I was a manufacturer. I had my refinery at that time. I did not have equal facilities, and I could not get them. I was one of the hundreds that went to the wall under that contract, although it is said by witnesses and everybody else that it was repealed and went out of existence. You know, gentlemen, as well as I when the fading of the business commenced. It faded from 1872, and it went out of existence in 1877, although the contract was repealed; and I may say right here that the Standard Oil Company was organized in Cleveland, Ohio, and later on, in 1872, it, with the Pennsylvania Railroad, the New York Central, the New York and Erie, became partners in that arrangement, in that contract itself. How in the world could I get equal facilities when all the railroads were in that combination? It was a moral impossibility; nobody had an equal show. Is that an answer?

¹ See Mr. WHEELER, p. 367, bottom.

THE WITNESS PAID THE OPEN OR GROSS RATES.

Q. Well, a little further. Can you give testimony to this commission as to the rates which you paid there at that time?—A. At which time?

Q. At the time mentioned here. How much more did you pay, or did you pay the open rate?—A. We paid the open rate. Although you see it did not go into existence, I can produce you bills showing that I was charged \$2.06 from my refinery on this oil. I say it did go into active operation in so far as freight was concerned.

Q. Have you before now or at any time produced any of these bills?—A. No.

Q. Have they ever asked you?—A. No; and I want to say this, that the bills at that time—now, I may be a little too fast in saying I can obtain them. We paid the open rate of freight, whatever it was at the time. That is what I say, and we went out of business in the latter part of 1873; we were compelled to go out. But what I am dwelling upon is the fact that it was laid open to the people of the country at that time. I went to Mr. Cassatt and made my complaint and said, "I can not do business." He said to me personally, "If you will give me the same amount of freight that the Standard Oil Company do we will transport goods at the same price."

Q. Did they ever make a proposition for you to transport all your oil over their lines?—A. Not at that time.

Q. Did they ever?—A. I went into the business the second time at the instance of the Pennsylvania Railroad, and they then drove me to the wall a second time.

"AGAINST LOSS OR INJURY BY COMPETITION."

Now I will read article 4:

"And it is hereby further covenanted and agreed by and between the parties hereto that the party hereto of the second part shall at all times cooperate, as far as it legally may, with the party hereto of the first part, to maintain the business of the party hereto of the first part against loss or injury by competition—"

By competition! Think of it! Didn't care anything about the other fellow!

"To the end that the party hereto of the first part may keep up a remunerative, and so a full and regular business, and to that end shall lower or raise the gross rates of transportation over its railroads and connections, as far as it legally may, for such times and to such extent as may be necessary to overcome such competition. The rebates and drawbacks to the party of the first part to be varied *pari passu* with the gross rates."

Practiced to this day. That provision is being carried out, and I desire to be questioned on that point. Anyone in this land of ours, supposed to be a land of liberty and of free trade, excepting the tariff part of it—that system extends to Germany and foreign countries generally.

UNFAIR TRADING PREVENTED IN GERMANY—INDEPENDENTS CAN DO BUSINESS THERE.

Q. (By Mr. KENNEDY.) Right there, Senator, some of your business associates have testified before the commission that at the present time in Germany you are on an equality with the Standard Oil Company?¹—A. Thanks to the Government of Germany, we are, so far as our business goes, because Germany by law prohibits unfair trading and owns every mile of railroad in the great Empire excepting two in the south, and no such thing as discrimination is known. They go further. They invite you to come to the Reichstag and make complaint, or to its officers, and I did in 1895. Oil was selling on the Rhine at 1½ to 2 cents a gallon below the price on the Elbe. Our agent, who was afterwards purchased, was in a grievous situation, and we were putting up oil here and sending it to Europe practically for nothing. I have sold oil at my works to take care of that trade, competing with the Standard Oil Company or the Deutsche-Amerikanische Company, as low as a cent a gallon—losing twenty, twenty-five, or thirty thousand dollars on a cargo of oil to maintain our agency in that country. Complaint was made by our agent, Mr. Poth. He handled at that time from four to six hundred thousand barrels. I traveled with him to Berlin and went personally before the entire ministry of that country, and in English I presented the case, and he interpreted my testimony to them and asked for help. We have been praying here from 1872 to this time, by the investigations of 1871, 1888, and the State of Ohio, and every State of the Union

¹ See Mr. Lee, pp. 273, 274, 276.

where these people are known. We have sued for it in every legislature of the country. Texas has waked up and she says: "Get out; we won't have you." The Reichstag of that country gave notice that there must be no unfair trading in that country.

Q. (By Mr. CLARKE.) No what?—A. No unfair trading. It must be on a fair, competitive basis. If it deviated from that, investigation would follow. No levying of tribute upon the Elbe citizens and advantages given to the Rhine. Prices were the same to all.

Q. How did they give that notice?—A. I can not tell you.

Q. How do you know they did give notice?—A. I beg your pardon. I do not know that there was notice given.

Q. You do not know of any legislation on the subject?—A. Oh, no, I do not; but I understand, Mr. Clarke, that there is a law in Germany prohibiting unfair trading. I never read it.

Q. Can you tell me if there have been steps taken to obtain such information?—A. Now, I do not know but there has. I do know this, however, and I read the bill. There was a bill introduced into the Reichstag which was applicable entirely to the question of petroleum. It was considered and came up, but never has passed, to my knowledge. There may have been something passed since that time, however. But suffice it to say we find the markets of Europe on even tenure, and we are in competition, as Mr. Kennedy stated.

THE DEUTSCHE-AMERIKANISCHE COMPANY BOUGHT OUT THE GERMAN AGENT OF THE INDEPENDENTS.

But when I went there in 1896 the Standard Oil Company, the Deutsche-Amerikanische Company, had bought the last vestige of tankage in Germany they could get hold of. There was nothing left. I was sent there on three days' notice by my company, with which I was connected at that time, the United States Pipe Line Company, to look up the situation. We were here with our fifteen refineries, with our pipe line running as far as it could toward the coast—we could not go any farther because the Standard Oil Company would not let us; but when I went to Germany in April, 1896, I went there on the report that Mr. Poth, with all his tankage on the Rhine, on the Elbe, at Flushing, Rotterdam, and Amsterdam, had been handed over to the Deutsche-Amerikanische Company. I do not know but the control belongs to the Standard Oil Trust of America. They had purchased a man that we had supplied that oil to for four or five consecutive years, on whom we were dependent to take care of that market, that we might have the necessary money to run our refineries.¹ They had bought it—nothing left. Where in the world we could place a single cargo of oil I did not know. Fortunately enough, I succeeded in selling three cargoes of oil to the Drennehaven Petroleum Company, which was then a Russian organization.

NEW CONNECTIONS FOR THE INDEPENDENTS.

Q. Russian?—A. Yes. That three cargoes amounted to about 90,000 barrels. I immediately went to Holland and let a contract to Mr. King for the construction of tanks. The city of Hamburg welcomed me there. They convened their congress in extra session and passed a law that they would furnish me ground upon which to build my tanks; and the contracts were let and the tanks finished in October, thank God, and our vessels went into the harbor with our petroleum. From there I went to Amsterdam, and they were constructing those tanks for us, because they wanted competition in the business. No competition is shut out in that country; no discriminating rates on the railroads in Germany; none on the canals.

CONTRAST BETWEEN CONDITIONS IN GERMANY AND CONDITIONS IN THE UNITED STATES.

I say to-day, with my years of experience in that country, it is one of the best governments on the face of the earth, because it looks out for the individual and offers him a helping hand. Do you get it here? No.

I am asked to come here to-day to go into matters I have been connected with from boyhood; not to injure Mr. Henry Rogers or Mr. John D. Archbold, my friend for thirty years, or any others connected with it. God knows I would not

¹ Compare Mr. Lee, pp. 273, 274; Mr. Westgate, p. 281.

harm a single hair in their heads. I will tell you my side of the story, from thirty-four years of experience in the business, and from participation in the politics of the State of Pennsylvania—which perhaps is a credit and perhaps not. Whatever I may do or say here, it is not from malice of the heart, though perhaps it may be a mistake of the brain.

Q. (By Mr. KENNEDY.) I asked you that question because I thought you said this practice of exclusion was being followed in this country, Germany, and elsewhere.—A. I did not say that it was followed in Germany; or, rather, it was attempted in Germany, but is not permitted there. We ask you to prevent it here. This Standard Oil Company is the parent trust of America. We in the oil business have had the experience of the struggle with monopoly from 1872 to this time. Now, whose toes are being pinched? Not the oil interests alone. It is not the ignorant only who are complaining. It is not the strikes of the coal men or of the railroad men or of the factory men alone. It has come to the intelligent part of this country. I wish to help you in every possible way to remodel our laws so we can all live, and if you don't the results are going to be very serious.

SIGNING AND RATIFICATION OF THE SOUTH IMPROVEMENT COMPANY CONTRACT.

Now, I did not intend to go off into these remarks not pertinent to the question. I do not know that it is necessary for me to read the rest of my pamphlet; but I desire to return to page 48, and I will end it up by saying this contract was signed—look at page 48 and you will see the name of P. H. Watson.

Q. (By Mr. FARQUHAR.) Did you intend that article 5 should be left out of your testimony?—A. No, let the contract go in, if you choose to have it. Cut out what you want to. I do not care, except as to the vital points. I just do not want to take up the time to read the rest of the contract. I simply want to show you that this contract was signed and this original copy has been in evidence—P. H. Watson, for the South Improvement Company, president, and the Pennsylvania Railroad, by J. Edgar Thomson, president.

Q. (By Mr. PHILLIPS.) Have you read all you desire of that contract?—A. Yes; I want to show that this contract was executed. Now, I understand that it has been stated on the witness stand here that this contract was never executed or went into effect.¹

Q. (By Mr. FARQUHAR.) That statement was made broadly here.—A. Now, P. H. Watson testified in Washington, in 1872, on the 5th day of April. Mr. Watson was president of the South Improvement Company, as I have shown in this agreement, and in this book of mine. I desire to read you (reading): "Q. Was there a ratification by the company of your contracts with the railroad—"

Q. Will you state the book and the page?—A. Well, now, this is an investigation in 1871 here in this city.

Q. Before Congress?—A. Yes; the Congressional investigation.

Q. What session and what committee?—A. Well, I can not tell you the session. It is dated Washington, D. C., April 5, 1872, if anybody knows the Congress and the dates; and it is in the archives, I know.

Q. It is an official document?—A. Yes.

Q. That is all I want to know.—A. Mr. Watson was testifying as to the South Improvement contract that was agreed upon between the Pennsylvania Railroad and the two Northern roads, the New York Central and the Erie. This is the contract which I have read a portion of. This book is precious. Nobody could buy it for \$5,000, and I do not want it to go out of my hands, because it is history that is scarcely in existence. (Reading:)

"Q. Was there any ratification by the company of your contracts with the railroad company?"

Now, this refers to the South Improvement Company. (Reading:)

"A. Yes; they were approved by the board of directors, as appears in the minutes and as I am informed, it having been done at a meeting at which I was not present."

That is all I need to read. They were executed—"it having been done at a meeting at which I was not present"—by the board of directors. The contract was executed and when it was executed it was in force. It has been stated in testimony in 1888—I did not take occasion to refer to this at the time; I did not think it was of so much importance. But I say that the South Improvement contract was executed by the board of directors, as stated by the evidence of Mr. Watson, but he was not present. That is an answer to the testimony.

¹ Compare Mr. Archbold, pp. 540, 553.

OFFICERS AND STOCKHOLDERS OF THE SOUTH IMPROVEMENT COMPANY.

Now, then, who were the officers and stockholders of the South Improvement Company? This is the testimony of William G. Warden, in Washington, March 30, 1872 [reading]:

"Q. Can you give the list of the stockholders of the South Improvement Company?—A. I can give them from the minutes. They are as follows, Mr. Warden being secretary: William Frew, 10 shares; W. P. Logan, 10 shares; John P. Logan, 10 shares; Charles Lockhart, 10 shares; Richard S. Waring, 10 shares; W. G. Warden, 475 shares; O. F. Waring, 475 shares; P. H. Watson, 100 shares; H. M. Flagler, 180 shares; O. H. Payne, 180 shares; J. A. Bostwick, 180 shares; William Rockefeller, 180 shares, and John D. Rockefeller, 180 shares."

THE MEN WHO ORGANIZED THE STANDARD OIL TRUST.

Q. (By Mr. PHILLIPS.) A good many of those afterwards became shareholders in the Standard Oil Company?—A. The people who organized the Standard Oil Company were as follows: H. M. Flagler, O. H. Payne, William Rockefeller, H. Bostwick, and J. D. Rockefeller. All these persons were stockholders of the Standard Oil Company at the time it went into existence, and they were the men who formed the South Improvement Company. I say that under oath; I know the people. The people who composed the South Improvement Company were finally the people to organize the Standard Oil Company of Pennsylvania.

DIFFERENCE BETWEEN STANDARD OIL COMPANY AND STANDARD OIL TRUST.

Q. The Standard Oil Trust?—A. The Standard Oil Trust. Let me explain the difference. There are, I think, in the United States some 23 Standard Oil companies under regular organization. For instance, it is the Standard Oil Company of New York, the Standard Oil Company of Pennsylvania, the Standard Oil Company of Ohio, the Standard Oil Company of Delaware, of Maryland, of North Carolina, South Carolina, Texas, California, and what not; but the Standard Oil Trust, as I understand, controls the whole. So distinguish the difference between the Standard Oil Company and the Standard Oil Trust. I have reference now to the Standard Oil Trust.

(Whereupon the commission took a recess until 2 p. m.)

WASHINGTON, D. C., *September 11, 1899—Monday, p. m.*

Commission reassembled at 2 p. m. pursuant to adjournment, Mr. Phillips presiding.

LEWIS EMERY, jr., again on the stand, and examination resumed.

HOW THE NATIONAL TRANSIT COMPANY (STANDARD) GOT THE SAME CORPORATE POWERS THAT THE SOUTH IMPROVEMENT COMPANY HAD HAD.

Q. (By Mr. PHILLIPS.) Senator Emery's testimony will be resumed, and he will proceed to make his statements in his own way.—A. Mr. Chairman and gentlemen of the commission, there seems to be some misunderstanding relative to the charter under which the South Improvement Company was organized and the charter under which the National Transit Company is organized, it being one of the several companies of the Standard Oil Trust. I desire to say that all the privileges granted in the South Improvement Company's charter were also granted in the charter of the National Transit Company. Both are in the same terms. Each is what is known as the Pennsylvania Company charter. I desire to prove my assertion. I will refer first to page 154 of the book that you have before you.¹ (Reading:)

"When the popular excitement raised against the South Improvement Company, which resulted in the repeal of the act to incorporate it, had subsided, the trust, for the purpose of its transportation business in Pennsylvania, secured a franchise substantially as follows: An act to incorporate the Overland Contract Company was approved March 22, 1871."

This was just previous to the act of incorporation of the South Improvement Company. The South Improvement Company's charter was passed on the 6th of May, 1871, and the Overland Contract Company's charter, under which the National

¹ Mr. Emery's pamphlet, "Lewis Emery, jr., to the Industrial Commission, 1899."

Transit Company is now organized, was passed March 23, 1871, before the passage of the South Improvement Company's charter. I desire to get that plain before the commission. (Reading:)

"Letters patent were granted them April 5, 1871. On May 16, 1871, they changed their name to the Southern Railway Security Company. They owed the State of Pennsylvania one-quarter per cent bonus on their capital stock, and for this debt, after a compromise had been effected, it was sold by the sheriff of Dauphin County to John W. Simonton and Marlin E. Olmsted for \$16,251 on March 8, 1881, upon a judgment entered September 13, 1881."

This judgment was entered by the Commonwealth of Pennsylvania. (Reading:)

"April 13, 1881, said John W. Simonton and Marlin E. Olmsted sold it to Clement A. Griscom, Thornton Pike, Elihu Roberts, W. H. Curtis, William R. Williamson, J. W. Simonton, and M. E. Olmsted. On April 14, 1881, under this charter, the National Transit Company was organized."

I read from a book in the supreme court of Pennsylvania, eastern district, No. 257, January term, 1897:

"National Transit Company and J. C. McDonald, appellees, *versus* The United States Pipe Line Company, appellant. Appeal by the defendant from the court of common pleas, McKean County, sitting in equity, October term, 1896. Paper book of the appellant. J. W. Lee, W. E. Burdick, solicitors for the appellant."

I desire to read from this book, and whatever I read from it, so far as this charter is concerned, is a transcript of the record of the department at Harrisburg, certified to by the secretary of state, so that the evidence I shall read is absolute and can not be questioned. I first desire to read on page 429 of this book:

"Commonwealth v. The Southern Railway Security Company. Resolution of company fixing the amount of capital stock. Southern Railway Security Company, in account with the Commonwealth of Pennsylvania."

Mind you, this charter lay for a long time in the archives of the State. It was discovered, and it was purchased by the parties I have named. (Reading:)

"Southern Railway Security Company, in account with the Commonwealth of Pennsylvania, debtor, for bonus on charter, per act of May 1, 1868. Amount charged in settlement in May 20, 1873, \$35,000. Capital stock, \$7,788.150 appears through certificate herewith filed. Bonus of one-quarter of 1 per cent on said capital stock, \$18,470.37, making a total debtor charge \$43,470.37. Credit by payment in the charter March 16, 1871, \$125. By settlement of May 8, 1873, hereby superseded, \$25,000. Deducting the credits, \$25,125, from \$43,470.37, due the Commonwealth, \$18,345.37. Attorney-general's office, Harrisburg, April 25, 1870. Settled and canceled. Harrison Allen, attorney-general. Treasurer's office, approved. W. E. Hitt, for W. Mackley, State treasurer. B. F. Newcombe, treasurer Baltimore and Ohio. Indorsed, bonus on charter, account of the Southern Railway Security Company, resettled April 5, 1875."

Now, I do not think it is necessary for me to go further with this, only as showing the sale, and I have shown you already that this identical charter was bought from the State by J. W. Simonton and Marlin E. Olmsted for \$16,251. This is a copy of plaintiff's exhibit in this suit, called Exhibit A. This is offered by the National Transit Company. (Reading:)

"National Transit Company charter. An act to incorporate the Overland Contract Company and to define the powers thereof. Be it enacted by the senate and house of representatives of the Commonwealth of Pennsylvania, in general assembly met, and it is hereby enacted by the authority of the same."

Mind you, now, the same persons got the charter in this one as in the other, "S. S. Moon, R. D. Barclay, John A. Fowler, or a majority of them, their associates, successors, and assigns be, and they are hereby, authorized and empowered." Same incorporators as the South Improvement Company, you will note. Approved the 7th day of April, A. D. 1870. Statements as made herein were specially and particularly set forth.'

THE PENNSYLVANIA COMPANY'S CHARTER.

Now follows "an act to incorporate the Pennsylvania Company" under that head which I have shown you was changed to the name of the Southern Railroad Security Company, and finally was changed to the National Transit Company. (Reading:)

"Be it enacted by the senate and house of representatives of the Commonwealth of Pennsylvania in general assembly met, and it is hereby enacted by the authority of the same. That Andrew Howard, J. W. Swartz"—

Please refer back in my pamphlet and notice that I am not making any statement incorrectly, and follow me and see if the act is not just the same as that of the South Improvement Company. What I desire to show to this committee is

that the privileges exercised by the National Transit Company are the same as those set forth in the charter of the South Improvement Company. They are enjoying all the privileges and immunities that were granted by that law.

Q. (By Mr. RATCHFORD.) What page is that?—A. Seventh page.

Q. (By Mr. PHILLIPS.) You can read the two paragraphs to identify it.—A. I do not want any mistake because I am making the statement very broadly. This is it, the same identical charter, page 6, to the South Improvement Company.

Q. You will leave this with the commission to show that it is the same?—A. I will file this book under the seal of the court.

Q. It is quite long and will take time to read it?—A. I will read the second section if you will please follow me through. This which has been repealed is the same as this. If there is any difference I want you to state it. (Reading:)

"That the corporation hereby created shall have power to contract with any person or persons, firms, corporations, or any other party, howsoever formed, existing, or that may hereafter exist in any way that said parties or any of them may have authority to do. To build, construct, maintain, or manage any work or works, public or private, which may tend or be designed to improve, increase, facilitate, or develop trade, travel, or the transportation and conveyance of freight, live stock, passengers, and any other traffic, by land or water, from or to any part of the United States or the Territories thereof; and the said company shall also have power and authority to supply or furnish all needful material, labor, implements, instruments, and fixtures of any and every kind whatsoever, on such terms and conditions as may be agreed upon between the parties, respectively, and also to purchase, erect, construct, maintain, or conduct in its own name and for its own benefit or otherwise any such work, public or private, as they may by law be authorized to do (including also herein lines for telegraphic communication), and to aid, cooperate, and unite with any company, person, or firm in so doing.

"Section 3. The company hereby created shall also have the power to make purchases and sales of, or investments in, the bonds and securities of other companies, and to make advances of money and of credit to other companies, and to aid in like manner contractors and manufacturers, and to receive and hold, on deposit or as collateral, or otherwise, any estate or property, real or personal, including the notes, obligations, and accounts of individuals and companies, and the same to purchase, collect, adjust, and settle, and also to pledge, sell, and dispose thereof, on such terms as may be agreed on between them and the parties contracting with them; and also to indorse and guarantee the payment of the bonds and the performance of the obligations of other corporations, firms, and individuals, and to assume, become responsible for, execute, and carry out any contracts, leases or subleases made by any company or companies, individuals or firms whatsoever."

Please return to section first; I want to get rid of reading as much as possible. I will read the first section. (Reading:)

"Section 1. Be it enacted by the senate and house of representatives of the Commonwealth of Pennsylvania in general assembly met, and it is hereby enacted by the authority of the same, that Andrew Howard, J. S. Swartz, G. B. Edwards, J. D. Welsto, and J. T. Malin, their associates, successors, and assigns, or a majority of them, be, and they are hereby, authorized to form and be a body corporate, to be known as the Pennsylvania Company, and by that name, style, and title shall have perpetual succession, and all the privileges, franchises, and immunities incident to a corporation; may sue and be sued, implead and be impleaded, complain and defend in all courts of law and equity, of record and otherwise; may purchase, receive, hold, and enjoy, to them, their successors and assigns, all such lands, tenements and leaseholds, estates and hereditaments, goods and chattels, securities and estates, real, personal, and mixed, of what kind and quality soever as may be necessary to erect depots, engine houses, tracks, shops, and other purposes of said corporation, as hereafter defined by the second section of this act, and the same from time to time may sell, convey, mortgage, encumber, charge, pledge, grant, lease, sublease, alien, and dispose of, and also make and have a common seal and the same to alter and renew at pleasure, and ordain, establish, and put in execution such by-laws or ordinances, rules and regulations as may be necessary or convenient for the government of the said corporation, not being contrary to the constitution and laws of this Commonwealth, and generally may do all and singular the matters and things which to them shall appertain to do for the well-being of the said corporation and the management and ordering of the affairs and business of the same; provided, that nothing herein contained shall be so construed as to give to the said corporation any banking privileges or franchises, or the privilege of issuing their obligations as money."

Now, gentlemen, they were afraid of repealing the Constitution of the United States, or else they would have put in the privilege of issuing money; they have put in everything else.

Q. (By Mr. CLARKE.) How do you know that, Senator?—A. Why, by the reading of the act. They have got the right to do anything else; they claim they have; that is what it reads—to do anything they have a mind to.

Q. (By Mr. FARQUHAR.) Is it a rule to withhold from corporations banking privileges? This same clause is inserted in the charters of all corporations which are not banking corporations?—A. It is within the province of the United States to authorize the issue of money.

Q. Is it not a fact that all of our State laws, in the act of incorporation, contain this clause that would shut out banking privileges?—A. Not being a lawyer, I do not know.

IDENTITY IN TERMS OF THE SOUTH IMPROVEMENT COMPANY'S CHARTER AND THE EXISTING CHARTER OF THE NATIONAL TRANSIT COMPANY—POWERS IN OTHER STATES.

Q. (By Mr. KENNEDY.) What does this mean? Does it mean anything more than any other corporation might do, or business man?—A. Oh, no; I only want to show you that the same law that was repealed, known as the South Improvement Company law, was identical with this. This is one and the same thing; the privileges that they had under that law in 1872 they have at the present time under this law. That is all; that is what I wanted to say.

Q. (By Mr. FARQUHAR.) One point on that, Senator. These are privileges granted by the State of Pennsylvania?—A. Yes.

Q. There are twenty or more organizations of the Standard Oil Company. Could any of the other organizations of the Standard Oil Company take up these privileges?—A. Could they?

Q. Yes; under the State of Ohio, for instance.—A. This law says they can; they may go into any other State. It says so. I do not know whether they can legally or not; but that is what it says. The Pennsylvania Railroad runs—the Pennsylvania Company runs through a portion of Ohio, does it not?

Q. (By Mr. HARRIS.) That is under a separate organization. One is called the Pittsburg, Chicago and Fort Wayne.—A. I understand that the Pennsylvania Railroad enjoys all these privileges, although they may be in foreign States, under the Pennsylvania Company's charter. I will submit that to the lawyers. We have lawyers.

Q. (By Mr. FARQUHAR.) The only question is this: Whether the Standard Oil Company, with all its franchises, could enjoy all the privileges which are conferred by this charter in the State of Pennsylvania in any other State?—A. Subject, I suppose, to the State law. I think that would be perhaps the proper answer to it.

Q. (By Mr. PHILLIPS.) Please proceed.—A. Now, gentlemen, I have gone back to correct this. I want to show just exactly the identity of these two laws, one repealed and the other in existence, because the question was raised by two or three of the commissioners whether the one charter was like the other. I think I have proved that to them satisfactorily by reading from this book, and I will leave that book with the commission when I go.

Q. (By Mr. FARQUHAR.) Would it not be well to suggest that you furnish the commission chronologically with the dates, if you can, of these various charters?—A. The origin of them?

Q. The origin of them, the change of name, and the year and month, if you possibly can, so that we may see the connection and the interest that follows from the beginning clear down to the end?—A. I am prepared to give you all of that.

Q. (By Mr. PHILLIPS.) I think that the commission would like to have you before you go away.

Q. (By Mr. FARQUHAR.) I know you can, because I find the dates on page 154.—A. This book contains a vast amount of knowledge on everything that you have asked, compiled in legal form and with an affidavit of the secretary of the Commonwealth as to its correctness, so you may not be misled or go astray.

AMOUNT OF AMERICAN OIL USED IN EUROPEAN COUNTRIES.

Q. Where you have spoken of the opposition and interference of the German government, could you give the commission an approximate statement of the oil sold in Germany at that time by the Standard, by all the Russian companies, and by the independents?—A. I can give the statistics.

Q. That probably is in your mind?—A. No, I can not do it here. I can give you the statistics of the sales in the German Empire; I know roughly what they are now. I know that the German Empire consumes, at the present time, 6,000,000 or 7 000,000 barrels a year of the American production.

Q. (By Mr. PHILLIPS.) About how much is furnished by the Standard Oil Company and by affiliated companies, and how much by this company you have organized?—A. I knew the statistics two years ago. About 6,000,000 barrels of the American product was consumed in Germany; Great Britain was using 8,000,000 barrels; France was using about 2,000,000 barrels; Norway and Sweden were consuming about 1,200,000 barrels; Denmark, about 600,000; Holland and Belgium, I forget.¹

Q. What proportion of the oils of the Russians and the Standard were sold there through 1895 and 1896?—A. The Standard sold all the American oils in these markets with the exception of what was taken in by our independent companies. I think the largest exportation we have ever made—in fact, in 1894, I think, we sold over there about 400,000 barrels, and up to the time Mr. Poth was purchased by the Americanische—I think our sales were about 700,000 barrels.

ATTITUDE OF THE RUSSIANS TOWARD COMPETITION AND REGULATION IN GERMANY.

Q. You spoke of regulations made by the German government there. Did those cover the competition between the Standard and the Russians?—A. In what respect?

Q. In respect to fair competition.—A. The Russians were in just as bad a position as we were. They were independent at that time.

Q. Would you care to state whether, if the Standard then had the market there, both the independents and the Russians were desirous of having this free competition?—A. I do not understand you.

Q. That is, are we to understand that the Russians, as well as the independents, wanted rectification from the German government of unfair competition from the Standard?—A. I do not know what the Russian government did. I know that when I was in Europe I went on to St. Petersburg and had a conference with Mr. Nobel, and also with the prime minister. Their views were just the same as ours, that they were under an unfair competition and would like to see it rectified. I went there to see if something could not be done, and I brought American influence to bear on the Reichstag to see if something could not be done to correct it. The whole question was laid before the prime minister of Russia and Mr. Nobel to find out from the Russians if the conditions existing in the trade were the same to all.

GERMAN REGULATIONS—GOVERNMENTAL EXAMINATION OF ACCOUNTS WOULD BE A GOOD THING HERE.

Q. (By Mr. KENNEDY.) Did you get a charter in Germany from the imperial government?—A. No; the right to sell only, and then we are required to file our organization or charter. We only get a license to become merchants, that is all.

Q. Are your business affairs then subject to the supervision of the German officials?—A. Oh, yes.

Q. Inspection of your books?—A. Yes; whatever the law is we have to conform to it. I do not know whether that is the law; whether they can go to our books or not. Whatever the law is, that is the situation in which we are placed. We are glad to have them examine our affairs. Even in this country I wish something of that kind could be established, that all the books of these corporations of every kind should be examined.

Q. Would you like to see the nationalization of the corporations doing interstate business in this country?—A. Well, I heard this question brought forth the other day in the evidence of Henry Rogers. I am not prepared to say; I have not studied the question. I do not know about the English law controlling corporations or about the capitalization or the constitution of business in England, except to a limited extent.

CHARACTER OF EXPORT OIL AND OIL FOR DOMESTIC USE.

Q. What is the quality of the oil exported from this country to Germany and other European countries?—A. 78° Abel, or 112° fire test.

Q. What is the quality of oil generally consumed in this country?—A. About 120° to 150°.

Q. So it is an inferior grade of oil sent abroad?—A. No; it is oftentimes a very much better oil than we get here under 150°. Let me explain.

¹ Compare Mr. Lee, p. 278; Mr. Archbold, p. 532.

METHODS OF DISTILLING OIL—THEY ARE THE SAME AS IN 1860.

I want to state here particularly, and I want you to understand my statement as a manufacturer of oil from 1867 to 1899, that the Standard Oil Company are not benefactors and never have been benefactors. If the business had been open to the community, and the people engaged in it with their brains and ability, the development that has come up to this present time, I claim, could have been made twice as quick as they have made it. Why do I say so? Because in the year 1872 our company, known as the Octave Oil Company, was the owner of one of the best refineries on the creek—Oil Creek—right opposite that of ——— & Co., the company being John D. Archbold, who was on this stand, and others. We had every device at that day for making an illuminating oil of good quality that we have to-day.¹ We had stills that held from 100 to 3,000 barrels, Mr. Archbold having the largest still that ever fire was put under, holding 3,000 barrels of crude oil. To distill oil is not difficult. It simply means that if you build a fire under that glass [indicating], supposing it was oil, and you inclose it, the steam comes out—the vapor. That is all we do in making oil. We put it in these great cylinder stills, and the cylinder stills of 1870, 1868, 1865, and 1860 were the same as the cylinder still of to-day. There was what was known as the cheese box, which set up like a cheese box, with a grated bottom to make a fire on. But we have gone back to the old system. In spite of the modern improvements these people claim to have injected into the business we are back where we were in 1859. We put a fire under it, the vapor rises off and gives first the lightest possible oil, the cymogene; the very lightest, like carbonic-acid gas, and the moment it comes to the air it is gone. Next we come to the next lightest, gasoline. Then we come to the naphtha, and then we come on down, if you choose, to the heavy benzine. The lighter parts come off first, from which are made the various light products that are in the market, such as you use in the gasoline engines and in the kitchen to cook with and such as are used by chemists and druggists and the commercial trade. Then you come to the illuminating oil.

MEANING OF "110°" OIL—IF PROPERLY REFINED, THERE IS NO BETTER.

The first illuminating oil is the lightest, 110° oil. You may recollect that we had in this country a general law of the States requiring oil to be of 110° fire test. That means that, putting the oil in a certain kind of instrument, it has to be heated to 110° before it will burn. It may flash at 85°, but would go out. You go on up to 110° and it burns. That is the burning test, the flash test being at 85°. That is the way oil is tested. It went on for years and years, until the advent of this South Improvement Company and Standard Oil Company. That remained a law of the old States, and the law was good. There was no adulteration of it. Perhaps adulteration is not the term. When I say oil is adulterated I mean it is not properly refined; it is not properly broken up by heat; the paraffin is not taken out of it. Oil may retain a vast amount of paraffin, and show under the law 110°, but its burning properties are not good. Oil properly refined under the 110° system is the best oil you can put into your lamps. The German government—the entire German Empire—the Kingdom of Norway and Sweden, Denmark, all these countries require no other than 110° or 73° Abel. That oil is not inferior. Neither the German government nor any other government on that side of the world will permit you to send in an inferior article. There is an educated chemist at every distributing depot in that country, who tests that oil and carefully weighs it, and gives it the proper fire test; and it must pass according to the requirements of the law. That is one reason why the Ohio production has been practically ruled out of Germany because of its quality. The great German Empire and other countries are depending to-day, under the laws, upon the American product, because Pennsylvania and a portion of eastern Ohio and southern New York and West Virginia produce the best oil in the world.

SULPHUR CAN NOT BE GOT OUT OF OIL; THEREFORE OHIO OIL CAN HARDLY BE SOLD IN EUROPE.

Q. (By Mr. KENNEDY.) The Standard people on the stand claim they have processes now for eliminating sulphur and other impurities from the oil and making it equal to the Pennsylvania oil.² Is that true?—A. I say here, as a refiner and a man who has in his employ as good a chemist as there is, that they can not do it, and they do not do it. You can not eliminate sulphur. It will come back in some form. Canada has been working on it for the last thirty years and spent untold

¹ See Mr. Boyle, p. 407.

² Mr. Archbold, p. 532. Compare Mr. Gall, p. 672.

millions, and she has never been able to accomplish it entirely. It baffles all science to eradicate, and is detected by the chemists in Europe as quickly as possible, unless it may be mixed with Pennsylvania oil. That has been done before. The high-grade petroleum oils are used to supply the European countries. As to what goes to India and what goes to China I am not posted; but I do know what goes to the other countries, and they expect to get an absolutely pure oil. The consumption of Ohio oil is confined to the United States and Mexico, and perhaps to some of the other southern countries. I do not know about that, but the market is not in Germany to any great extent.

CHARACTER OF EXPORT OIL AND OIL FOR DOMESTIC USE (RESUMED).

Q. (By Mr. CLARKE.) How is the grade of oil determined, if not by the fire test?—A. What do you mean—the smell?

Q. Whether the high grade or the low grade?—A. The oil in its grade is designated by fire test. For instance, 110° oil is what we term the ordinary export oil, 112° test; 120° test is supposed to be a bit better in quality; 150° test is the common oil used in this country, and is a little bit better. The making of 150° oil is just exactly like making what they call patent flour. It is the head of the bolt. I am a miller by trade and acquainted with the making of flour in the modern way and the old way. If you want patent flour, you have to take the head of the bolt or cream of the wheat. You can get a certain limited amount of patent flour out of 100 pounds of wheat; so you can get a certain amount of 150° or 175° oil out of a certain amount of petroleum. In this country, I will say, we take off what we call the higher grade of oil and the balance is sent to Germany and other countries. But in order to get these high-test oils up to what they should be, we make the others not as good as if we had just sold the whole thing together. Just so with your flour. If you sort out the best part of your wheat, the next grade is not as good, although it passes as good family flour, and this passes as export. In answer to Mr. Kennedy, the standard has not been changed in Germany. They have the finest lamps in the world. They are the greatest inventors on illuminants, and they have continued to hold their grades the same as twenty-five or thirty years ago. We want to send that class of oil into these countries, and they are satisfied with it, because it comes within the reach of the man who wears wooden shoes; it is a commodity they must all buy, and is lower in price than the higher grade.

Q. (By Mr. KENNEDY.) It is a fact, then, that the oil exported to Germany is inferior to the oil generally used in this country?—A. That may be: but I want to say to you, in the United States of America they burn the meanest oil in God's earth, and burn the best oil that is put on the market. In California—I have spent two years there—I have a little hut, and I go down and buy a case of oil. I buy it as Pratt's Astral, a high grade of oil; it used to be the highest grade on the market. I might say here, during my early experience in the refining business, from 1867 to 1872, we manufactured and sold thousands and thousands of barrels of oil to Charles Pratt and other companies for exportation to Europe, and we were obliged to leave the head blank. When it got to New York the quality of oil was put on it—"Pratt's Astral." He bought oil from the Octave Oil Company. My oil was taken by him and sent to Europe. Now let me give more credit to the Standard Oil Company.

Q. (By Representative LIVINGSTON.) Do they not require, in Europe and in many States of this country, an oil inspection, and require you to come up to the grade?—A. In every little port where oil is sold or distributed there is a man who examines the oil, and it is passed on by the Government inspector.

110° OIL AND 150° OIL.

Q. What do you mean by first, second, and third grade oil? Does the first have less naphtha or more?—A. It is supposed to be better. One hundred and fifty degree oil is supposed to be the acme of oil in this country. You fill a lamp with it and you may get a little brighter light than you would get from 110°; there is not so much naphtha, not so much gas; but the 110° oil will last in your lamp a great deal longer than the 150°, because there is not so much body in it. The 110° will not give so brilliant a light as the 150°; that is one reason why Germany holds to that oil test.

Q. Is it not more subject to combustion than the 150°?—A. One hundred and ten degree? oh, yes. It requires 110 degrees of heat to burn 110° oil, and it requires 150 degrees of heat to burn 150° oil. If a lamp is heated to 150° at its top, gas will be created in the body of the lamp, and unless you release that gas it will explode.

¹ See Mr. Lee, pp. 274, 277; Mr. Mathews, p. 495, top.

Q. If either comes in contact with a flame, will one burn as quickly as the other?—A. The 150° will not burn as quickly as the 110°. Oil is nothing but gas practically. Take a pail of crude oil and put it out here in the sun; in all probability by night you will have lost 10 per cent of it. It has gone into the air as gas.

Q. (By Mr. PHILLIPS.) Your testimony has not been quite clear about 150° burning quicker than 110°.—A. One hundred and ten degrees oil burns at 110 degrees of heat, and 150° will burn at 150 degrees of heat—that is, the burning test. The higher the test the safer the oil, so far as explosion is concerned.

Q. Which will burn up quicker in the lamp?—A. That does not make a bit of difference. The wick is saturated and it burns at all times. The blaze from 110° is not as brilliant as that from 150°.

Q. (By Mr. KENNEDY.) The German does not get as good light from his 110° as he would from 150°?—A. That is true.

Q. They get what they want and they are satisfied?—A. Yes. Good 110° oil is a good oil. It is the cheapest for all the inhabitants of this country, and safe enough, because we burned it for years and years. There was no change in the laws of any of the States, so far as I know, until after 1872. Pennsylvania retains still the 110° test; North Carolina, Texas, and a good many of the Southern States have the 110° test; not many of them have changed. The State of Michigan has 175°, if I remember right.

RUSSIAN COMPETITION—CHARACTER OF RUSSIAN OIL—PER CENT OF ILLUMINATING OIL OBTAINED FROM CRUDE.

Q. (By Mr. KENNEDY.) Do you come into competition in Germany with Russian oil?—A. Yes.

Q. Do they have to make that test of 110° the same as you?—A. Yes.

Q. What is the quality of their oil?—A. Not so good as that of America—not so good as American 110°. The Russian is of an asphalt basis, while ours is paraffin. Pennsylvania and New York oils are paraffin, and the Ohio is of a paraffin basis. The California oils have an asphalt basis and the Russian oil has an asphalt basis. The American oil will produce an illuminant of 75 per cent. For instance, 100 gallons of crude oil of America, of what we call the Pennsylvania, the West Virginia, and New York and eastern Ohio oil, will produce 75 per cent of illuminating oil of different grades. If you ran it all straight through, and did not cut them out, you probably would get out 78 per cent—perhaps 79 per cent; but, speaking as it runs, you can get 75 gallons of illuminating oil from every 100 gallons of crude oil. The gravity of this oil will run from 30 to 52; the Russian oils run from 18 to 30. Its basis being asphalt, they can only get from that, of the ordinary export oil, such as 110°, about 25 per cent.

Q. Does their 110° oil sell for the same money in Germany as ours?—A. No; it does not sell for the same money as our 110°, because it is not as good as our oil. It contains a little sulphur, the same as the Ohio, which is not as marketable as our good oils are.

Q. Russian competition, then, is not serious on that question?—A. It is, because they sell their oil at a less price, and we have to meet it; but we have the advantage of quality.

FOREIGN TRADE—THE STANDARD HAS INVENTED NOTHING.

Q. (By Mr. PHILLIPS.) Now, I would like you to state how widely petroleum was introduced into the world at the time of the advent of the Standard Oil Company? Whether they have been very largely?—A. I want to say in answer to that question, in 1871 or 1872, when we were young and enterprising, we went to the city of Philadelphia and secured a sailing vessel. It was our determination to load that vessel with all the different inventions for burning oil—lamps, oil stoves, etc.—and also to put into the ship our oils in cases or barrels, such as we could carry; and we had arranged with one Captain Dillingham to sail that vessel to the Amazon, and go up the Amazon and introduce this product, oil, which was a new commercial commodity, and the result was we did not do it. On came this clash of arms and we did not go. I will read to you why we did not go.

Q. Can you state how far it had been introduced to the world before that time?—A. I must say in answer to that that the production of oil in 1872 was about 16,000 barrels of oil per day; back in 1870 it was 15,000 barrels of oil a day.¹ For all that great quantity of oil, from 1860 to 1872, a market had grown up throughout the world, as we knew the world at that time. It was a good while ago, of course. There were in the field at that time upward of 150 refineries, and as I said before, with all the modern improvements that existed, so far as making illu-

¹ See p 547

minant was concerned—I want to give the credit to the Standard Oil Company for this fact that, owning the business, practically, it was dependent upon them to bring out all the by-products from the residuum. They made a wonderful success of it. But do you suppose that I or any other active man, with brains and capacity, could not have done the same thing if we had had the opportunity and been left to ourselves to manage our business? Has not the iron business passed from all the world to the Sierra furnace, and every other improvement been brought about by general trade? Can one man in the business claim he was the only brain in it? Nor is it true of the Standard Oil Company. I say particularly they never invented anything. As somebody said, they did not even invent the rebate. They were dependent on the brains of the average man. They have done nothing that any member of this commission could not have done had you had the opportunity to do it, and get your product to market over the transportation lines of the country.

THE STANDARD HAD TO DEVELOP THE USE OF THE BY-PRODUCTS.

Q. (By Mr. KENNEDY.) You were just giving the Standard Oil Company credit for the wonderful growth of the by-products?—A. Yes: because I have to.¹

Q. Do you manufacture any of these by-products, such as vaseline?—A. I make the crude stock.

Q. And sell that to the Standard?—A. Not entirely; I presume they buy some of it. I make all of these products. I turn off from thirty to thirty-five thousand dollars' worth every month. Perhaps I have one of the largest refineries in existence outside of the Standard.

Q. Can you manufacture these by-products just as well as the Standard Oil Company and put them on the market?—A. If we were in like circumstances we could; but, you understand, the by-products are manufactured not only by the Standard, but in a small way by others. For instance, the druggists manufacture their own, and they come to me to buy the stock; but the Standard Oil Company, I mean to say, were the first, through the agency of somebody else's brains, not their own, to establish these factories. I say to you this product of petroleum is most wonderful. Chemistry knows nothing about it even to this day, and our colleges have scarcely taken up the science of petroleum. We have to depend on Europe for the knowledge we have obtained as to those by-products.

Q. (By Mr. CLARKE.) I can not see why you can not produce these by-products.—A. We can: I am not complaining about that.

Q. (By Mr. FARQUHAR.) Do you not sell the by-products to anybody?—A. Certainly.

Q. All refineries do?—A. Yes.

Q. (By Mr. PHILLIPS.) Is it on account of the large amount the Standard refines that they have established these different plants to produce these by-products?—A. They, having control of the business from 1872, had to take care of them. There was no one in the business to take care of them.

Q. What is the chief by-product from petroleum; is it not lubricating oil?—A. No.

Q. What is it?—A. From the by-products of petroleum there enter into the materia medica over 200 remedies.

Q. Do you speak of coal tar, etc.?—A. In addition to that the beautiful aniline colors are produced from the coal tar you speak of. Thousands of things are made from petroleum; but that has come on with time, just as the time was when we could not make a piece of sheet steel.

LUBRICATING OIL IS NOT A BY-PRODUCT; NOR PARAFFIN WAX.

Q. How about lubricating oil? Is it not a very large by-product?—A. No; it would not be termed a by-product, because there is not a lubricating oil produced from the crude. That never sees fire at all, some of the richest.

Q. (By Mr. RATCHFORD.) How about paraffin wax?—A. It is one of the products; not strictly called a by-product. The by-products, as a rule, arise from that which remains in the still, or the top, which runs anywhere from 6 to 10 or 12 per cent. From that is made the paraffin oils, red oils, yellow oils, and miners' oils. These things coming from the top are strictly the by-products. The petroleum wax comes at a certain point in distillation, if you take it out. You take it out when wax is dear, and perhaps leave it in when wax is cheap, whichever pays best. You can take out the wax whenever you want to, or break it up by heat, by destructive distillation, and put it into illuminating oil.

¹ See Mr. Boyle, p. 441; Mr. Archbold, p. 570.

RELATIVE VALUE OF PRINCIPAL PRODUCTS AND BY-PRODUCTS—THE STANDARD HAS NO MONOPOLY OF MANUFACTURING BY-PRODUCTS.

Q. (By Mr. KENNEDY.) State in dollars, if you can, what your income from the by-products of oil, or petroleum, is, compared with your income from illuminating oil.—A. I could not.

Q. Could not approximate it?—A. I can not answer the question, because I do not make any paraffin oil. I make wax, and what is called petrolatum, or what you know as cosmoline—all the same thing; all these "lins" are one and the same thing.

Q. I think the Standard people have testified that one-half their business is perhaps in the by-products.¹ Would that be so in your business?—A. No; but I have no reason to contradict their statements. I should not put down the by-product or the residuum as being a half of their business—not by any means, because, as I have said, you get 75 per cent of illuminating oil, while you will get 10 to 12 per cent of benzine or gasoline.

Q. I mean in value.

Q. (By Mr. FARQUHAR.) The statement is that the by-products amount to nearly half in value, on account of the high price of certain by-products; provided, of course, the Standard or these other manufacturers utilize these by-products themselves, instead of selling the residuum for others to manufacture.

A. I could not affirm or deny that.

Q. (By Mr. KENNEDY.) Have the Standard people a great advantage over you in the development they have brought about of the by-products of petroleum?—A. There are no developments to-day that any man can not enjoy if he wants to.

Q. You give them the credit of developing it?—A. I do; because there was no one else to bring it up. The business has been in their hands from 1872 to the present time.

Q. (By Mr. PHILLIPS.) Your understanding is, the by-products were not so valuable before their advent?—A. I mean they were not developed; they are not developed to-day.

VALUE AND USES OF PARAFFIN.

Q. (By Mr. RATCHFORD.) It has been stated that as the by-products of the refining of oils are comparatively new products it has cost more to market them, in many cases, than has been derived from their sale. What is your experience in that?—A. I do not think it is true.

Q. If that statement is true, I wanted to know whether in your judgment the price of the main product should not be reduced to the people as the value of the by-product increases?—A. Until the general rise of business these things that you term by-products did not bring a high price. I sold wax as low as 1½ cents a pound within the last three years. We had to take what we could get for it. Germany and France were full, the factories were full, people did not want any goods, and there was no market for it. We make about 4,000 to 6,000 pounds a day of it; two or three tons of nice bleached wax, white as that paper, and we get to-day, I think, about 3¢ or 4 cents a pound. It is not high, and really I do not see how you could reduce the price of that commodity very much.

Q. The main use to which that wax is put is the making of candles?—A. Oh, no. You can not make a joint of a pipe without the use of paraffin wax; you can not string a telegraph or scarcely a telephone line without the use of paraffin wax. It is used in almost everything where protection is required, because it is a non-conductor. It enters into everything pertaining to electricity. It is not used largely in candles, except in connection with stearin. The Standard mold all the candles of the country, and they mold the public opinion of the country pretty near. They are good molders; no question about that.

THE STANDARD RETARDED THE DISTRIBUTION OF OIL.

Q. (By Mr. PHILLIPS.) Will you return to that question as to how widely the use of it had gone into the world?—A. I want to say in answer to that that every civilized country where oil is used had its representative in New York, Philadelphia, Baltimore, Pittsburg, Oil Creek, Portland, Bremen, Hamburg, Paris, London, and Liverpool, and they were asking for these goods. It was pretty much all over the world before ever the Standard Oil Company was heard of. They retarded the distribution of this commodity. I was willing to go to the ends of the earth to make a market, and other manufacturers were willing to go with me and make a market; but in the first history of this business the Standard Oil Company compelled these men to step over the threshold of their offices to get this commodity. That was the condition.

¹ See Mr. Archbold, p. 561.

THE STANDARD HAS NOT CHEAPENED OIL.

And yet they say that they are benefactors, benefactors of the people, for reducing the price of the commodity! Why, I have known a single gallon of oil to sell within the territory of the United States at one and one-half times the cost of a barrel of crude petroleum to make it, but you can not get that to-day. The moment you enter the market of Hornellsville, Washington, or Wilkesbarre, if you choose, with oil from an independent refinery, and build your stations and office, down goes the price. Not four weeks ago, when I sent my oil to a certain point, the market was reduced 1 cent a gallon because I came there. It has been well said, "This business belongs to us; you get out." Take up that volume; read the *Commonwealth v. The Pennsylvania Railroad*: it gives everything. The Standard Oil Company are not entitled to the credit of being benefactors or of cheapening this product. Wails are coming up from New Mexico and from Texas and from every State in the Union on account of the exorbitant price and poor quality of the petroleum: you have read them. Look at the condition of things. Laws are passed by the several States of this Union against encroachments on the rights of the people, but when it comes to appropriating money to carry out these laws, the third-house men say to the farmer, "If you vote for the appropriation that will put this law into effect you are going to increase your taxes." The result is they strike out the appropriation that should enable the attorney-generals of the several States to enforce these laws. An attorney-general stated in an article just a short time ago, "I have to put my hands in my own pocket to pay the necessary fees to bring this suit; no appropriation." Whenever legislation can not be stopped against these people, they go to the next resort and stop the appropriation. I do not say they do it, but I say it happens.

THE STANDARD CUTS PRICES WHERE COMPETITION APPEARS.

Q. (By Mr. RATCHFORD.) You made a statement that if you erected stations or tanks in Wilkesbarre, for instance, the Standard would reduce the price of oil?—A. That is true.

Q. Can you furnish this commission with a specific instance where this has been done?—A. Oh, yes; I can furnish you a hundred of them. Take it in Philadelphia: I lost \$150,000 in one station myself in lowering the price from time to time. My wagon was there with my man on it. Their wagon would come in ahead of me. They would go to that customer and reduce the price, and they would say they would sell him oil cheaper. They employed other fellows to watch where I went.

Q. (By Mr. PHILLIPS.) When did this occur?—A. It has occurred during the years of 1891, 1892, 1893, 1894, 1895, and 1896. It occurred right along until I quit there.¹

Q. Has it occurred since you departed from that station?—A. Yes; it has occurred within the last six weeks—reducing of the price.

Q. How about New York City? Has there been any reduction there?—A. I have known New York to sell oil at 6 cents; when the Columbia Company put on their wagon it was 5 cents in 10 days.

Q. Has that continued to the present time?—A. I do not know; I have been away 2 years.

Q. (By Mr. CLARKE.) Did you ever reduce your price to get business?—A. Have to; have to compete.

Q. Do you have any competitors besides the Standard?—A. Yes.

Q. Do they follow you up?—A. The other competitors? No.

Q. Never?—A. Never.

Q. Do you try to follow up anybody?—A. Never.

Q. Do you ever reduce your price before the price is reduced by your competitor?—A. Oh, yes, I suppose so. It is trade. I am merely discussing the methods of keeping people out of business.

Q. (By Mr. KENNEDY.) The Standard people say the cutting is generally commenced by the independent people.—A. They know better.

Q. (By Mr. RATCHFORD.) That is the reason I asked the question; they make the broad statement that they never cut except to meet a cut.—A. They know better. Whenever they know your oil is on the way to a particular market they will cut the price before you get there. I have shipped oil to places—started it unknown to them, I thought; but, as in the instance I gave you this morning,² they knew what I was going to do before I did; and they went ahead and reduced the price before my oil got to the point.

¹ Compare Mr. Lee, p. 265; Mr. Westgate, p. 365.

² See pp. 614, 615.

ABSORPTION OF PIPE LINES AND REFINERIES BY THE STANDARD.

(The witness reads from his pamphlet:)

"Soon after it induced Scott, of the Pennsylvania Railroad, to surrender the oil traffic in exchange for Western freights, under a general apportionment of freights between the trunk lines. By this means was diverted a greater part of the refining trade from Pittsburg and from the oil regions of Pennsylvania to Cleveland, Ohio. It then bought a controlling interest in the United Pipe Lines."

Now, that is in answer to Mr. Farquhar's question. At this time they came in and purchased from the Vandergrift people, who were formerly the United Pipe Line. They purchased from them, as you will see, all this oil production of their lines.

"The United Pipe Lines Association moved forward steadily. It bought or combined the Oil City, Antwerp, Union, Karns, Grant, Conduit, Relief, Pennsylvania, Clarion, and McKean divisions of the American Transfer, Prentice, Olean, Union Oil Company's at Clarendon, McCalmont at Cherry Grove, and smaller lines, covering the oil region from Allegheny to Butler. Then followed, at different intervals, an association with the other pipe lines, the purchase of the Columbia Conduit Company, of Pittsburg, the purchase of all the Titusville independent refiners, who were forced to sell; the Titusville Daily Herald, Bradford Daily Era, and the Oil City Derrick, which were subsidized and then purchased; the purchase of the Union Oil Company's pipe lines in the Stoneham field."

I may say right here the Standard Oil Company are not entitled to the credit for building these lines. The leading lines were built by individuals before they came in. They were simply absorbers.

Q. (By Mr. PHILLIPS.) It was built to the seaboard was it?—A. It had the credit of building the first seaboard line, which is outside of the Standard, "the securing of the control of the Tidewater Pipe Line," and of its dependent refineries, and of its associated Western Transportation Line, and the purchase of the Pittsburg Pipe Line and its dependent refineries."

EXTRAVAGANT PRICES PAID FOR LINES AND SERVICES.

Now turn to the following history on page 57:

"At some time during the progress of these purchases, the reorganization on the trust basis, formerly referred to, was effected. The sum of all these purchases amounted to millions of dollars. All, or nearly all, of them were made at prices grossly in excess of the reasonable value of the material and business sold, the chief consideration being the absorption and accumulation of power, which the monopoly was thereby acquiring. From time to time new persons were taken into this association. As Mr. Dodd, solicitor for the Standard Oil Trust, said in his argument in 1888, or rather in the history of the Standard Oil Trust: 'Whenever, and wherever, a man showed himself skillful and useful in any branch of the business he was sought after.' It has paid salaries, fees, and bonuses with imperial prodigality, some for services, some for servitude, some for keeping out of competition, and some for keeping still.

HOW THE STANDARD USES THE RAILROADS.

"Its methods of business are in fine harmony with the manner of its growth. It has divided the whole United States into 'oil-consuming districts.' It goes to a distributing railroad company in the West and says: 'If you will receive and carry oil exclusively for me, I will furnish your whole distributing area, but if you receive and carry any oil of any other refiner or shipper I shall have to create in your district such a destructive competition as will ruin your rates.'"

That has been done, and can be proved by a thousand witnesses.

"Where there are competing roads it gets their managers together and shows them how it can supply them with all the oil they can distribute, so apportioned between them as to maintain rates on a noncompetitive basis. It never breaks a promise when that promise conveys a threat. If, therefore, it fails to make such exclusive arrangement in any district, and an independent refiner is admitted therein as a shipper on equal terms, it forthwith ignores all freight rates and all values, puts the price of oil to the consumer below the original cost, and keeps it there until it drives the independent refiner out of the district."

Q. (By Mr. KENNEDY.) When Mr. Archbold was on the stand the other day he submitted to the commission letters from a large number of the railroad managers

¹ Page 605. See also Mr. Boyle, p. 425.

² See Mr. Boyle, p. 480; Mr. Rice, pp. 696, 697, 738; p. 734, footnote.

of the United States stating that they gave no favors to the Standard Oil Company, and that the Standard Oil Company asked for none.¹ Now, that is the evidence that they put in. You make this statement here. Can you give the Commission any evidence aside from your word that this is done?—A. I am prepared to answer in full the documents in my statement.

Q. These letters referred to the period since the passage of the interstate-commerce law.—A. Yes; I do not know anything about that, but I do know that they have paid them right along.

Q. Since the passage of the interstate-commerce law?—A. Yes; and I will prove it was paid up to last January.

Q. To the Standard Oil Company?—A. I say rebates are paid. Very well; they are not only shippers of oil, not only behind oil, but perhaps behind everything else, as I have stated before.

Q. If you have it in order, I will withdraw my question.

THE STANDARD MAKES ITS GREATEST PROFITS IN AMERICA—THE INDEPENDENTS COULD NOT LIVE WITHOUT THE FOREIGN TRADE.

Q. (By Mr. PHILLIPS.) You can proceed in your own way.

“It then dictates its terms to the railroad. Where it thus secures exclusion, it establishes and maintains a price to the consumer, without the least regard for general market values, as high as the conditions will warrant” (that I can prove); “and where such exclusion is not established, as low as will be necessary to exterminate the competitor. There are exclusive districts where refined oil is sold at more than \$40 per barrel, and there are contested districts where it has been sold as low as \$1.25 per barrel. As all the export oil must be sold in Europe in competition with the Russian production, the profits are normal. The revenues of the Standard are, therefore, chiefly made between the American producer and the American consumer.”

Q. (By Mr. KENNEDY.) I think it was given in evidence by some gentleman representing your side of this question that your business was not profitable until you secured the European field—the German and English fields. That seems to be a little at variance with your statement there.—A. It is the only field we were never shut out of.

Q. (By Mr. PHILLIPS.) Could you or could you not refine oil here without selling export oil? Is that not really essential?—A. Certainly; I have shown you that the quality is not used in this country that is sold in Europe.

Q. (By Mr. KENNEDY.) You say here the Standard Oil Company makes profits chiefly between the American consumer and producer. Now, your people have testified that you have a profit in this foreign market. Therefore if you have a profit and sell in competition with the Standard they must have a profit there, too?—A. Certainly they have. I have stated that since the German government says there must be no unfair trading there has been no particular cutting of prices. That is the situation exactly.

THE STANDARD IS ABLE TO KEEP COMPETITORS OUT OF NEARLY ALL DOMESTIC MARKETS.

Q. (By Mr. PHILLIPS.) Do you undertake, then, to state that the opposition are making more out of the American trade than the independents are?—A. I simply say it is an impossibility for me to ship oil even to the Mississippi River and compete with the Standard Oil Company. I can not go to the Coast at all, and there are a hundred and one accounts I can call to prove my assertion. What I mean to say is that I can not even go to Elmira and sell in competition with the Standard Oil Company, a distance of 143 miles from my factory. I do not sell there; I do not sell to the nearest town.

Q. Why do you not?—A. Because this war is created at once.

Q. (By Mr. FARQUHAR.) Competition starts in?—A. That is right; but it goes on just as it did in Philadelphia, away below the cost of the commodity. There I lost \$54,000, and then I quit. I gave it over to the Pure Oil Company, and it is there yet—all my horses, all my wagons.² I have gone out of the outside business. I can not do business—that is all there is about it. Seventy per cent of my product goes to Europe now. I make very largely lubricating oils and wax. The Bradford oil is one that does not yield very heavily in water whites; therefore I have got to send my commodities to Europe.

¹ See pp. 518-520.

² Compare Mr. Lee, p. 306; Mr. Westgate, p. 305.

COMPETITION LEADS BOTH SIDES TO CUT PRICES; BUT THE STANDARD DOES NOT ALLOW ANY COMPETITION TO APPEAR WITHOUT WAR—AMOUNT HANDLED BY INDEPENDENTS.

Q. When you are going into the field, do you start to sell below the Standard rates?—A. No; we attempt to maintain rates.

Q. And the cutting comes sometimes from the Standard and sometimes from you?—A. Certainly it does; because we go into a market, and the astute merchant says, "I am not going to buy from you. I will buy from the Standard Oil Company." What will you do? Of course you will reduce prices. But we do not go into the market. We only handle about 3,000,000 barrels a year, all told, out of 23,000,000 produced. Only about 3,000,000 barrels of it is not handled by the Standard Oil Company.

Q. (By Mr. A. L. HARRIS.) If your competition does not exceed 10 per cent of the trade at a given point, do they pay any attention to it?—A. Yes; if we go in with a carload of oil, that is quite sufficient to create a war.¹

OIL CHEAPER IN EUROPE THAN IN AMERICA, BECAUSE OF REGULAR COMPETITION.

Q. (By Mr. FARQUHAR.) Oil for oil, quality for quality, does the European consumer get oils cheaper than the American?—A. Yes.

Q. How much cheaper?—A. I can not give you the percentage. In Europe to-day I should say that oil of this quality is 25 per cent cheaper than the same quality is sold on the average in this country.²

Q. Now, does that arise from the competition of the Russian oil with the American product?—A. It arises from the fact that we are in these markets as competitors, and Russia is there as a competitor. The competition unquestionably brings that market down.

Q. But the independents and the Standard Oil Company sell at about the same rates in Europe?—A. Yes.

Q. And you have got to meet Russian competition?—A. No. The Russians sell very low compared with the Americans. They had rather have American oil at one-half cent advance than Russian. It goes farther; no bad smell about it; it is good oil. They must come in and pick up what they can, and they do; but the distribution of the Russian goods is very small indeed.

THE AVERAGE PRICE IN AMERICA IS HIGH, THOUGH THE PRICE IS VERY LOW WHERE THE STANDARD MEETS A COMPETITOR.—THE STANDARD TRIED THE SAME POLICY IN GERMANY.

Q. (By Mr. KENNEDY.) There is one point about this that I can not understand. Some witness testified that your business was not profitable until you secured the German market. Now, you sell the oil cheaper to Germans than in this country by 25 per cent?—A. I do say that. It has been a good deal more than that at times.

Q. (By Mr. A. L. HARRIS.) Why is that? Is it because the German government does not permit cut rates to the extent of destruction?—A. No; I do not know that that is it, but until we got firmly established in the business over in Europe there was a determination that we should not go there, and they commenced the same tactics in that country as in this. They sold oil, for instance, on the Rhine at a cent, or 2 cents, or half a cent a gallon cheaper than they did at points where we were not present. In other words, in an adjoining district it would be higher than in the district where we were. Then, again, if they were obliged to cut prices, perhaps below cost, on the Rhine, they would levy a tribute upon the people on the Elbe to make up what they lost here. When I sold oil in Philadelphia as low as 3 cents a gallon it was selling in New York, 100 miles away, at 8 cents.

Q. (By Mr. FARQUHAR.) Would not you have done the same? Was it not a good policy on the part of the Standard, where they had no competition in Germany, and knew they could sell at 25 per cent less than they could in the American market, to hold these places there where there was no competition and to keep up prices there? Is not that good in any business?—A. That was not the case until that competition came in.

Q. But where they had no competition would they not very naturally get 25 per cent more if they could, to gain as many points as they could on the 25 per cent?—A. Certainly; I would hold the price as long as I could, but I would not put it beyond a reasonable price. If you had competition in this country, you would get oil, at least on an average, 50 per cent cheaper.

¹ Compare Mr. Westgate, p. 367.

² Compare Mr. Lee, p. 276.

PRICE AND QUALITY OF OIL AND GASOLINE IN CALIFORNIA.

In the State of California, where I have bought oil, I have gone to the markets and paid, in cans, 30 cents a gallon; and the same oil I was sending out of my factory and glad to get 4 cents for it.

Q. (By Mr. CLARKE.) Put up in the same way?—A. Yes. I have gone to Valley Springs, in California, and bought gasoline that was marked on the head "Double deodorized gasoline," and paid 25 cents a gallon for it; and when I paid that I was selling those goods by hundreds of barrels a day at my factory at 4 cents.

Q. What was the proper charge for transportation?—A. I do not know. The charge on oil from the Atlantic to the Pacific is 75 cents a hundred. Now, who knows anything about what the Standard Oil Company pays? I do not. They may pay \$1.35 or 50 cents or 25 cents.

Q. (By Mr. PHILLIPS.) If they paid the same as others, what would be the cost?—A. Suppose the goods were worth about 4 or 5 cents at the refinery. If freight is 75 cents, that would be about 5½ cents a gallon; call it, if you choose, 6½ cents, with the probable leakage and loss. It should be sold on that coast to-day, with a good profit, at 10 or 12 cents a gallon.

Q. (By Mr. FARQUHAR.) By the case or at retail?—A. By the case. I have given the outside limit.

Q. (By Mr. PHILLIPS.) How much did you pay at retail?—A. Twenty cents.

Q. (By Mr. FARQUHAR.) Do you know what profit the retailer made out of this?—A. I do not know what the profit was to him, but I do know I paid 25 cents for gasoline, double deodorized, and when I opened it up it was made from Lima benzine. Now, double-deodorized gasoline is absolutely like ether; you can take a smell of it and it will make you drunk in 10 minutes. But one snuff of that would knock you down.

Q. So you can not tell us what the middleman made on this deal at all?—A. The quality of the goods in America is not as it is in Germany, because the inspector of this oil does not do his duty. I could make charges here that I could prove that would make your hair stand, but I am not going to do it. It is not within your province, I suppose, to know anything of this kind.

THE WITNESS CAN COMPETE WITH THE STANDARD IF HE CAN HAVE EQUAL RAILROAD RATES.

Q. (By Mr. A. L. HARRIS.) Do I understand, then, that it is the matter of transportation that prevents your competing in this country with the Standard Oil Company as you compete with them in foreign countries?—A. That is exactly it, and that is all there is to it. If this Government can know and will know what the railroad's manifest is and its charge attached thereto for freight, and will see that there is fair competition in the market, I ask no odds of the Standard Oil Company. I can manufacture just as cheap as they can, in spite of their assertions.

Q. (By Mr. PHILLIPS.) And as good?—A. As good as they can. They have got nothing better in any of their works than I have got in mine, except it be, perhaps, in their fine laboratories, in the manufacture of residuums or the by-products. We raise no question about that. The whole question is the question of transportation. If you will force the railroads of this country to obey the law, you will have cured this evil.

PAYMENT OF REBATES HAS BEEN PROVED TO HAVE CONTINUED AT LEAST TO 1893. THE STATEMENTS OF GREAT RAILROAD MANAGERS NOTWITHSTANDING.

Q. (By Mr. FARQUHAR.) That brings the Commission face to face with this matter. You make the assertion, and so have others, in regard to rebates. The Standard Oil Company comes forward with the letters of twenty great railroad managers,¹ and we can neither verify your statements nor discredit the statements of these managers.—A. I will put you so you have got to say one or the other.

Q. The Commission comes to a stone wall there if we do not have verification.—A. Unfortunately my secretary has not brought up important documents that I should have here in this case; but I trust you will rely implicitly on my statements in what I am going to say, because it is my own case that I am going to bring before this committee. It is the case of Logan, Emery & Weaver v. The Pennsylvania Railroad Company. Here is an abstract from the records of McKean County, from the Appellants' Docket, No. 130, December term, 1887. It is the

¹ See pp. 518-526.

case of A. H. Logan, Lewis Emery, jr., and W. R. Weaver, partners under the firm name of Logan, Emery & Weaver, v. The Pennsylvania Railroad Company.

Q. (By Mr. CLARKE.) Let me inquire if the case grew out of alleged discrimination before the passage of the interstate-commerce law?—A. Yes, it did; but the discrimination lasted after the adoption of the law, and a suit was brought for rebates or difference in freight up to 1888. In the settlement of the case it was agreed between the Pennsylvania Railroad and ourselves that no further suits would be brought, because they paid a certain sum of money to me to settle the case. The rebates existed after 1887, and I have the testimony to produce, if necessary, of that fact. I will produce the testimony here, part of it taken in the same case, showing that rebates were paid up to 1888. In April, 1887, the interstate-commerce law went into effect.

Q. (By Mr. FARQUHAR.) There has never been a question before this Commission about rebates and discrimination before the passage of the interstate-commerce law. It is conceded that the old troubles, the wild-cattling system of making freights, existed up to 1889, two years after the passage of the act. There are plenty of cases there on file now showing that rebates have been issued.—A. Yes, there is a case in which I am interested now before the Interstate Commerce Commission in which we have proven rebates to 1893.

TESTIMONY OF HIGH RAILROAD OFFICERS CONTRADICTED BY SUBORDINATES.

I desire to present to this Commission a document filed with the court in McKean County, February 17, 1890, and also an order from the court, a rule for taking testimony. I should be glad to have you examine this document, to see that it was filed with the court, because there is very important testimony in it relating to transportation, and that you may be able to identify it in the future. In this suit, of which I have a transcript here from the document, which is subscribed by the county clerk, prothonotary, George W. Mitchell, we called to the stand George B. Roberts, president of the Pennsylvania Railroad, and the question was asked him if his road paid rebates on the transportation of oil.

Q. (By Mr. PHILLIPS.) At what time?—A. This was in 1890, when the suit was tried. The rebates that we claimed were paid to January 1, 1888. He replied: "No rebates are paid by our railroad on the transportation of oil." He was asked the question in various ways, and he said he knew nothing of any rebates; that was against the policy of the road. John S. Wilson, the general freight agent of the road, was put upon the stand. He said positively that no rebates had been paid on their road since the suits of 1879 upon petroleum. He said: "As general freight agent of this road I should know, and I give my oath that no rebates were paid." The auditor of the road, Mr. Taylor—or Mr. Justis; I do not know which; one was the auditor and the other the assistant auditor—said that rebates had been paid, and if I had my books here I could read you when they were paid and under what conditions. The next called was Mr. Justis, I believe, and he corroborated Mr. Taylor that rebates had been paid on the Pennsylvania road. This testimony was taken before a master.¹

Q. (By Mr. CLARKE.) Can it be produced?—A. Oh, yes, I have the testimony; I have sent for it. Mr. Roberts was examined in the court, but I have not his testimony here. The next man that was called in the case was the bookkeeper, Mr. Thayer, who had stood at one desk, he said, 26 years, keeping accounts in a certain department. He was asked whether rebates had been paid to any shippers of oil over the road, and he said they had. We called a large number of witnesses.

Q. (By Mr. PHILLIPS.) What were the rebates?—A. The rebates ran from 8 cents a barrel to 28 cents a barrel. Under the anti-discrimination law of Pennsylvania the penalty prescribed was three times the damages, to be collected of the man proved guilty. A large amount of our shipments of crude oil from the oil regions to Philadelphia, where Logan, Emery & Weaver owned a refinery, at what is called Greenwich Point, on the Delaware, were shipped from Olean, N. Y. When we came into the court with our evidence, exceptions were taken to that part of our claim which related to shipments from the State of New York, on the ground that interstate shipments could not be considered under the State law.

DIFFICULTY OF GETTING RAILROAD PEOPLE TO APPEAR IN COURT AND TO ANSWER QUESTIONS.

We commenced this suit early in 1887, and it was not concluded until 1890. The railroad people were able at will to send word to the master that they could not

¹ See pp. 635, 642. Also Mr. Lee, pp. 287, 292; Mr. Archbold, p. 516.

come to-day, but would come some other time. We traveled with our attorneys 500 miles, simply to go home again. We were bandied about for nearly 3 years in taking that evidence. It was expensive; it was annoying; but the court had no power, it seemed, to compel these people to come to the stand. When we got them to the stand, certain questions were propounded, which they refused to answer under the advice of counsel—the screen which all these criminals of this country who are against its laws and the rights of the people get under, “We can not answer that question because it may incriminate us.”¹ They would not even attend the court in McKean County, and the judge issued a bench warrant and sent the constable to Philadelphia and brought Mr. George B. Roberts and Mr. Green and Mr. Downy and others to the bar of justice.

PROPOSITION TO SETTLE THE SUIT OF LOGAN, EMERY & WEAVER.

When they got up into the county of McKean my partner said to me: “There is a proposition to settle this case.” I did not want to settle. I wanted to fight the thing out. We had compelled the Pennsylvania Railroad to bring their books, and there were three tons of them that they had to bring upon the train to answer the summons of the court. We were more than a year in getting those books into court. Now they were cornered up, and we had absolute proof of 8 to 28 cents a barrel rebates that had been paid.

THE WITNESS HAD BUILT HIS PHILADELPHIA REFINERY AT THE SOLICITATION OF THE RAILROAD, BUT THE RAILROAD DROVE HIM OUT OF BUSINESS.

I went to Philadelphia to manufacture oil in 1880, at the instance of the railroad officials themselves. They had a little bit of a quarrel with the Standard Oil Company after the close of the suits of 1879—*Commonwealth v. Pennsylvania Railroad*. They invited the refiners to meet them, and I went there at their own solicitation and built those works. I ran them from 1881, when I built them, up to 1887; but the railroad practically drove me out of business there.²

SETTLEMENT OF LOGAN, EMERY & WEAVER'S SUIT.

Their attorney came to our attorney and said: “We will give you \$35,000 to quit, and expenses of the suit.” My partners had become discouraged and disgusted. We took the money. We did not go on with the interstate-commerce suit, because we knew we should never get through. I entered one suit here in the Interstate Commerce Commission, and it was 7 years before I got a decision.

Q. What was the amount of your claims?—A. My claim was \$107,000. A great portion of that was on shipments of oil from the State of New York. If I had gone on with the suit I could have secured a large sum of money, but I had not the heart to do it; I was not able to do it. My finances were such that I could not spare the money to go into court and overcome the dilatory tactics of the railroad officials. I simply dropped the case in disgust. I took the \$35,000 and they paid the cost of the suit.

B. B. CAMPBELL'S TESTIMONY AS TO PAYMENT OF REBATES UP TO JULY 1, 1888.

This is a document of the court of McKean County. It is only a few words I wish to read to you. It is the testimony of B. B. Campbell. Perhaps I had better read, as I can not leave this with the commission. Anything I have read, or, in fact, the whole testimony or a copy of the testimony in this suit, I can give you if you would like it.

“B. B. Campbell in the suit of Logan, Emery & Weaver *v.* Pennsylvania Railroad Company.

“B. B. Campbell being first duly sworn, testified as follows in answer to questions by Mr. Lee:

“Q. You were sworn in this case and testified before?—A. Yes.

“Q. And certain questions you declined to answer under the advice of counsel?—A. Yes.

“Q. You received certain allowances on freight shipped over the Pennsylvania Railroad. From what place and by whom was that freight shipped?

“(The counsel for defendant objected to the question in the manner in which it is put, for it is assuming the fact that he did. Second, the form of the question is bad.)

¹ Compare Mr. Monnett, p. 307, top; p. 315.

² See pp. 629, 634, 648.

"Q. You may state whether you received any allowance on freight shipped by the Bear Creek Oil Refining Company, Limited, over the Pennsylvania Railroad, and from what point that freight was shipped, and to what points.—A. Those matters are fully stated in my answer to the question propounded me under a rule of court. The freight from the Bear Creek Oil Refining Company was shipped from Coleman station on the Allegany Valley Railroad as far as the junction, and from the junction I believe to Bolivar over the West Penn., and from thence mostly to Philadelphia; some few shipments were made to Communipaw and some few to Bolivar. There was some little local trade, but the great majority were shipments of export oil to Philadelphia.

"Q. During what period were these allowances made to you?—A. That is fully stated in my answers to the court, which were, of course, made up and fully stated from October 1, 1884, until July 1, 1888."

A year and four months after the interstate-commerce act went into effect.

"Q. You may give the allowances by the year.—A. They are already given. From October 1 to September 30, 1885, the rebates were \$8,607.51; until September 30, 1886, \$10,313.47; until September 30, 1887, \$15,200; until July 1, 1888, \$13,980.15; total received, \$48,101.13."

Q. (By Mr. CLARKE.) Nearly all of that was before the passage of the interstate-commerce law?—A. Yes. There was a year and a half of that time after the passage of the law.

Q. The last item given there is the only one which comes in since the passage of the interstate-commerce law, is it not? A. No; the interstate-commerce law took effect in April, 1887. During the year from September 30, 1886, to September 30, 1887, rebates were paid amounting to \$15,200.

Q. From April to September after the law?—A. And all of the last item. We knew that these same rebates were continued up to this time, and therefore the bringing of our second suit, which was settled for the \$35,000; so we dropped the whole thing.

OTHER SUITS AGAINST THE PENNSYLVANIA RAILROAD ON ACCOUNT OF DISCRIMINATIONS.

Now, I desire to further fortify this statement. After this suit was decided a great number of suits were brought against the Pennsylvania Railroad. There was the Independent Refinery, of Oil City; S. Y. Ramage, of Crown Oak, Pa.; the Germania Refining Company; the Continental Refining Company; the American Oil Company, of Titusville; Rice, Robinson & Fagin, of Titusville; the Seneca Oil Works, of Warren; the Corn Planters, of Warren. All of these companies brought suits against the Pennsylvania Railroad and other roads. This is a dispatch I received to-day. I had other memoranda of this suit, but I wanted to be able to state definitely upon this question, so I sent another telegram yesterday and find it recorded. Of course the court record of these suits can be produced to the commission; but I make affidavit here that this is true and correct to the best of my knowledge and belief. The refiners' claims (this is addressed to myself, care of the Industrial Commission)—refiners' claims were filed with Rogers Sherman (he was also a witness against the Pennsylvania) up to August 1, 1888 (which was contemporaneous, I think, with this I have read): "Compromise and settlement agreed"—that is to say, they compromised these suits and took their money. The amount collected at that time by these several refineries, as I recollect it, was about \$84,000. I may be mistaken; it may have been a good deal more, or it may be less.

Q. (By Mr. CLARKE.) Were those suits all settled by the railroad companies?—A. Yes; by the Pennsylvania. "Claims therefore filed with the Interstate Commerce Commission."

DECISION OF THE INTERSTATE COMMERCE COMMISSION, BASED ON PAYMENT OF REBATES UP TO 1893.

Q. How far does that go back?—A. They settled up to August, 1888, and from August, 1888, up to 1893 the Interstate Commerce Commission has rendered a decision that the railroads are responsible to these refineries for \$86,000.

Q. Is that decision reported in their annual report?—A. Yes; you will find it in that case. The railroads have refused to pay this \$86,000, and it has gone to the circuit court of the United States at Pittsburg.¹ The suit is now pending for the collection of this money. I want to clinch this thing right here, and I am going to do it by reading you a letter.

¹ See Mr. Lee, p. 287; Mr. Archbold, p. 516; Mr. Westgate, pp. 379, 380.

**THE RECEIVERS OF THE BALTIMORE AND OHIO PROPOSE TO MAINTAIN THEIR
PUBLISHED RATES AFTER JANUARY 1, 1898.**

“Late open public confessions from the receivers of the Baltimore and Ohio Railroad of secret rates, drawbacks, rebates, and other devices.”

Q. (By Mr. FARQUHAR.) What are you reading from?—A. I am reading from a letter addressed to the Interstate Commerce Commission by the receivers of the Baltimore and Ohio Railroad.

Q. (By Mr. PHILLIPS.) Under what date?—A. December 22, 1898.

Q. 1898?—A. 1898, less than a year ago. (Reading:) “Will maintain rates. Baltimore and Ohio Railroad adopts a new policy.”

Q. (By Mr. FARQUHAR.) Who is the author of the letter?—A. It is a letter that was published some short time ago. It is public matter. I do not know who published it.

Q. Who is the authority for the letter?—A. Why, Mr. Cowen.

Q. Mr. Cowen of the Baltimore and Ohio?—A. Yes.

Q. He signs this letter?—A. To the Interstate Commerce Commission; yes.

Q. That is what we are looking for. I want to know the author.—A. (Reading:)

“Receivers Cowen and Murray addressed a letter to the Interstate Commerce Commission stating their purpose to adhere to published tariffs and to report to the commission, in lieu of other agency, the failure of other roads to do the same.

“Chairman Knapp, of the Interstate Commerce Commission, has received a letter from Receivers Cowen and Murray, of the Baltimore and Ohio Railroad, announcing that after January 1 that railroad will maintain scrupulously the published tariff and rates filed with the commission, and will appeal to the commission for aid in cases coming to their attention of railroads failing to maintain rates to the detriment of their interests. This step is an important one, which will interest largely all other railroads. What the attitude of other roads will be is unknown here. The letter in full is as follows:

“Within the territory north of the Ohio River and east of the Mississippi the railroad carriers are transporting the larger part of the interstate traffic at rates less than those shown in the published tariff filed with your commission, which are by statute the only lawful rates.

“While this condition continues there will exist the unjust discriminations and the unjust preferences and advantages between persons, localities, and particular descriptions of traffic, the prevention of which is the main object of the act of Congress establishing your commission. Only by securing the uniform charging of the published rates can the just equality of service and of charge required by law be secured either between persons or between localities.

NO AGENCY FOR RESTRAINT.

“Heretofore the Baltimore and Ohio Railroad Company and its competitors within the territory above mentioned have maintained joint agencies or associations under various agreements intended to act as a restraint upon each carrier and to prevent the secret cutting of rates on competitive traffic. It has been the practice for each carrier to report to a joint agency or association any departure from the published rates by a competing carrier, to the end that the facts might be fully ascertained and the unfair competition stopped.

“The Supreme Court of the United States has now fully determined the so-called antitrust act applies to railroad carriers, and in legal effect prohibits any agreement between them which restrains competition in any degree, even though such agreement goes no further than to secure the observance of the restraints imposed by the act to regulate commerce. It is therefore no longer lawful for the carriers to create by agreement between them joint agencies or associations as formerly, to prevent the cutting of rates, however unlawful. Without some impartial body to investigate the complaints of one competing carrier against another and to check illegal rate cutting, if found to exist, it will be practically impossible for the railroad carrier alone to prevent that form of competition between them, however earnest the great majority of the carriers may be to stop it.

“The Interstate Commerce Commission not only commands the respect of the railroad carriers for its impartiality, but also in its powers to investigate complaints of illegal rate cutting and to put a stop to all illegal practices far surpasses any association which the carriers have ever created by agreements between themselves.

TO SEEK AID OF COMMISSION.

“We see no reason why the commission should refuse its aid to the carriers in an effort to prevent competition from taking the form of illegal concessions

through secret rates, drawbacks, rebates, and other devices; and we see no reason why the carriers should not seek the aid of the commission in such an effort by reporting to the commission any departure from published rates, to the end that the facts may be fully ascertained and the illegal practice stopped.

"The receivers of the Baltimore and Ohio Railroad Company will maintain, on and after January 1, 1890, upon the lines operated by them, the rates, fares, and charges shown on the tariffs published and filed with the commission as required by law."

After that day: a practical admission that they have not previous to that time; put your own conclusion on it. [Reading:]

"We believe that all, or nearly all of the railroad carriers within the territory above mentioned, will likewise maintain their published tariff rates from that date."

Referring to the fact that they did not. [Reading:]

"To prevent a relapse, however, to the conditions now existing, it is necessary that no important carrier shall long depart from the published tariff rates. Should such a departure occur, to the detriment of the interests in our charge, we shall invoke the aid of the commission to stop it. We hope and believe that many other carriers will do the same. In the anticipation that the other railroad carriers formerly associated with the Baltimore and Ohio Railroad Company in traffic associations will adopt the course decided on by us and above outlined, we have taken the liberty of transmitting to each such carrier a copy of this letter."

Q. (By Mr. RATCHFORD.) Is that letter the original? Is that letter signed by the receivers of the Baltimore and Ohio?—A. It is on file: I suppose it must be; it is on file in the Interstate Commerce Commission. Now, gentlemen, there is an absolute admission on the part of the Baltimore and Ohio Railroad that rebates, drawbacks, and other devices have taken place up to January, 1890.

Q. (By Mr. CLARKE.) Have you any evidence that connects that with the business of the Standard Oil Company?—A. Oh, no. These discriminations are not upon oil, but they are upon the tonnage offered by the large corporations—no question about that.

Q. (By Mr. FARQUHAR.) Possibly individuals, too?—A. Individuals as well, possibly. That is the bane of the whole thing, these discriminating rates.

Q. Have you done with that?—A. I think the commission can understand clearly from that paper that the Baltimore and Ohio have given these rebates, and they have got tired of doing it, and will obey the law.

AS TO B. B. CAMPBELL.

Q. (By Mr. FARQUHAR.) I would like before we leave this part of it to have presented the evidence of Mr. B. B. Campbell in respect to those rebates. Mr. Campbell was the signing party of the Standard Oil Company and the United Pipe Line?—A. I do not understand.

Q. He was the signing party in respect to the suppression of all rebates and drawbacks?—A. Yes.

Q. The document, as drawn up in 1880, between B. B. Campbell and the Pennsylvania Railroad Company?—A. Yes.¹

Q. Did he turn as a witness against the railroad after he received the rebates?—A. Yes. He could not help himself; he kept out of our way for a long time.²

Q. Then Mr. Campbell himself was the signer of the original agreement between the railroad and the Standard and all the other producers?—A. No.

Q. Well, it is testimony here; I have the evidence here taken by the Bacon committee.—A. But when I come to explain to you before I complete this argument, I will answer all those questions.

Whereupon at 5.05 p. m. the commission adjourned until 10 o'clock to-morrow morning.

WASHINGTON, D. C., Tuesday, September 12, 1899—*a. m.*

The commission was called to order at 10.30, Mr. Phillips presiding.

LEWIS EMERY, Jr., again on the stand and examination resumed.

Q. (By Mr. PHILLIPS.) You can resume your testimony and proceed in your own way.—A. You only let me get to 1872, yesterday, and then you hurried me on to 1889 and 1890.

REPORT OF EXECUTIVE COMMITTEE OF PETROLEUM PRODUCERS' UNION, 1872—
THE FIRST RUMORS OF THE NEW POWER.

I got up to the South Improvement contract yesterday, and I showed you its repeal. I read from a public document as follows [reading]: "History of the

¹ See p. 632.

² See p. 635.

rise and fall of the South Improvement Company. Report of the executive committee of the Petroleum Producers' Union, embracing the report of the subcommittees on transportation, legislation, investigation, and treasurer's report, at Oil City, Pa., 1872.

"On February 20, 1872, rumors were rife in business circles that the railroads, having their main lines or feeders extending into the oil regions, had formed a joint arrangement to advance the freights on crude and refined oils from the fields of production to the seaboard.

"With a production of 16,000 barrels of oil per day, and the coming of spring, which always brings renewed energy to operation, and an already depressed market, this rumor created the greatest uneasiness in the minds of all operators and shippers. Nothing definite could be ascertained, and nothing further than the rumor could be heard, and the region settled back to fancied security.

"In a few days, however, a second rumor was circulated, that not the railroads, but a company bearing the wonderfully inappropriate cognomen of the 'South Improvement Company' had purchased a right to all petroleum transportation, and were to arrange the rates of shipment of all the oil produced, and that an immediate advance of 50 per cent was but the first advance, with promise of more in the future.

THE ADVANCE OF FREIGHT RATES—PROTESTS AND STRUGGLES.

"This, however, seemed so quixotic that it did not meet with general credence until it was confirmed by telegrams on the 26th from railroad officials to their agents at shipping points in the oil regions advising them of the new rates, to take effect immediately. An advance of 100 per cent on all freight charges, on crude and refined, was equivalent to a complete paralysis of all operations for and in oil in the entire region. But oil men are made of sterner stuff than to tamely submit to so gross an outrage, let it come from what quarter it would.

"The thousands of operators were electrified with indignation, and rose as one man to defy and resist the levying of a tribute so palpably unjust. Meetings were called in all the principal towns and cities. The honor of calling and organizing the first meeting is conceded to Tidioute. E. E. Clapp was elected to the chair, and resolutions indicative of the spirit and determination of the producers of that field were passed. It was resolved, *inter alia*, to shut down all their wells until the old rates were restored, or until a new outlet could be found to remove their oil to outside markets, if such a step were necessary.

"Delegates were also chosen to attend a mass meeting called to assemble at Titusville on the evening of the 27th, 'to consider the necessity of constructing a railroad from Erie, by the way of Titusville, into the oil regions, as a competing railroad, connecting with water communication to New York and Europe, and such other business of interest to the people as might come before the meeting.'

"The meeting at Titusville demonstrated the fact that the wealth, determination, spirit, and practical ability of the men of the oil regions would render victory for them in the battle with monopoly an absolute certainty.

"The wonderful resources of oil men, when pressed by great difficulties, here became apparent in the plans and suggestions laid before the meeting. Railroad routes, with suggestions and estimates of cost, to reach the lakes on the north and railroads not in the combination on the south, pipe lines, and other remedies were suggested, and the feasibility of some, if not all, did much to reassure the mass of people that they would speedily find a solution of the difficulty."

THE SOUTH IMPROVEMENT COMPANY—THE REPEAL OF ITS CHARTER WAS OF NO PRACTICAL EFFECT.

I read so much only to show the spirit aroused at the time of the first notice of the formation of the South Improvement Company. Now, if you will turn to page 15 of my pamphlet, you will find an act to repeal the charter of the South Improvement Company. But on page 15½ I have shown how a charter in the very same terms was bought by the National Transit Company, which is one of the companies of the Standard Oil Trust. Clement A. Griscomb was president of the National Transit Company; he is not at this moment. He is a director of the Pennsylvania Railroad. I have explained to you and read to you from my book of the demoralized condition of the trade, at the time when the South Improvement Company act was repealed, through this tremendous pressure on the railroads on the part of this South Improvement Company. You will see that all this work that was done between these two Northern trunk lines of railroad and the Pennsylvania in the South was repealed by this act. I propose to

t, though the contract was annulled, the South Improvement as well as the contract between the Standard Oil Company and the annulment was never lived up to, and the business of the country is exactly as though the South Improvement Company was in full force. If you will please turn to page 48 (see Fiftieth Congress, first session, House Reports, vol. 9, pp. 361, 362) [reading]:

THE RAILROADS AGREE THAT THERE SHALL BE NO DISCRIMINATIONS OR REBATES.

Agreement between railroads and the petroleum trade, executed the 25th of March, 1872.

That all arrangements for the transportation of oil after this date shall be upon a basis of perfect equality to all shippers, producers, and refiners, and that no rebates, drawbacks, or other arrangements of any character shall be made or allowed, that will give any party the slightest difference in rates or discrimination of any character whatever.

That the present rates from Oil City, Union, Corry, Irvineton, Pittsburg, Cleveland, and other competing points shall be and remain in full force at following rates:

ON REFINED OIL, BENZINE, ETC

	Per barrel.
From Oil City, Union, Corry, and Irvineton to—	
Boston.....	\$1.65
New York.....	1.50
Philadelphia.....	1.35
Baltimore.....	1.35
From Cleveland to—	
Boston.....	1.65
New York.....	1.50
Philadelphia.....	1.35
Baltimore.....	1.35
From Pittsburg to—	
New York.....	1.50
Philadelphia.....	1.35
Baltimore.....	1.35

ON CRUDE OIL

From Oil City, Union, Corry, and Irvineton to—	
Boston.....	1.50
New York.....	1.35
Philadelphia.....	1.20
Baltimore.....	1.20
Cleveland.....	.50
Pittsburg.....	.50

And said rates shall not be liable to any change, either for increase or decrease, without first giving to William Hasson, president of the Producers' Union, at Oil City, at least 90 days' notice in writing of such contemplated change.

In the distribution of cars for shipments, it shall be done without discrimination.

On the basis as hereinbefore stated, the parties respectively agree to carry out the arrangements in good faith, and work for the mutual interests of each other.

In witness whereof the parties have hereunto affixed their signatures this 25th day of March, A. D. 1872.

For the Lake Shore and Michigan Southern Railroad Company, H. F. Clark, president; for the Erie Railroad Company, O. H. P. Archer, vice-president; for the New York Central and Hudson River Railroad Company, William H. Vanderbilt, vice-president; for the Atlantic and Great Western Railroad Company, George B. McClellan, president; for the Pennsylvania Railroad Company, Thomas A. Scott, vice-president. On behalf of the producers and refiners: G. Shamburg, E. G. Patterson, William Hasson, Henry Byrom, William Parker, John J. Fisher, Oil City producers and refiners; J. J. Vandergrift, A. P. Bennett, William M. Irish, William T. Scheide, Oil City producers and refiners; Henry N. Rogers, F. C. Fleming, Josiah Lombard, jr., New York refiners; B. Vaughan, Boston refiners.

Q. (By Mr. PHILLIPS.) Is that the same Mr. Rogers who testified before us? Is it a mistake in the print, or is it a different man?—A. I do not know whether this is the man. This is in the year 1874; but I think Mr. Archbold and Mr. Rogers did not go into the Standard Oil Company until 1875. I do not know whether it is the same or not. It does not make any difference. These gentlemen stood on the rostrum with me three or four years fighting this very principle.

Q. Did he have a refinery on Oil Creek?—A. Yes; he did.

Q. (By Mr. FARQUHAR.) This Rogers had a New York refinery. This is another Rogers; it is H. N.—A. Yes; I think you are right. Page 51 [reading]:

THE OPEN RATES RAISED AGAIN.

[The New York Central and Hudson River Railroad Company, General Freight Agent's Office, Grand Central Depot.]

NEW YORK, *September 9, 1874.*

DEAR SIR: Commencing October 1, 1874, the following rates on refined and crude oil shall govern all lines:

The rates on refined oil from all refineries at Cleveland, Titusville, and elsewhere in and adjacent to the oil region shall be as follows:

	Per barrel.
To Boston.....	\$2.10
To Philadelphia.....	1.85
To Baltimore.....	1.85
To New York.....	2.00

Net rate on Albany 15 per cent less, from which shall be refunded the amount paid for the transportation of crude oil by rail from the mouth of the pipes to the said refineries, upon the basis of 14 barrels of crude oil to the refineries for every 10 barrels of refined oil forwarded by rail from them (the refineries) to the Eastern points named.

Settlements of this drawback to be made on refined oil forwarded during each month.

No rebate on these rates will be paid on oil reaching refineries direct by pipes.

On crude oil the rates from all initial points of rail shipments in the oil region shall be as follows:

	Per barrel.
To Boston.....	\$1.75
To New York (net rate on Albany 15 per cent less).....	1.50
To Philadelphia.....	1.50
To Baltimore.....	1.50

From which shall be refunded 22 cents per barrel only on oil coming from pipes which maintain the agreed rates of pipeline.

A barrel shall in all cases be computed at 45 gallons.

You will observe that under this system the rate is even and fair to all parties, preventing one locality taking advantage of its neighbor by reason of some alleged or real facility it may possess.

Oil refiners and shippers have asked the roads from time to time to make all rates even and they would be satisfied.

This scheme does it, and we trust will work satisfactorily to all.

Respectfully, yours,

J. H. RUTTER,
General Freight Agent.

THE AGREEMENT THAT THERE SHOULD BE NO DISCRIMINATION WAS NOT KEPT TWO WEEKS.

The date of that contract was the 25th day of March, 1872. I tried to get yesterday a copy of the Hepburn report, but I could not. But in 1879 George K. Blanchard, the present manager, I think, of the Central Traffic Association (am I right?), of Chicago, was called to the stand by the Hepburn committee. You all know what that was—a committee of the New York legislature. He swore that this contract that I have just read, which is so soundly and so fairly worded, was not respected two weeks.¹ I put that in as a part of my evidence, and I refer you to the

¹ "October 1, 1872. * * * I first became general freight agent of the Erie Railroad. * * * At that time Adnah Neyhart, of Tidoute, Pa., * * * shipped small quantities of refined oil, for which he received a rebate of over \$7,000 on his shipments for the prior month, to wit, Sep-

Hepburn committee—that this agreement, solemnly drawn and signed by the railroads, that I have raised a question about in my testimony here before you, was abrogated within two weeks after it was signed, according to the testimony of George R. Blanchard. Does the commission want me to go into the fact and prove rebates and drawbacks from the date of this contract up to 1877?

Q. (By Mr. CLARKE.) My understanding is that these rebates and drawbacks are conceded by the railroad companies and the Standard Oil Company up to the passage of the interstate-commerce act. If that is so, it is not at all necessary.—A. I can produce every contract.

REBATES PAID ONLY TO MEMBERS OF THE STANDARD OR THE SOUTH IMPROVEMENT COMPANY.

Q. (By Mr. FARQUHAR.) In that matter of 1880, which concerns the agreement of the Producers' Union, would you have had that agreement at all unless they had made rebates and discriminations from 1872 up to 1880? It is conceded that in all the arrangements the rebates were payable from 1870 up to 1880.—A. To whom?

Q. To all parties.—A. No.

Q. Well?—A. Only to those connected with the Standard Trust or the South Improvement Company. If you were not a member of that organization, you could not participate in the drawbacks.

Q. But that agreement or purchase which was entered into afterwards, in 1880; Mr. Campbell was president of the Producers' Union at that time?—A. Now, you are getting too far; I will come to that.¹

Q. Oh, I understand that.—A. I will give you the whole history; but I want to know whether you want me to prove to this commission that rebates were paid from 1872 to 1887, when the business became an absolute monopoly; when the Pennsylvania Railroad surrendered everything over to the Standard Oil Trust?

MAY NOT THE EMINENT GENTLEMEN WHO SAY THE STANDARD HAS RECEIVED NO REBATES FOR TWELVE YEARS BE MISTAKEN?

Q. (By Mr. KENNEDY.) The other commissioners have said that there was no question about the practice of paying rebates before the passage of the interstate-commerce law. Since then there is some question, and it seems to me that the issue shapes up in this way: The Standard Oil Company people have come here and sworn that they have not asked or received rebates since the passage of that act. They say they were too shaming a mark under that act to get or ask for rebates.² All they desired was that they hold up the published rates and hold others to them. Now, it seems to me the thing for you to do, if you can do it, is to prove that they have taken rebates since that time. If you do that you can convict somebody of perjury.—A. I think that it is clearly proved that rebates were paid. Mr. Roberts, president of the Pennsylvania Railroad, went upon the stand in the court of common pleas of McKean County and testified that his railroad had not paid rebates from the time the interstate-commerce law took effect. Mr. John S. Wilson, whose testimony I have read, the general freight agent, corroborated Mr. Roberts. I have here the testimony in all these cases, and the witness of a hundred men, proving that Mr. Roberts and Mr. John S. Wilson were mistaken in their statements.³ You say that you have letters here filed by Mr. Archbold from honorable men representing the several railroads of the country.⁴ I have no doubt of their honesty. I have no right to even cast a reflection upon Mr. Archbold or upon his testimony, but I do venture to say that if Mr. George B. Roberts, president of the Pennsylvania Railroad at that time, now deceased, and Mr. John S. Wilson, its general freight agent, will come upon the stand and make oath that

tember, 1872. Notwithstanding this rebate the oil shipments via the Erie were so small in proportion to those by its rivals and to the aggregate seaboard receipts that I looked for the reasons.

I found the agreement next prior to that time as to shipments and rates was the one already in evidence between producers, shippers, refiners, and railroad companies, dated March 25, 1872. I asked why that contract was not observed, and was then convinced in reply that the agreement of March 25 lasted less than 2 weeks, and that at that early date the Empire Line was receiving a large drawback, or commission, from the Pennsylvania Railroad." Testimony of G. R. Blanchard; Proceedings of the Special Committee on Railroads, appointed under a resolution of the Assembly of the State of New York, 1879, pp. 336, 337.

¹ See p. 602.

² See Mr. Archbold, p. 627.

³ See p. 634.

⁴ See pp. 518, 536.

no rebates have been paid since the interstate-commerce law took effect, and following their testimony the auditors and bookkeepers of the road go upon the stand and swear that rebates have been paid, and we prove from 8 to 28 cents a barrel, and my claim is settled, and I receive my \$35,000 and costs of the suit, may not these gentlemen who have written these letters be mistaken? I would like to see their auditors and bookkeepers put upon the stand, as we put those of the Pennsylvania Railroad. We did not get this information until we brought their books into court. When they saw they were in a corner, they surrendered. I told you that out of a production of 28,000,000 barrels of oil a year the outsiders handle, I think, not over 8,000,000 barrels altogether, including the fields of Ohio, West Virginia, New York, and Pennsylvania. And do you think if these small men, handling this small quantity of oil, go into the courts and prove rebates from April 4, 1887, when the interstate-commerce act took effect, up to August, 1888, as we did in my own suit, and then bring suit before the Interstate Commerce Commission for rebates from that time up to 1893, and the Interstate Commerce Commission render a verdict of \$86,000 against the railroad; if these men of the Standard Oil Company, with their ability, as one of the witnesses has stated, or through their great competency, through their great brain, have carried oil to the ends of the earth as nobody else could, do you think for one moment that the Standard Oil Company would allow those small men, who have not the brains or the ability, to beat them on the transportation?

UNFAIR FREIGHT RATES, DISCRIMINATING FREIGHT RATES, CAUSE ALL OUR COMPLAINT AND TROUBLE.

Bring into the courts of this land the books of these railroads. They are responsible to-day not only for the acts of the Standard Oil Company, but for the oppressive monopolies in every line of business. Go to the stock exchange, where members were levied upon a dollar a head upon every cargo that came from the Western country. Go to the produce exchange, where they were levied upon barrels of flour that came from the Western fields. The interior mills of the country are paralyzed because of this unjust discrimination; I am a miller, and I make 500 barrels of flour a day. All these trusts, I say, are built up at the instance of the railroads; and I make the broad charge that had they obeyed the law and given equal rights to all shippers there would have been no trusts. There would not have been the dissatisfaction in the country. Go to Duluth, if you choose, to-day, and try to buy a carload of coal that you wish to take out into North Dakota, where I have a wheat farm. The coal is mined by the miners at from 35 to 50 cents a ton, drawn to Buffalo, I think, at a dollar, and loaded on the ship at a cost, as I understand, of less than \$1.75. Allow 75 cents for transporting it to Duluth and you have \$2.50. Three hundred and thirty-four miles from Duluth, by the Great Northern road, where my farm lies, west of Grand Forks 16 miles, bituminous coal is sold at \$6 and \$7 a ton. I say that the discrimination is the result of the coal combination, and the railroads are responsible for it.

ENFORCE THE LAW AGAINST GREAT LAWBREAKERS AS WELL AS SMALL.

The milk in the cocoanut of the success of the Standard Oil Company is transportation; unfair, illegal discriminations in transportation. Do you think that you can not prove rebates upon oil if you call the witnesses, with books and papers? The Pennsylvania Railroad had rather pay \$200,000 than permit me, or allow Logan, Emery & Weaver, and the court, to look over that 8 tons of books that were brought up to the court-house in McKean County. It would have sent them to prison. The injustice in this country is that a poor devil goes along the street and steals a loaf of bread when he is hungry, and he is arrested and taken to the courts and sent up for 10 or 15 days. If he steals a coat to keep his body warm he is sent to prison for a year. These great corporations, the men managing them, come into court and say "We won't bring out our books; we won't answer your questions; because if we do we shall incriminate ourselves."¹ There is the difficulty. The Sherman Act—the Federal act—has been proven constitutional by the highest tribunal in this land, and if it was enforced these people would go to prison. You can prove it, Mr. Chairman and Commissioners, if you choose; it is in your power to prove discriminations, I believe, to this moment, if there is any truth in the letter of Mr. Cowen and Mr. Murray.

¹ See Mr. Lee, p. 287; Mr. Archbold, p. 516.

² See p. 635, top; Mr. Monnett, p. 307, top.

REFINERIES ABSORBED OR WRECKED BY THE STANDARD.

Please turn to page 78 of my pamphlet, where you will find a list of refineries bought, leased, squeezed out, or bankrupted by the Standard. The list is taken from my testimony before the Committee on Manufactures in 1888. [Fiftieth Congress, first session, House Reports, vol. 9, pp. 232, 233.]

In this list there are some refineries that went out of business in 1867. I do not charge their going out of business to the South Improvement contract entered into by the railways; they went out previous to that. But you come up to 1870 and 1871, when some refiners had very large rebates, and others very small ones, or none at all. As I said yesterday, the Standard Oil Company have no patent on rebates. These same railroads have been violating the law ever since they were created, by giving rebates and drawbacks; but never so much, previous to 1872, that the average business man could not stand up under them. He could not make as much money as his neighbor, and he used to wonder why; and when this exposure came he learned the reason. But the contract of the South Improvement Company, and the very large rebate, the 100 per cent rebate, given to the Standard companies, was the means of driving the most of these refiners out of business. Now, then, these refiners were, most of them, in existence at the time of the South Improvement Company, 1872, a contemporaneous date. I have read to you this morning the repeal of the South Improvement Company charter. I have read to you the fair contract between the producers and refiners and the Standard Oil Company and the railroads. I have also said to you that the contract was violated within two weeks, according to the evidence of George R. Blanchard, formerly, and now, perhaps, the Central Traffic Association manager.

WHY REFINERS FAILED—TESTIMONY OF FRANK ROCKEFELLER.

The rebates from 1872, that are said to have gone out of existence practically, were so great that the business of the average refiner was silenced. I want to read to you from the evidence of Frank Rockefeller, whose testimony was given before the Congressional committee, July 7, 1876. I read from clause L.

"Q. Do you know how many refineries there were in Pittsburg prior to this alleged combination?—A. I have been told that there were sixty odd refineries.

"Q. How many are there now?—A. I was told by the same parties that there were now less than twenty, and very few doing any business.

"Q. (By Mr. REAGAN.) What is the cause of that reduction in the number of refiners?—A. I suppose the main cause has been the fact that they could not make money. I have understood that the same lever was brought to bear upon them as upon the Cleveland refiners. We had in Cleveland at one time about thirty establishments, but the South Improvement was formed and the Cleveland companies were told that if they didn't sell their property to them it would be valueless; that there was a combination of railroad and oil men; that they would buy all they could, and that all they didn't buy would be totally valueless, because they would be unable to compete with the Southern Improvement Company, and the result was that out of the thirty there were only four or five that didn't sell.

"Q. From whom was that information received?—A. From the officers of the Standard Oil Company. They made no bones about it at all. They said 'If you don't sell your property to us it will be valueless, because we have got advantages with the railroads.'

"Q. Give the names.—A. J. D. Rockefeller, H. M. Flagler, and O. H. Payne.

"Q. (By Mr. ROSS.) Mr. Payne is the son of a member of Congress of that name?—A. Yes, sir.

"Q. Have you heard these gentlemen say what you have stated?—A. I have heard Rockefeller and Flagler say so; other parties have told me that Payne had used the same argument with them.

"Q. What other parties?—A. I won't give the names now. There are some 20 men in Cleveland who sold out under the fright, and almost any of them would tell you that story.

"Q. Give us the names of some of those that sold out?—A. J. W. Faucett, of Cleveland; W. C. Scofield, Joseph Stanley, John Critchley. Those are some of them.

"Q. (By Mr. DUNNELL.) Do you make the same statement with regard to the shipment of crude oil to the seaboard that you do with regard to the shipment of refined oil?—A. We do no business of that kind."

If you will refer to my pamphlet, page 82 (or to Fiftieth Congress, first session, House Reports, vol. 9, p. 234), you will find that in Pittsburg there were 58 refineries in 1877. Thirty refineries had been crushed out and dismantled and no record left. The 28 were what were running and what was left.

Q. (By Mr. PHILLIPS.) What date?—A. 1877. The remaining 28 had been bought or leased by the great monopoly.

RAILROAD OFFICIALS STOCKHOLDERS IN THE STANDARD.

I do not read now from the same book, but it is the same testimony and it is in the same book, but I can find it quicker in this one. [Reading:]

“Q. You spoke a while ago of having personal knowledge of certain railroad officials having been stockholders in the Standard Oil Company. How do you know that?—A. I know it from the officers of the Standard Company telling me that they were stockholders.

“Q. Who are they?—A. William H. Vanderbilt, vice-president of the New York Central, was at one time, also Amasa Stone, of Cleveland, and I have very good reason for believing, though I do not know, that Mr. Devereaux and Mr. Newell, both stockholders at the present time. Mr. Stone sold his stock some two years ago; at the time when he quit the railroad he put the stock on the Cleveland market, and is not, I believe, a stockholder to-day.

THE OIL POOL—THE QUESTION, WHO GOT THE REBATES?

“Q. (By the CHAIRMAN.) Give us the names of the officials of the railroad that you think received the benefit of this rebate.—A. Understand me; I do not say that they did get it. It is merely my opinion.

“Q. Give us the names of the gentlemen who you think do reap the benefit of that rebate.—A. I think that Dr. Devereaux gets it, and that Mr. Newell gets it; that Tom Scott gets it, and that Mr. Vanderbilt gets it, and other officers of those roads whose names are not in my mind just at present.

“Q. What do you mean by a pool—a pool among the railroads or among the oil men?—A. I do not give this as a positive fact, but as I understand the argument, I understand the New York Central, the Erie, the Atlantic and Great Western, the Pennsylvania Railroad, the Cleveland, Columbus and Cincinnati, and the Baltimore and Ohio railroads had a pool or combination for the purpose of shipping oil, and oil only, and in this pool the Baltimore and Ohio gets a certain number of barrels to go over its road; the Lake Shore has so many to go over its road; the Pennsylvania got so many to go over its road from different points in the country, but on oil shipped over these roads by the pool to the Standard Oil Company there is a rebate or drawback from the shipment of so much, which is paid into this pool, over whichever road the oil may go, and the rebate is divided up between the Standard Oil Company and the railroad officials.

“Q. The railroad officials, do you say?—A. So I understand it; I do not say that of my own knowledge.

“Q. Then it does not go to the railroads themselves?—A. No, sir.

“Q. But to the railroad officials?—A. To the railroad officials; yes, sir.

“Q. How do you think it stands related to Cleveland?—A. We should do the same as we have done in the past years and are doing at the present time. We are shipping our oil at the present time by lake and canal because we can not ship by rail without losing money; by lake and canal we can just save ourselves.”

This was testimony in 1876, and the contract that I have read was taken October 1, 1874. Have you any doubt of rebate (after this evidence of these men) existing between 1873 and 1876? Why, I could read you volumes upon it.

LATER REBATES—THE WITNESS COLLECTED REBATES UP TO 1893.

Q. (By Mr. RATCHFORD.) I want to remind the witness that if he seeks to prove before this commission that rebates were paid 23 or 28 years ago, his testimony avails very little; what we want to know is whether these rebates have been paid last year or the year before. You are wasting your time in endeavoring to prove something of little consequence. I do not understand the Standard Oil Company has disclaimed discriminations in their favor prior to the passage of the interstate-commerce law. I would ask that in order to make your testimony effective and to say the most in the least time possible, you confine yourself to recent years.—A. That is what I asked yesterday morning, whether the question was to be taken up from the beginning, and I understood the object was to trace it from the beginning. The witness on the stand stated that no rebates were paid. I was endeavoring to show that contracts were still in existence and I was about to—

Q. If these contracts are still in existence, as you observe, you will make a point—A. I do not mean to say they are in existence except by rebates and the methods of carrying out—

Q. (By Mr. PHILLIPS.) He stated yesterday that the National Transit Company was organized under precisely the same language as the South Improvement Company, and he is tracing it on from that.—A. I beg the pardon of the gentleman and the commission, but I was simply following out that which I was asked to do.

Q. (By Representative LIVINGSTON.) Do you lay down the proposition now that that contract is binding and is being enforced?—A. No.

Q. How long since it expired?—A. It was supposed to expire 2 weeks after it was made, so far as the fair rates were concerned, the agreement between all the railroads in this combination to accept the rebate system entirely, and get the opportunity to go on as it had done in former years. I am trying to show you that from that time up to the present time these rebates were participated in, I do not say by the Standard Oil Company, but I do say that we have collected them on oil we shipped, and I suppose they have on theirs.

Q. How lately did you collect any rebates?—A. Up to 1893.¹

Q. That is the way to get at it.—A. I stated it yesterday; I gave the evidence in full yesterday, and produced the papers that rebates had been paid and acknowledged up to 1893.

Q. (By Mr. RATCHFORD.) The point is this; what is the use of going beyond 1893?—A. I do not want to if you do not want me to.

Q. (By Mr. KENNEDY.) These rebates ordered paid in 1893 were for oil carried when?—A. From 1888 up to 1893, because we got judgment up to 1888 in the courts of Warren County, and the balance was carried into the Interstate Commerce Commission.

Q. (By Representative LIVINGSTON.) It was made incumbent on this commission by Congress to learn, if possible, whether by combinations, trusts, or corporations legitimate competition was interfered with or lessened in any of these industrial pursuits. I want to know if you have any testimony that will lead up to the fact that the railroads, as you asserted yesterday, are largely to blame for this discrimination in favor of one oil company or against another?—A. I did not say that. I said that the Standard Oil Company under these former contracts had had rebates, and I said that, though some of these contracts had been annulled, their provisions are practically carried out, and I cited instances where the trade is being affected at the present time.

Q. I want that testimony explicit, if you have it, before you get through with your testimony.

Mr. PHILLIPS. The Senator will proceed in his own way and come to that at the proper time.

HOW THE STANDARD GREW IN 7 YEARS FROM 4 PER CENT OF THE REFINING CAPACITY OF THE COUNTRY TO 90 OR 95 PER CENT.

A. More than 95 per cent of the refineries that existed in 1872 were driven to the wall before 1877. I can give you the proof of it, but I will make that bald statement. I proved yesterday, by the testimony of Mr. H. M. Flagler, that the Standard Oil Company was formed in 1870 in Ohio. I also proved that in 1872 W. H. Vanderbilt and other railroad magnates became stockholders of it. I also proved that rebates had been paid, and I am prepared to prove that they were paid up to 1879. The testimony was taken before the Bacon committee of 1888. First, Mr. H. M. Flagler swore (Fiftieth Congress, first session, House Reports, vol. 9, p. 288) they had a capacity of 600 barrels per day of crude oil in their refinery, the production at that time being about 16,000 barrels a day. That would give them 4 per cent of the refining capacity at that time. At that time there existed in the oil country, spread out from Louisville, Ky., to Portland, Me., more than 250 refineries. Mr. Henry H. Rogers and Jabez H. Bostwick, deceased, members of the Standard trust, swore, in 1879, before the Hepburn committee,

¹ See pp. 609, 636, 516.

* Q. What are the refiners about here with whom that alliance was made, and are they or are they not all of them covered by the Standard Oil arrangement?—A. They would come in and then they would go out; there is no refiner that I know of, with one exception, about New York, but what has been in the association.

* Q. What are the refiners that are now in association of the Standard Oil?—A. The people that are working in harmony with us comprise about, I should think, 90 or 95 per cent of the refiners.

* Q. Now tell us their names, the leading ones.—A. Some of the leading ones? The Standard

that they owned 90 to 95 per cent of the oil industry of America; that is, its refining capacity.³ Bear in mind that in 1870 and 1871 they owned 4 per cent, and in the brief space of 7 years they silenced the fires in 95 per cent of the refineries, except their own. The history is here. You ought to have it. Every man ought to read it and know the method by which they accomplished that feat of throttling that great industry from 1872 to 1879.

Q. (By Mr. PHILLIPS.) Do you desire that that shall be put in the record, so it shall be before the commission?

Q. (By Representative LIVINGSTON.) Let him state in his own way how they did that in 1870.—A. My own way is simply the record of this book—the Commonwealth v. the Pennsylvania Railroad Company, a suit which was for 8 years being tried and the testimony being taken.

Q. Can you state in a few words how it was?—A. Discrimination.

Q. What particular method?—A. No different method; only what I have explained; the railroads paid it to them.

Q. If the railroads were guilty of this, tell us how they did it; in the form of rebates?—A. Certainly. For instance, a man owned a refinery or several refineries in the oil country; at the beginning of the business the Standard Oil Company did not have any. They gave a rebate to the men that owned the pipe lines of 22 cents a barrel for all oil loaded upon the cars on the railroad. The man that owned a refinery on the creek and owned his own pipe line was not permitted to have that rebate. There was 22 cents against him right there.

Q. That was one of the methods by which they drove them out of the business?—A. Certainly. How could you do business against 22 cents profit? The 22 cents alone would have driven them out; but in addition to that, they got 49 cents more.

Q. How?—A. Transportation by the railroad and under agreements. That is the way they got from 4 per cent of the oil industry in 1871 to 90 or 95 per cent in 1879, and the whole country was silenced.

IT WAS NOT TO BENEFIT THEIR STOCKHOLDERS THAT THE RAILROADS MADE ALLIANCES WITH THE STANDARD.

Q. What did the Standard Oil Company give the railroads for doing that for them?—A. I have just read Mr. Rockefeller's testimony, and he gives the names of the men. He said the railroads did not get it. I read you his evidence; take it for what you choose. He was driven out of the business. Out of the fifty odd refineries in Cleveland, 20 remained, and they were owned by the Standard Oil Company.

Q. Well, you do not mean to say that the railroads lose that 49 and 22 cents? They recoup somewhere?—A. I mean to say the stockholders did not participate in it.

Q. The stockholders lost it?—A. I can answer that question; that there were times when there were rebates of 40 cents a barrel; there were times when there were rebates of \$1.06, and times when there were rebates of \$1.32 a barrel—rebates paid to these people not only on crude but on refined as well, not only on their oil but on all the oil anybody else shipped.¹

Q. Now, then, as the stockholders evidently lost that, as you stated—A. I do not know.

Q. Where did the money go; where could it go?—A. Well, they may have spent it for wine or may have bought a farm—I do not know anything about it.

Oil Company; Charles Pratt & Co.; the Sone & Fleming Manufacturing Co.; Warden, Frew & Co., of Philadelphia; the Standard Oil Company, of Pittsburg; the Acme Oil Refining Company, of Titusville; the Imperial Refining Company, of Oil City; the Baltimore United Oil Company, of Baltimore."

Testimony of Henry H. Rogers; Proceedings of the Special Committee on Railroads, appointed under a resolution of the Assembly of the State of New York, 1879, p. 2815.

Mr. Rogers afterwards testified (p. 2754) that his estimate of 90 or 95 per cent was made "as regards the refining capacity of the country."

On pages 2806 and 2806 of the same report Mr. Bostwick's testimony appears, as follows:

"If some one man has got 95 per cent of a business, of any commodity, I don't care what it is, they are pretty near masters of the situation.

"Mr. STERN. Do you admit that the Standard has 90 per cent of the business?

"The WITNESS. I do not know that I admit it, but I am just giving an illustration.

"The CHAIRMAN. Mr. Rogers swears that they have from 90 to 95.

"The WITNESS. I will say this much, that parties that are in harmony with one another I believe do 90, if not 95, per cent of the entire oil business."

¹ See Mr. Archbold, p. 579.

Q. You have no evidence to show where it went?—A. No more than the testimony that was taken before Congress, which shows where it went.

Q. What does the evidence say?—A. I can take Mr. Rockefeller's testimony; it gives the whole history, and he is not the only witness. I read this morning that Mr. Vanderbilt got some of it and Mr. Devereaux got some of it.¹

THE WITNESS WAS TWICE FORCED OUT OF BUSINESS BY RAILROAD DISCRIMINATIONS.

Q. (By Mr. KENNEDY.) I would like to have you state to this commission how you disposed of your different refineries. What became of them? You had one in Crawford County, I believe, and one later in Philadelphia.—A. Undoubtedly someone has told you I sold out to the Standard?

Q. No; I have no such information as that.—A. In Titusville, Pa., the Octave Oil Company had about eight hundred barrels capacity—eight hundred to a thousand—when the Standard Oil Company was formed. We were invited to come into the Standard Oil Company. We were told that if we would go in, we should be allowed quite a large amount of money for our refinery, taken in stock of the company—no money. No money was used in forming this octopus from the start. They only had a capital of \$1,000,000, and the system was merely to turn the crank and make stock and take it from your pocket. The contract was presented to our company and it seemed to us illegal and not right, and we refused to go in. We attempted to do business the rest of 1872. These rebates I have named here were against us, although the South Improvement contract had been repealed. We struggled along until the latter part of 1873, and had to quit—shut down our refinery. It cost us \$85,000 and I think we got \$45,000 for it. We were forced out.

Q. Was that dismantled?—A. That ran for two or three years, and it was finally dismantled. The oil industry was at one time located in the vicinity of Oil Creek, or at least 95 per cent of the manufactured product of oil was in the State of Pennsylvania at one time, and at the coast harbor at New York and in Philadelphia, but the whole country has been depleted except some in Pennsylvania belonging to the independents—demolished.

Q. I asked you about the other one.—A. The other one is in Philadelphia.

Is that dismantled?—A. Yes.

(By Mr. PHILLIPS.) When was that established?—A. It was built in 1880 or 1881, and built at the solicitation of the Pennsylvania Railroad, after the close of the suits of 1879, in which they said they were going to do better; but discrimination again drove us out, which I have shown to you in this mass of evidence. I proved there was, on every barrel of oil I shipped to that port and about that works, a discrimination of from 8 to 28 cents a barrel.² Who could do business against it?

CARS WERE REFUSED FOR CARRYING THE WITNESS'S OIL.

I owned a pipe line in my country, from my wells and other wells down to the railroad, and they refused to furnish me cars. The Pennsylvania Railroad owned 1,126 cars—tank cars, bulk cars. I used them for a time, until the order came from the Standard Oil trust that I must get no more oil. Previous to this time they had been delivering my oil. The evidence all shows it, and there is the whole history right before you in that very book you refer to.

Q. (By Mr. FARQUHAR.) A good deal of your own business is right here?—A. It is all there.

Q. (By Mr. PHILLIPS.) You will make that a part of your evidence here?—A. Anything you want to use as evidence, use it, and anything you want to cut out, cut out.

Q. (By Mr. KENNEDY.) What became of your Philadelphia refinery?—A. It was sold to the Standard Oil Company.

Q. Was it dismantled?—A. It was torn down. Another refinery close by, an investment of \$4,000,000, that is gone—torn down.

Q. (By Mr. RATCHFORD.) Did they buy it to dismantle it, as far as you know?—A. They undoubtedly did.

Q. Dismantling took place soon after the sale, did it?—A. Within a year. These cars were sent off into Colorado, Louisiana, and all over the country. A requisition was made for these cars and every one sent out of the State excepting 248, by absolute count. I sent three men in different directions to know what became of the cars so quickly and to make reports back to me. Well, the oil commenced to come into my tanks so that I could not do anything with it, and my property was

¹ See p. 645.

² See pp. 634, 635; Mr. Lee, p. 287; Mr. Archbold, p. 516.

put into the hands of the Producers' Protective Association, because they wanted me to shut down my wells. I had a large production at that time—2,700 barrels a day—and I was blocked in it. With a great big refinery in Philadelphia and a railroad running through my land, I could not get a single car. Mr. Merchants, of the Rochester and Pittsburgh Railroad, told me I could not, and it is in evidence: "They are going to take our coal traffic away from us if I draw your oil." I immediately applied to the courts against the Rochester and Pittsburgh road, and made them bring cars in, such as I could. I got one in a week, or one in two or three weeks, or one in four weeks; but I was deviled to death, until I had to quit.

THE WITNESS HAS NOT WISHED TO COMBINE WITH THE STANDARD.

Q. (By Mr. KENNEDY.) I want to say to you in all kindness that I think you have made a remark that was rather discourteous and unkind in regard to somebody having told me that you entered the office of the Standard Oil Company in order to see them about buying your property. When Mr. Archbold was on the stand he did tell about other people having gone to the Standard Oil Company to enter a combination with them,¹ but your name was not mentioned, and I have no information that you went there at that time.—A. It was brought up in 1888, and ever since I have had to face a charge that I was groping around trying to sell to the Standard Oil Company.

Q. (By Representative LIVINGSTON.) Do you not think that you had good cause to go around to sell if you could sell?—A. Well, I did not want to.

Q. I should have sold a long time since.—A. I would not. I have stuck to my text. I do not like it; it is gross violation of rights.

Q. It is a question of sentiment with you principally?—A. No; it is a question of principle. I can not afford this—not now. I may if this thing keeps on—in 10 years longer, if God permits me life. I will go in the face of the law and protect my own rights if necessary.

NO BITTERNESS IN PENNSYLVANIA ON ACCOUNT OF THE REMOVAL OF REFINERIES.

Q. (By Mr. FARQUHAR.) In this matter of the Standard Oil Company buying up refineries and dismantling them or demolishing them, has it not been in Pennsylvania for a great many years quite an irritating subject with a great many of the smaller places there that they were abolishing these refineries and the trade passing away from this section? Has it not caused an im bitterness on the part of the people where the local refineries had been established and were then taken away? Is it not a common saying in Pennsylvania, as against the Standard, that they have changed the business from the Pennsylvania field to New York? Has not this caused an immense amount of hatred, bias, and vituperation toward the Standard Oil Company?—A. No.²

Q. You say no?—A. No.

Q. In your own former testimony did you not speak of the complaint of the Pennsylvanians that Pennsylvania, and especially Pittsburgh, had been robbed of the legitimate work that belonged to it; that the whole labor of the refining had been swept out of the State of Pennsylvania, wages had been taken away from Pennsylvania and had been taken down to New York by the pipe lines?—A. Since that time Pennsylvania has got more refining capacity than in those days. Philadelphia is one of the largest manufacturing centers. They themselves have come back to Pennsylvania and built up the most enormous works. That was not the condition when this testimony was given, but in these times it is different.

PENNSYLVANIA IS THE BEST PLACE FOR REFINING OIL.

Q. I am glad to know that. Now, as a refiner and business man, do you not think there were legitimate reasons why a good deal of the refining might better be done in New York, especially in view of the by-products that came into general use, than it could have been in scattered districts in Pennsylvania?—A. No; and I will tell you why.

Q. So you think the representatives of the Standard Oil Company were incorrect when they testified before this commission that it was purely a business matter, and not a matter of prejudice, that they had dismantled this business in Pennsylvania and Ohio and substantially done the work in New York?—A. No; that is entirely wrong. They are mistaken in the answer to that question, from

¹ See pp. 530, 531.

² See Mr. Lee, p. 208.

the very fact that they have come back there to-day and are manufacturing by-products very largely. They have come back there because fuel is cheap; because natural gas is there in large quantities. There is an abundance of most excellent water, and I believe to-day they are sorry that every single refinery they have is not located somewhere in Pennsylvania. They have come back there and spent millions and millions of money in Pennsylvania since they made that excuse, that it was not the proper place to refine oil.¹

Q. (By Mr. PHILLIPS.) You were about to go into the discriminations up to the time of the passage of the interstate-commerce law?—A. Yes; I have figured the matter up to 1890.

Q. Then will you oblige the Commission by taking it up to that time?—A. I have no further evidence.

Q. You have already covered that ground, you think?—A. I have given enough. I have some other matters where rebates are collected.

Q. Then are you ready for questions in regard to the formation of these recent companies, pipe lines, etc., at this time?—A. Yes.

THE WITNESS DETERMINED IN 1890 TO UNDERTAKE A PIPE LINE TO THE COAST.

Q. It has been charged here that you and others are connected with a trust in various pipe lines in the oil country—the Pure Oil Company. Will you oblige the commission by explaining that?—A. In 1890, in the latter part of the year, owing to the high rates of freight over the railroads, the transportation of our refined and crude oil was so expensive that personally I determined to build a pipe line to the Atlantic coast, if possible. In a secretive way, as everything had to be done then and has to be done now, I placed in the field some twenty expert right-of-way men to secure the right of way for a pipe line.

NEGOTIATIONS WITH THE READING.—“WE SHALL DISTURB OUR RELATIONS WITH THE STANDARD.”

I knew very well that it would be impossible for us to go clear through to the coast with a line, and I went to Philadelphia and saw Mr. McLeod, the president of the Reading Railroad.

I presented my question to him, with a proposition that we would get the pipe, the right of way, to Williamsport, and there connect with the Reading Railroad, and with a right to lay our pipe line, for a time, as we could build it, on a right of way of the railroad. I told him the amount of tonnage that we would give him, and made preliminary arrangements, and he said to me: “You return after a time.” I did; I was alone; nobody knew anything about what I was going to do. I met Mr. McLeod and Mr. John Taylor, the general manager, and Lowry Brill, the general freight agent. Lowry Brill is now of the New Jersey Central. All these gentlemen came into the room. And, by the way, there was one other man; I do not remember his name; anyway, all the chief officials of the road. I had to reduce my proposition to writing. The rate of freight was agreed upon and the basis of a contract was put in form, and I was to return at their dispatch when they were ready. I never got the dispatch. I returned, and took with me some other gentlemen from the office, and I said: “What is the reason of this?” And they said: “If we give you this contract we shall disturb our relations with the Standard Oil Trust, and we can not do it;” and I was dismissed.

NEGOTIATIONS WITH THE NEW YORK, ONTARIO AND WESTERN.

From there I went to New York, and had a conference with the members of the Columbia Oil Company of New York, Mr. King and Mr. McDonald, they being independent refiners of the coast. I laid the matter before them, and we went from there to the office of the New York, Ontario and Western Railroad, which runs from Oswego, N. Y., to New York City. We then concluded, Bradford being just here [indicating on map], to follow the boundary line of Pennsylvania bordering on New York, to a place called Hancock, N. Y., where the Erie Railroad crosses the Delaware, and into the small city or village of Hancock, and across to the New York, Ontario and Western Railroad, it being to the north of the Erie Railroad about 1 mile.

THE STANDARD TAKES AN INTEREST IN RIGHTS OF WAY.

Our men secured this right of way through the State without very much opposition, because the Standard Oil Trust had not got on to our movements. Finally

¹ See Mr. Lee, p. 268.

it became known; and all at once came in a number of men who were very anxious to build a line right exactly where we were building one, although the Standard Trust owned a line right parallel with the State line, back a little in the country, running clear through to New York City. They did not need the line, because lying in the ditch were two parallel lines running from the oil country, from Olean, to New York; but they did not want us to build a line, and these men, as set forth in this pamphlet, came along and took up rights of way on top of our rights of way. They went to the records of the several counties, and examined the titles to the land that we had got rights of way through; and if there were mortgages against these properties they bought the mortgages. The owner was in debt for the place, and if he had overstepped his rights in law, by holding that mortgage they induced that man to give them another right of way. In the State of New York, beyond the Stateline, we had about 6 miles to go down to the Delaware river; and they came along and bought strips of land right across our right of way in Pennsylvania—strips of land from a mile to a mile and a half long—throwing us into the courts in every instance where they could.¹

NEGOTIATIONS WITH THE ERIE.

Before we started to lay our pipe I went to the Erie Railroad office in New York, and saw Mr. George M. Thomas—the president of the road, I think he was at that time. I met Mr. Thomas, a perfect stranger to me, and I told him what we wanted to do. We wanted the right to go under the Erie Railroad at Bradford. "Why," he said, "certainly you can go under the railroad with your pipe." "Well," said I, "we are going down to Hancock, and we want to cross your railroad or pass under it, either in the deep water of the Delaware or else through the bank of the road, with our pipe." "Well," he said, "we are disposed to assist all progress, and I will take that under advisement, and you can come back here in two weeks. But you go ahead and go under our road at Bradford or any other point that you can." I said I was very glad that he received me so kindly, and that he gave me so much encouragement; that I would commence laying our line on the Ontario and Western Railroad, a mile north of Hancock, within the borough limits. "Well," he said, "you return, and the matter will be fixed up all right." I said: "I am afraid that something will intervene, some power that will overcome you in this matter, and your views will be changed." "No, sir," said he, "the Erie Railroad runs its own business, and whatever I have done will be carried out; but this other matter I shall be obliged to take up in such a way that I shall be certain." I then got up to go, and he detained me. We discussed the question of transportation and business generally; and I went away and went to work, and worked a couple of weeks connecting our line to the Ontario and Western road; bought 11 acres of ground on which to build our storage tanks, and put in the pipe.

PIPING REFINED OIL—THE STANDARD SAID IT COULD NOT BE DONE.

We laid two lines, refined and crude. That is a thing that the Standard Oil Company never did. They said it could not be done. We pump refined oil 500 miles and deliver it on board vessels in New York, and it comes out just as bright as it did at the refinery. We pump our refined oil.

Q. (By Mr. PHILLIPS.) Do the Standard Oil Company pump theirs?—A. No; they said it could not be done, although they are the inventors of everything, and are the benefactors of the world.²

THE ERIE RAILROAD IS HELPFUL.

I laid that line down to the Erie bridge—the big iron bridge that crosses the Delaware—and I commenced on the other side of the bridge, 120 feet away from the upper side, or the line of the right of way, and I laid the line out toward Pennsylvania. We had had our fights over this right of way. I knew the men that were there taking up these rights of way to have been in the employ of the Standard Oil Company. I knew the men personally, and my men knew them. If necessary I can call their names at this moment. We had overcome, as we thought, the obstacles, and I went back to New York to see Mr. Thomas, and he came from his inner room and took me by the hand and said: "You can go under our bridge at Hancock in the deep water if it is advisable, or in the bank," and he spoke to the general manager of the road—his name I forget; he was present at our conversation; so was Mr. King, of the Columbia Oil Company—and he said: "You

¹ See Mr. Lee, p. 264; compare Mr. Boyle, p. 436.

² See Mr. Lee, p. 267; Mr. Lockwood, p. 388; Mr. Boyle, pp. 413, 445.

wire Mr. Durr, the division superintendent of the Susquehanna division, to meet Mr. Emery at Hancock to-morrow morning and go with him to locate their oil pipes, either to go through the deep water of the Delaware, or to pass through the bank of the Erie grade." I took the 9 o'clock train. This was done—this message was sent—I saw the gentleman write it. I took the 9 o'clock train, went to Hancock, and got there about 2 o'clock in the morning, and I immediately went to the Chandley House, near by. I was anxious to know whether Mr. Durr was there. I was afraid something would happen; but to my surprise Mr. Durr was there waiting for me. The next morning I took a carriage—my wife was with me—Mr. Durr, my wife, and myself. We rode to the Delaware River, which was not half a mile away, crossed the river, it being low, sounded the water, went upon the bridge and saw where the rocks were, etc., and concluded the best thing we could do was to go through the bank. There were two ends of pipe 120 feet apart. He said: "Mr. Emery, I will make a profile of this and will have it in your office one week from to-day." That was to be on Thursday. I said, "All right." I went home and I started our pipe, and the very first place where we had to lay the pipe was under the Erie track.

THE ERIE CEASES TO BE HELPFUL.

Q. (By Mr. CLARKE.) What?—A. Under the Erie Railroad track. It was in the switch yard; some four tracks side by side; and it was pretty difficult to go in there. We went there, honestly supposing we had a right to do so. I had spoken to the superintendent about it, and he did not know anything different. When I returned to New York, previous to this time, he said, "All right." We were working away with our men, and the first thing I knew, down came a force of two or three hand cars, and they jumped on the track and attempted to put our men out of the ditch. I was at my office uptown. They went to the nearest telephone, and I went down there, and they were having a contest. My refinery was close by, and I ordered the whole force out, and we drove off the opposition. We had what we term now-a-days a "scrap." I drove them away, and went on with our work.

Q. (By Mr. PHILLIPS.) That was near Bradford, was it?—A. Right in the city of Bradford. The next morning we were enjoined by the court. This was the Erie Railroad that was objecting now, you understand.

Q. And was it in the State of Pennsylvania, where you had the right of eminent domain?—A. Yes; I should have said that before. A letter was addressed to me by our attorney. This letter I will put in evidence, because I know all the facts.

DIFFERENT LAWYERS, REPRESENTING DIFFERENT RAILROADS, RAISE THE SAME OBJECTIONS AND SUPPORT THEM WITH THE SAME ARGUMENTS

SEPTEMBER 8, 1899.

HON. LEWIS EMERY, Jr.,
Bradford, Pa.

MY DEAR MR. EMERY: In reply to your inquiry am pleased to make the following statement:

The first legal opposition that we met with in constructing the line of pipe of the U. S. P. L. Co., was an attempt to prevent us from laying pipe under the track of the Erie Railroad within the limits of the city of Bradford, at a point where both the National Transit Company and the Tide-Water Pipe Company had previously laid their lines, and, so far as can be learned, without the slightest objection on the part of the railroad company. We presented our bond and petition to the court of common pleas of McKean County, and were met by attorneys on the part of the railroad objecting to the granting of the prayer of the petition and the approval of the bond. They had at this hearing a very exhaustive brief, with which they seemed not to be familiar. They apologized to the court for the way in which they presented same, saying that it was prepared by Mr. Elliott, and that they had not had the time to carefully consider the same. I took very full notes of the authorities cited and of the points made by the attorneys for the railroad company.

A short time after this I had occasion to appear in the courts of Tioga County, representing the U. S. P. L. Co. in opposing a bill to restrain the company from laying a pipe under the Tioga branch of the Erie Railroad. The attorneys at this hearing seemed to have the same brief as was used in the hearing in McKean County, citing the same authorities and making the same points. Later I represented the U. S. P. L. Co., presenting a petition and bond to the court of Brad-

ford County, for the right to lay a pipe under the track of the Northern Central, at a point south of Elmira, and was again met by what appeared to be the same brief, authorities, and points. The objections in all the cases were many, and the authorities cited numerous, and what seemed to me strange was the fact that in each there appeared to be the most complete harmony. It is wonderful how the minds and labor of attorneys so far separated should bring out the same objections and support them by the same argument, yet so it was.

Very truly, yours,

W. E. BURDICK.

THE CONTEST WITH THE ERIE, AT HANCOCK.

We bought our way under every single road from there to Hancock. When we got to Hancock I knew there was something wrong. But I went with my men to connect up these 2 pipes, 120 feet apart, and we were met first with 2 derricks and 2 locomotives, a flat car containing lumber, and a little brass cannon that had been used for shooting holes through the tank that was run off the track, and a car holding about 75 men. The moment we came there with our men they supposed, of course, we were going to connect up these 2 pipes. They threw off the old slabs and stuff, and built a sort of a cob fire over each end of the pipe. They threw off the lumber and built a house on each side of the track, and put 2 men in them with Winchesters. We stayed there 8 months looking one another in the eyes. We never got under the track. We spent \$70,000.

THE NEW YORK, ONTARIO AND WESTERN VIOLATES ITS CONTRACT.

The Ontario and Western were induced to violate their contract. I should state that we went by the Ontario and Western because we got a contract out of them, by which they would transport our oil down to Cornwall on the Hudson; and there we were going to put it into boats, and draw it down to New York and deposit it in our tanks. That contract gave us the right to construct a pipe line on the right of way to the Hudson, for which we were to pay them a royalty of 2 cents a barrel. We were even cut off from that contract by the same power.

MORE LEGAL CONTESTS—THE SAME BRIEF—CONTRACT WITH THE NEW JERSEY CENTRAL.

We kept a standing army there at Hancock. We went back 70 miles to the Susquehanna River, and we flanked the enemy until we got down to Wilkesbarre. At Wilkesbarre we had contest after contest in passing under the tracks of the D., L. & W. and the Lehigh Valley and other roads. This same brief came into the court. Seven lawyers, representing different lines, were against us, each one reading the same brief, making the same points. We beat them; and we built our line through, and we connected with the Jersey Central Railroad, a friendly railroad, which had a contract with us to draw our oil for a term of 99 years, with a right to cancel the contract by a certain number of months notice.¹

Q. Who had the right to cancel the contract, the United States Pipe Line Company or the railroad?—A. The United States Pipe Line Company. We stopped there for a time because we were out of money. It cost us more than \$150,000 to fight our way to that point; their keeping us from going to Hancock, and the expense of going down to Wilkesbarre, litigation, loss of time, and loss of our business. Then we stayed at Wilkesbarre about 1½ or 2 years, and we concluded we would go on. So we secured a right of way from Wilkesbarre over to a place about 90 miles above Easton. We built that line there to the river and then we went into Jersey. The first thing we had to pass under was the Pennsylvania Railroad.

NO FREE PIPE-LINE LAW IN NEW JERSEY—THAT OF NEW YORK HAS BEEN AMENDED AWAY.

Q. Was there a free pipe-line law in the State of New Jersey?—A. No.

Q. (By Mr. KENNEDY.) Is there in New York?—A. Yes. You want me to explain the law to you?

Q. (By Mr. PHILLIPS.) No.—A. I think I had better do that. In 1878 New York passed the first pipe-line law that was passed in this country. It was passed under the same pressure as the Pennsylvania law. It was a good, free, open law, and

¹ See Mr. Archbold, pp. 529, 530; Mr. Phillips, p. 601.

the Pennsylvania law is copied from it. But someone in 1890, just before we got down to Hancock, went in and had that law amended, and it became absolutely inoperative.

Q. (By Mr. KENNEDY.) And you can not get the right of eminent domain under it?—A. You can not get the right under that. The pipe line to Buffalo was laid under the original law. It was a good law.

GOOD FORTUNE IN GETTING PAST THE PENNSYLVANIA.

We had to go under the Pennsylvania Railroad. Fortunately, we found one of the Secretaries of the Treasury of the United States who lived in Trenton—I can not think of his name now—but we searched up a title and we found that he owned an acre of land, just 1 acre, which was used many years ago, during Revolutionary times, for a wharf and a dumping place for very, very old furnaces, iron furnaces, just back there. He did not know he had it himself until we found his title. We bought it, and paid \$500 for it, and we went under the Pennsylvania track.

Q. Did they have the right of way across this?—A. Yes; but we had a title for the land. We had the title and went under there after a long contest.

TROUBLE WITH THE D., L. & W.

We got over to the D., L. & W., within the borough limits of Washington, N. J., and we bought a farm, the Stewart farm, over which the old Morris and Essex Railroad passed. The charter was granted in 1836; and an easement had been bought over that land and paid for—had a deed of it. We bought the fee title of the land over which the right of way was given. Our attorney said we had a right to occupy that land. Six or 8 months before that we had put in a piece of pipe to test what they were going to do, and they tore it out. So we thought we would not be beaten, and I took 50 men from our line and we went over there in the dead of the night and I placed my men on both sides of the hill. They had a watchman of the road passing up and down with a lantern in his hand, back and forth. He would come up to the culvert under which we were to pass the roadway, 14 feet high from the ground. He would look down and see that silence prevailed and go away. About 4 o'clock in the morning we took possession, and when 9 o'clock had arrived on Sunday morning we had two pipe lines buried 4 feet under the earth, and fastened to timbers as heavy as a span of horses could draw. We piled rocks on top of them and anchored them with chains, built a house on each side of the culvert of the right of way and took our breakfast in camp. About 12 o'clock some men came along and said: "You get out of here," and came down with their picks and bars. I was there in the pit myself and he said, "You will not get out?" And I said, "No; we belong here. It is our line and we will not disturb the railroad." He said, "You will get out; come along, boys." I said, "Don't be hasty;" but he was a little hasty and I told the boys to take the men by the shoulders and the seat of the pants and take them out and lay them down carefully, which they did. On Monday morning two wrecking cars with 250 men rode in from Hoboken. They made a charge on the little band in the pit and we drove them out. That is all there is about it; we drove them out.

Q. (By Mr. CLARKE.) When was this?—A. This was in 1891. They wanted to compromise the matter, and wanted to go to the courts, where we wanted to go. They said: "You permit our men to go into this subway, and permit them to remove some earth, and you go through the formality of arrest." I said: "All right." When we got down, and they wanted to move the wagons away, off the pipe, we said, no. He said: "The wagons are in the way." I said: "They are there on purpose, and I am not green enough to give you any advantage just now. The wagons will stay there. If you want to do any business of that character, go on." We arrested their men, and they arrested our men, and they wanted to know if we would go up and have the trial. So we went uptown, and the sheriff had the men we wanted before the justice of the peace. Each one had his trial and was bound over to the court, and the issue was made up, and we went off to our dinner at the hotel, as I supposed, when men came rushing on horseback and said: "They are in a fight." I jumped into the first buggy I found—I did not know whose it was—and I found these traitors, who had promised to take this into court, there with two locomotives standing on top of the track hitched close together. They were running hot steam and water down into this pit on my men. They went to the fire box and threw hot coals down on them, threw stones, and clubbed us; but we whipped them. I ordered every man out of the pit. I told them if they came back there I would shoot them. We barricaded ourselves, and the

Grand Army of the Republic gave us 48 muskets, and I sent to New York and got 18 Springfield rifles. We bound our pipes in with wire and we tied them down, barricaded our house, and stayed there for 7 months holding possession, until the court decided we had a right to stay there. The very men who are at the head of this—I knew them—the men who were there on watch were in the employ of the Tide-Water and the Standard Oil Company. We are punping oil through to the Junction, after the difficulty we had in getting these rights of way through New Jersey. The very same men we found up in New York were offering as high as \$5 a rod to the farmers, instead of \$1.50, which is our price. The whole community turned out to help us, and defended us because of the public wrong. We built that line through.

THE PIPE ENDS 50 MILES FROM NEW YORK—THE FREIGHT RATE FOR THAT DISTANCE.

Q. (By Mr. PHILLIPS.) Through to where?—A. Through to the Junction, 50 miles from New York. From there we have a rate of freight; not, as was stated here by one of the witnesses on this stand, a discriminating rate. The total price, I believe, as given here for transporting a barrel of oil from the oil regions to the seaboard, by the Standard lines, was 45 cents. We pay for that 50 miles on our refined oil 7½ cents, and on the crude 6½ cents. It is not by the carload, or, as stated by the witness, about \$6 or \$7 a car. We give them cars that hold from 132 to 150 barrels. That makes about \$10 a car; a great big rate of freight for a haul of 50 miles. The road is very glad to get it. It gives them in revenue \$200,000 a year.¹

Q. (By Mr. CLARKE.) What road is that?—A. The New Jersey Central, friendly to us. I commend them. No discrimination, mind you. It is a rate that is open, and not a secret rate. Anybody else can come in at the same price. We pay from that point the 7 cents, if we choose to, and the 6 cents; and we compete with the Standard Oil Company in the markets wherever we have fair competition and fair railroad rates.

THE RAILROADS HAVE WON AT LAST.

We have contested this suit in the courts of New Jersey for the last four years; and now a decision has been handed down by the chancellor's court that the contention of the United States Pipe Line against the D., L. & W. Railroad is not valid, and we have notice that we must take these pipes out. The railroads of this country are a barrier to any modern improvements of transportation.

Q. What was the ground of the decision; do you know?—A. That they had a title, not only an easement, but the title or the fee in the land, although they did not buy the fee. There were two decisions in our favor by the vice-chancellors, one by Vice-Chancellor Emerick and one by another—I do not recollect his name. But they were reversed. So our line has got to come out from under that road. It is doing no harm, lying in the midst of a large tunnel, or, I would have said, an open cut. And the old farmer, reserving the right, has egress and ingress to his fields on both sides. Nevertheless, the court is against us. I thought I could produce a letter by which we are given notice that we must remove those pipes immediately.²

Q. What State was that?—A. New Jersey.

Q. (By Mr. PHILLIPS.) The decision of the lower court, if I understand?—A. Sustained the principle that we had title.

Q. Was reversed afterwards?—A. Reversed in the chancellor's court. There is another court which is higher than that—the superior court.

Q. Has your company appealed that case?—A. Oh, we have gone through with all of it. Now, then, that is the story of attempting to stop competition in the business.

Whereupon the commission took a recess until 2.15 o'clock in the afternoon.

WASHINGTON, D. C., Tuesday, September 12, 1899—p. m.

The commission was called to order by Vice-Chairman Phillips at 2.20.

LEWIS EMERY, Jr., again on the stand, and examination resumed.

Mr. PHILLIPS. Senator Emery will now proceed with his testimony in his own way.

¹ Compare Mr. Archbold, pp. 529, 530.

² See p. 622.

THE UNITED STATES PIPE LINE COMPANY; ITS VOTING TRUST—THE STANDARD
BUYS STOCK IN IT.

The WITNESS. I desire to take up, in connection with what I was saying this morning, the subject of competition. The United States Pipe Line Company was organized with a capital originally of \$600,000, and at the present time its capitalization is \$2,000,000, I believe. We formed in that company a voting trust. I should say that the United States Pipe Line Company was organized under the general corporation act of the State of Pennsylvania. We formed a voting trust for the purpose of keeping the stock out of the hands of anyone that was disposed to attempt to control our operations. There was at the time this trust was formed, I think, about \$800,000 of the stock subscribed for, and every dollar of it was in the trust. However, regardless of the provisions of this trust, the Standard Oil Company purchased at an advance on the par value, which is \$100, \$386,000 worth of the stock. Before they had purchased it, however, the stock taken had been increased by new subscriptions to about \$1,200,000; but their expectation and attempt was to get the control of the stock. Owing to the loyalty and determination of the rest of the stockholders, they were unable to purchase any more stock. That trust is in existence to-day—a voting trust. The Standard Oil Company presented themselves at one of the yearly meetings of the United States Pipe Line Company and attempted to vote that stock. We refused, by unanimous resolution of stockholders, to allow the representative of the Standard Oil Trust to vote that stock, and he was ejected from the room, out of which grew the suit of the National Transit Company and J. C. McDonald v. The United States Pipe Line Company.

THE STANDARD GETS A DIRECTOR ON THE BOARD OF THE UNITED STATES PIPE
LINE COMPANY.

Q. (By Mr. PHILLIPS.) In what court?—A. That was brought in the McKean County court, and was appealed to the State supreme court, but was never heard by the supreme court. The case was not even called up. Our attorneys were notified that the appeal was illegally taken, because an officer of the company had not made an affidavit to the bill of appeal, although a stockholder had made an affidavit. I was absent from home. On that ground the supreme court of the State of Pennsylvania threw it out, although we gave to the court several decisions wherein other courts had held that to offer an affidavit made by a stockholder of the company was quite sufficient for an appeal to the supreme court. This is the case. The Standard representative has since been allowed in the meetings; he has listened to the deliberations, and has been allowed to vote upon such questions as he chose to vote on, ever since they have held this stock. They still own it.¹

Q. Was this gentleman elected as a director or not?—A. He was elected by the circumstance of having this stock. We recognized him, and he was elected, and is a director of the company; voted in every time we elect. He knows just exactly what we are going to do, and participates in everything pertaining to the general business of the company.

Q. (By Mr. A. L. HARRIS.) Was he prohibited by the law of the State of Pennsylvania, or by a by-law of your company?—A. From entering?

Q. From entering; from voting.—A. I can answer that question later. I can not just at the moment; I can read the plea of our people which is here. I don't know which it was. It was on some ground; we thought it to be a legal ground, and we still think so: but when we were cut off by the supreme court's decision that the affidavit was improperly made, why, of course, our case failing, we could not renew it. That is all there was about it. Our attorneys denominated it a technical matter, and not one of good law. I don't know anything about it.

THE INDEPENDENT REFINERIES ARE INDEPENDENT.

The stock that these people purchased in the United States Pipe Line belonged, some of it, to three of the largest refinery owners in the association of refiners.² The refineries belonging to the independents have no connection with any of the stock companies. The refineries are owned by individual operators, and have nothing in common with the United States Pipe Line, or the Pure Oil Company, or the Producers' Oil Company, Limited, or any other transportation or oil market-

¹ See Mr. Lee, p. 270; Mr. Archbold, p. 577; Mr. Phillips, 590.

² See Mr. Westgate, p. 370.

ing company. They market their oils individually. They are competitors with one another. I go into the market and I meet there my brother refiner, and I put a price upon my goods and he puts a price upon his goods. No objection; free, open competition among all these refineries that are in the field. There are to-day something like 15 of them, which furnish oil to the transportation companies; and we sell oil not only to the Pure Oil Company, doing business in Europe, but we sell oil to England, France, Italy, and every other country, independently of the Pure Oil Company. So do not confound these refineries with what we are going to finally deal with—the trust; because they have no connection with it. They are independent; all competing against one another in the markets of the world.¹

Q. (By Mr. FARQUHAR.) Do these refineries also sell to the Standard?—A. Oh, yes. I sell the Standard lots of goods, and I make them pay all I can, too, like everybody else.

REFINERIES RECENTLY BOUGHT BY THE STANDARD AND DISMANTLED.

These three gentlemen that I referred to as owning three of the largest refineries connected with this refiners' association—if you choose to call them such; they are not an association—when they sold their stock they sold their refineries as well, and they received a large sum of money for them. Within less than 8 months from the purchase of these refineries by the Standard Oil Company one of them, belonging to Mr. Ramage, was dismantled and destroyed. The next to be partially dismantled was that belonging to Hon. John Fertig, of Titusville, known as the National Refining Company. The next was the Continental Refining Company. All these refineries were first class, and built, especially the last two, in modern times, and with every improvement; so was Mr. Ramage's; in fact, he made more by-products, etc., than any other. All these refineries have been demolished and taken from the ground where they originally stood. That has all happened since 1895.²

Q. (By Mr. PHILLIPS.) Was any effort made to buy other refineries?—A. Oh, yes.³ These people seemed to constitute themselves a committee. They labored with me, and labored with others. They said that it was the best thing to sell out and quit. The rest of us did not think so, and we are on earth yet. I should have been glad to have gentlemen who are anxious to hear about these modern things hear those representations.

THE PURE OIL COMPANY—ITS VOTING TRUST HAS BEEN MODIFIED.

Q. Now, will you explain something in regard to the Producers' Oil Company?—A. The Standard Oil Company bought a majority of the stock of the Producers' Oil Company, Limited. Its method of operation in purchasing that stock you have before you already.⁴ Through the same method they purchased a majority of the stock of the Pure Oil Company, Limited. They have not been permitted by the courts to vote it, and it has had to go back into the hands of the original owners, if necessary, by order of court.

Q. Will you make some statement in regard to the Pure Oil Company as organized thereafter?—A. The Pure Oil Company is organized under the laws of New Jersey. Its capital at present, I believe, is \$3,000,000, with \$377,000 paid in. We are very much afraid that when our United States Pipe Line Trust expires, which will be within the next 15 months, there may be some attempt to get possession of more of that stock. We have felt the necessity of combining or putting the stock of the several companies into the hands of the Pure Oil Company and forming a voting trust, solely for the purpose of protection. I desire to say that the paper⁵ which was referred to has been amended. First, it is not a permanent voting trust. Second, three-fifths of the stock voted at any time can dissolve the trust, or can overrule the power of the voting trust. Only one-half of this stock, and ten shares over, is put in trust, and three-fifths of the whole at any time can control the policy of the company. Under the terms of the charter it terminates within 46 years. Therefore it is not perpetual.

Q. (By Mr. FARQUHAR.) Is that one of the new amendments?—A. Yes.

¹ See Mr. Lee, pp. 270, 271, 280.

² See Mr. Westgate, p. 370.

³ See Mr. Archbold, p. 580; Mr. Westgate, p. 371.

⁴ See Mr. Lee, p. 270.

⁵ See p. 508, where the amended form of this voting trust agreement, as well as the original form, is given.

Q. (By Mr. PHILLIPS.) Was it originally formed for over 50 years?—A. No; chartered for 50 years.

Q. (By Mr. FARQUHAR.) The old form required four-fifths?—A. Yes.

Q. Section four of section 12 (reading): "This agreement may be canceled and the trust hereby created dissolved only by the winding up of the Pure Oil Company, or by the consent in writing, duly executed, of the equitable owners of four-fifths of the shares held in trust hereunder, and of four-fifths of all the other shares of the company, after providing in full for the redemption or purchase, at \$110 per share, in cash, of all the preferred and common shares of the company at the time outstanding."—A. Yes.

Q. Is this redemption feature still maintained, that the trust can not be dissolved until after providing in full for redemption or purchase at \$110?—A. That provision is wiped out by the fact that three-fifths can control or change the by-laws, or change anything pertaining to the organization or management of the company.

Q. Well, is this stock-redemption feature still retained?—A. I don't know, sir; I can't answer that question.

THE PURE OIL COMPANY IS NOT A TRUST, IN THE INDUSTRIAL SENSE.

Q. Now, it has been said here that this Pure Oil Company is not a trust. I called the attention of another witness to the fact that it is specifically mentioned as a trust in your articles of agreement and also of incorporation.—A. Yes.

Q. So that you are not afraid to call it a trust?—A. I call it a voting trust. I will submit your question to decision, if you choose, according to the definition of a trust given by the Commercial Year Book of the New York Journal of Commerce. The definition is, "As popularly used, the word 'Trust' is now applied to any consolidation, combine, pool, or agreement of two or more naturally competing concerns, which establishes a partial or complete monopoly, in certain territory, with power to fix prices or rates in any industry. Viewed from the standpoint of the consumer, the informal agreement and the ironclad combine look alike if the one has the same effect as the other upon prices."

Now, there is nothing in the world about the Pure Oil Company that can possibly lead up to that definition. There are several other definitions that I can refer to.

Q. Let me suggest that there are five true definitions given by Mr. Cook, who is an authority, one of the greatest lawyers in the country, and also by Von Halle. There are five forms of trusts.

Q. (By Mr. PHILLIPS.) I would ask the Senator to read the definition, under the Sherman act, of a trust, if he has it there.—A. It needs no argument to show that the Pure Oil Company is not a trust. It lacks every element of a trust. A trust is defined by the antitrust law known as the Sherman act of 1890 as follows: "All trusts and combinations in restraint of trade are unlawful." Another accepted definition is that a corporation or combination of corporations, with vast capital, made for the purpose of securing and maintaining a monopoly in any branch of industry, is a trust. The odious feature is the aim and purpose to secure a monopoly. The Pure Oil Company was organized, not to secure a monopoly, but to prevent a monopoly in the oil industry. The Pure Oil Company is not in restraint of trade, but in aid of trade, and to maintain competition. It expires by the expiration of its charter 46 years from the 6th day of next November. It is therefore neither permanent nor perpetual as alleged. It would be silly to hold that a corporation with a paid up capital of only \$377,000, opposed by a trust in the same industry with a par capital over 300 times and a market value over 1,000 times as great, could be a monopoly or restrain trade; and unless it is a monopoly, or restrains trade, it can not be a trust. That the power to vote one-half of its stock has been placed in the hands of trustees, to prevent a great monopoly from intruding to destroy it, does not change the character of the corporation or make it a trust.¹ If the Pure Oil Company should ever develop monopolistic tendencies, the present holders would be glad to have it destroyed. If any antitrust legislation, at any time, brings within its restrictive or destructive provisions the Pure Oil Company, the stockholders of that company will welcome its destruction.

NO EFFORT TO COMBINE WITH THE STANDARD.

Q. You are a large holder in most of these companies. You are president of the United States Pipe Line Company, and you are a large holder in the Pure Oil

¹ Commercial Year Book, 1899, p. 643.

² See Mr. Boyle, pp. 443, 444, 463, 464, 488; Mr. Archbold, p. 607; Mr. Phillips, pp. 591, 594-598.

Company. Do you know of any effort ever having been made to make a combine of these various companies with the Standard?—A. No, never; no, sir.

Q. (By Mr. FARQUHAR.) The commission has been furnished the original form of the incorporation of the Pure Oil Company, and it will be printed as a part of the minutes of this commission. Now, can you furnish with your testimony a copy of the amended one in proper form?—A. Oh, yes; I shall be very glad to.¹

EFFORTS NOW MAKING TO COMBINE THE INDEPENDENT COMPANIES.

Q. That is what I wanted to know.—A. Now, as to the changing of that trust; we have not got the voting trust yet. We, perhaps, are crossing the bridge before we get to it; but this has not been accomplished. It has not been accomplished, so far as the combination of the stock of those companies is concerned. All that is in the shape of a trust, out of about three or four million dollars, is \$377,000. The other is in contemplation, because we fear that when this present trust of ours—the United States Pipe Line—expires, we shall be in danger, and we are going to put ourselves under cover; that is all.

Q. You have incorporated in the State of New Jersey the Pure Oil Company?—A. Yes.

Q. You have how much capital paid in?—A. \$377,000.

Q. You are still under the operations of a majority of the stockholders bringing in other companies?—A. Oh, no; we are simply talking about it and hope to accomplish it. It is not a question that has absolutely been decided, though I expect that it will be done. The amendments have not even been printed; but we are going to try to get this stock in for self-protection, and put it into the voting trust. It has not been accomplished yet by any means.

THE INDEPENDENTS ASKED THE STANDARD FOR PERMISSION TO LAY THEIR PIPE UNDER THE RAILROADS—THEY DID NOT PROPOSE TO SELL OUT TO THE STANDARD.

Q. (By Mr. PHILLIPS.) Now, will you answer the other question in regard to any effort amongst all these companies to make a combine with the Standard Oil Trust?—A. I was president and general manager of the United States Pipe Line Company from its inception up to a little over a year ago, and probably I should have been still in the management of it had my health not failed. I was always present at general meetings and had, under our by-laws, the appointment of all committees. During our trouble that I have recited relative to the construction of this line, I appointed a committee, as chairman of the board of directors, to go to New York and see if some arrangement could not be made with the Standard Oil Company by which they would permit us to go under the railroads of the country. We did not go to the railroads. The railroads had nothing to say about it. We went to the Standard Oil Company, but not for the purpose of selling one single share or one dollar's worth of our property. The resolution or motion offered was that the committee go to New York for the purpose of seeing if the Standard Oil Company would not let up and let us go through to the coast. I appointed that committee under that resolution. Mr. Phillips, Mr. Lee, Mr. Murphy, Mr. King, Mr. Jennings of Pittsburg, and some other gentlemen were appointed to go there for the purpose I have named. They had no authority to make any proposition to sell any portion of this property or to make any settlement with the Standard Oil Company on any such basis as selling out any part of the company's property. I am sure they did not make any such proposition.²

EFFORTS TO GET A GENERAL PIPE-LINE LAW IN PENNSYLVANIA—METHODS OF THE OPPOSITION.

Q. In regard to the opposition to laying the pipe line through Pennsylvania it was said by Senator Lee that certain dodgers were circulated in the eastern part of the State.³ Can you state the purport of these dodgers, or have you any knowledge of them?—A. In 1868 the legislature of Pennsylvania passed an act for the incorporation of pipe-line companies, as I told you yesterday. We got such a law, through the permission of Mr. Thomas A. Scott,⁴ for eight counties in the northern part of Pennsylvania, and the Wallace act of 1874 repealed that law. Immediately upon the repeal we attempted to get a law passed giving the right of eminent domain for the construction of pipe lines. That was introduced regularly from 1874 up to 1883—every session during my career in the legislature, both House and Senate, for 10 years. It was my duty to introduce this bill and

¹ See p. 508 for both forms of the trust agreement.

² See Mr. Archbold, pp. 533, 531, 548; Mr. Phillips, p. 503.

³ See p. 262.

⁴ See p. 605.

endeavor to pass it. In 1883 the bill was pending, and the Standard Oil Company, by its agents, had gone all over the southern portion of the State of Pennsylvania, which is a very beautiful part of the country, as you know, and had said to the farmers that if the pipe lines were laid in that region there would be a general destruction of their property; that their orchards would be destroyed, and there would be general havoc, and the pipe lines would explode and probably destroy life as well as property. At the same time they had thousands and thousands of miles of pipe line in the States of Pennsylvania, Ohio, and West Virginia. In order to meet and counteract the impression among the people Senator Lee and myself, night after night and week after week, visited the schoolhouses and court-houses, and every place where we could get a gathering of people to listen to our explanation of the necessity of the passage of this law. Dodgers were issued and pushed under my arm. The effort was to get my attention to them. As I entered the court-house in Lancaster, Pa., there was pushed under my arm a paper which read: "Look out for false prophets." Beneath it read, "These people are endeavoring to pass a law that will destroy the springs on your farms; it will blow up your houses; it will create havoc in your fields, when the pipe bursts, by killing the grass. The most dangerous of all laws."

We had placed our circulars in all of the seats of the court-house in Lancaster, Pa., and some miscreant went in there and took all of our circulars setting forth our object and what we were after, and in their place dropped into the seats these yellow papers, on which was written, "Look out for false prophets." Those dodgers were furnished—I don't care what the other witness said.¹ He was not on the ground to make any speeches in behalf of the oil country. He can not say that those dodgers were not circulated, and if he does he certainly says that which he does not know anything about. I was there through the whole of it, and we went on with that operation week in and week out and month in and month out. We were from 1874 to 1883 getting that law.

\$10,000,000 IN REBATES FROM OCTOBER 17, 1877, TO MARCH 31, 1879—THE EVIDENCE.

Q. There was one other question on which your testimony was brought into dispute; that of the \$10,000,000 in rebates that was said to have been paid to the Standard Oil Company in a given time. This, I believe, was denominated a lie or a lusty lie. I think it was in connection with this question.—A. Well, gentlemen, I do not mean to lie; I do not mean to tell anything but the truth as I understand it, and I have said nothing before this commission that I can not prove, and my statements made in 1888 are just as sacred to me to-day as they were when I made them. If I have told any lie I shall beg the pardon of the great United States of America and all my friends therein, and endeavor to rectify any wrong that I have done.

My authority for that, which I will produce, is unquestioned, and I defy anybody to prove that my assertions or statements at that time were false. I desire you to turn to page 101 of my pamphlet, which I have given you. I need not take your time by reading over all the evidence. It is before you on pages 101, 102, and 103; you can read it as well as I can, but we will go over to 104; there is a recapitulation of the oil business. (See Fiftieth Congress, first session, House Reports, vol. 9, pp. 242, 243.)

I hold in my hand a book of testimony in the case of The Commonwealth against the Pennsylvania Railroad Company. This testimony can be had, I think, in the Library of Congress. It can be found in the library at Harrisburg, and undoubtedly at many other places.

I had the honor to be one of a committee of three to visit Gov. John F. Hartranft and lay before him our grievances; and we invoked the aid of the Commonwealth of Pennsylvania. That good, great, and kind man gave it to us. He required the Pennsylvania Railroad Company to answer the charges made against them with regard to the South Improvement Company contract and other acts, from the commencement of the history of the Standard Oil Company or the South Improvement Company, from 1872 to the final hearing of the suits in 1879. This is the testimony of Mr. Cassatt, first vice-president of the Pennsylvania Railroad, making a clean breast of everything pertaining to the contracts. From his admissions and from the admissions of other officers connected with the road I have computed the shipments of oil during 1878 and the first quarter of 1879, making a grand total of 18,556,277 barrels of oil shipped; and from this testimony I have deduced the fact that 55 cents per barrel was paid upon the transportation of that petroleum. I charge the rebates on all that oil to the Standard Oil Company; not only on what was shipped to the coast. As I showed you yesterday, on all oil

¹ See Mr. Archbold, p. 513. See also Mr. Lee, p. 202.

that went west also they had to have their rebate. Again, it was carrying out the provisions of the old agreement, the South Improvement contract, although that had been repealed. The drawbacks on that oil are even greater than I have said in this report or in my evidence in 1888.

Q. (By Mr. KENNEDY.) How much space did Mr. Cassatt's testimony occupy in that book?—A. Some 50 or 60 pages. It begins on page 660 and runs to page 787. Here is my authority, and I have given the pages in my testimony. Let anybody prove that I am mistaken. But \$10,000,000 is nothing compared to the rebates paid; it is a bagatelle.

STATEMENTS OF PREVIOUS WITNESS AS TO THIS ESTIMATE OF THE REBATES.

Q. (By Mr. A. L. HARRIS.) I think it was stated that the testimony of Mr. Cassatt has been perverted, and the conclusions drawn are not warranted by the testimony.¹ That is the reason, I suppose, that you were asked to refer to the part of the testimony in which this admission is made.—A. I have given each page in my testimony of 1888.

Q. (By Mr. KENNEDY.) I thought there might be a paragraph or a page in which he made the admission.—A. The testimony is not by him only, but by other officers of the Pennsylvania Railroad; that was the object, to find out what the discrimination was.

Q. I think the testimony was to the effect that this \$4,771,000 which the Pennsylvania Railroad got was all that you could figure from his statement, and all the rest is assumption.—A. Oh, no; because, not only did the Pennsylvania Railroad Company get it, if he admits they got \$4,000,000, in this twelve or fourteen millions they must have participated.

Q. He says that is an assumption.—A. It has been proved; proved by the Hepburn committee, just as plainly as this is proved. If he admits \$4,000,000 was paid to the Pennsylvania Railroad alone, it is more than I gave them. My computation is based on the total shipments of oil. I did not say that the Pennsylvania alone got it. I say the rebate is so much; even more.

Q. I do not think he makes the admission in regard to the amount; but his statement is that Mr. Cassatt's admission was in regard to the Pennsylvania Railroad's transportation, and not with reference to the others.—A. I have shown the collection of these rebates by contracts. I could produce the three contracts. These railroads were under contract to transport certain classes of oil at certain rates. This all happened from 1872 to 1877, or 1879. I have shown you the 22 cents from the pipe line to the car, and the 49 cents was to go for the transportation of oil from Cleveland and common points in the oil country to New York.

AVERAGE COST OF OIL WELLS.

Q. (By Mr. PHILLIPS.) It was stated here² that the cost of drilling a well in 1890, or during the last 10 years, was about \$2,000. You are a large operator in all the fields, and we should like to have your estimate of the cost of drilling wells during that time.—A. Of course, I have drilled a great many wells, running into several thousand, and we always keep track of the expense in our office and the cost of each and every well. We have drilled wells in the lower country, which we call deep territory, that have cost us \$3,000, \$10,000, some as high as \$30,000 each, to drill. When you come up to \$30,000, that, of course, is accounted for by the fact that you sometimes stick your tools or drop something into the hole, or the well may cave in. Then you are obliged to move your derricks. We have always figured that our lower country wells cost us on an average \$3,000. In the upper country we have figured that we could drill our wells for \$2,500. We can not do it for that now. That was when you could get pipe for less than half its present price. The reason why wells are so expensive in the lower country is that you have to put in three lengths of casing. Some of that casing runs down into the earth 1,600 feet, 2,000 feet. I have loaded into a single hole 150 tons of iron. I should say this—without going into a close calculation of it, the question being sprung upon me here at this moment—that the average cost of a well in the oil country under the present condition of things is nearly \$4,000, in my judgment.

Q. (By Mr. FARQUHAR.) On account of the high cost of iron at the present time?—A. I think it was \$4,000 before prices advanced so largely. We can not do it for that now. You can not drill wells at a profit now, at the present price of oil. Iron has gone up 100 per cent and more.

Q. (By Mr. PHILLIPS.) What is your estimate of the average production per

¹ See Mr. Archbold, pp. 514-516.

² See Mr. Boyle, p. 434.

well, taking the wells as a whole, during the period named, from 1890?—A. That I have not in my mind. If you want me to compute that I will look it up, but I can not answer it offhand. That is a mathematical problem.

THE INDEPENDENT PIPE LINE MUST GIVE UP GOING TO NEW YORK AND GO TO PHILADELPHIA INSTEAD.

Q. (By Mr. CLARKE.) What is the present status of the United States Pipe Line in New Jersey? Are you running oil there and carrying it part way by railroad to the seashore?—A. Yes.

Q. Is that question of the right of way under the railroad in litigation?—A. No; it has been settled by the courts.

Q. Settled in your favor?—A. No. We have to take our pipes out. We have got to quit and come to Philadelphia. The right of eminent domain in Pennsylvania gives us the right to come to Philadelphia. We have to throw away our expense of upward of \$150,000 and turn around and come to Philadelphia with our line.

Q. You have to make Philadelphia your seaport?—A. Yes.¹

A PIPE LINE SHOULD BE AUTHORIZED, LIKE A RAILROAD, TO GO ANYWHERE BY PAYING THE DAMAGES.

Q. You say you can not cross certain railroads in the State and can not get to the seaboard there with your pipe lines; what remedy would you suggest for that state of affairs?—A. Well, I would suggest that New Jersey pass a law to let us go. But I want to say to you that I went to New Jersey—but in order to answer that question, in order to have you understand, I should have to refer to some persons I should not like to. They are very high in office; one is in the second highest office in the United States and the next is in the third highest office in the United States.

Q. You think the passage of a free-pipe-line bill by the legislature of New Jersey would give you the right you have long sought?—A. Oh, yes, certainly; because it is only a question of getting through by paying the damages, just as a railroad does. That is what we could not get. I have argued the case long and loud; and my experience there in the State of New Jersey, with the legislature, was one that the public ought to know, but it is so disgraceful I am ashamed to tell it. By the way, I did not answer a question that somebody asked me; I started to refer to this and you got me off the track.

COMMONWEALTH OF PENNSYLVANIA v. JOHN D. ROCKEFELLER ET AL.—THE CAMPBELL CONTRACT.

Q. (By Mr. KENNEDY.) I asked you about the testimony of Mr. Cassatt.—A. Exactly; and in relation to that compact, the Campbell contract. The contract is here in my hands now. But I want to say to this commission that the outcome of the suit brought by Pennsylvania against the Pennsylvania Railroad was this—the indictment No. 26, session of 1879, Commonwealth of Pennsylvania v. John D. Rockefeller et al., court of quarter sessions.²

(Here the witness read the indictment.)

This was a suit brought by the Producers' Protective Association, or rather a complaint made by them to the Commonwealth of Pennsylvania, which brought suit, and out of this grew the indictment. The case was never tried. They attempted to get a change of venue, and they failed in that. A very stubborn fight was made. They claimed that the oil country was prejudiced, and they could not get justice. They appealed to the supreme court of Pennsylvania for relief, and through some process of law they got it. You lawyers know better than I how they may have obtained it; but the case was dragged along in the same old style that I have told you about, and finally, on account of discouragement and lack of funds, and disagreement of the committee upon the matter, Mr. B. B. Campbell, president of the Producers' Protective Association, settled the case, receiving the sum of \$40,000, which was used in defraying the expenses that had been incurred, and receiving the contract that has been referred to. Probably it is not necessary for me to read that contract.

Q. (By Mr. PHILLIPS.) You had better give us the substance of it.—A. You will find, on page 407 of the Bacon committee's report, the exact language of the contract itself. First of all, the provisions in respect to the Campbell admission, and the United Pipe Line, and then the Pennsylvania Railroad Company's admissions. I would state briefly that this contract was presented to the producers to accept, but almost by unanimous vote they rejected the settlement, and there

¹ See pp. 650-655.

² See Mr. Boyle, pp. 427, 428; Mr. Lockwood, p. 889; Mr. Archbold, p. 553.

was a sort of a general breakup over the action of the president of the Producers' Union.

Q. (By Mr. FARQUHAR.) That does not agree with the record.—A. The record is right.

Q. (Reading.) "Resolved, That the general council of Petroleum Producers' Union approved the action of the president in withdrawing the suits against the Standard Oil Company as wise and judicious."—A. I am very glad you corrected me on that. The reason why I said they did not accept it was this: There were only two men who signed the contract, B. B. Campbell and A. N. Perrine. I refused, as did everybody else. B. B. Campbell, being a manufacturer of oil, received the rebates, but there was some question about it. For a long while here was some difficulty between the Pennsylvania and the northern railroads because Mr. Campbell was permitted to go in and ship his oil.

NATURE AND EFFECTS OF THE DIVISION OF TRAFFIC PROVIDED FOR IN THE CONTRACT OF 1884.

You are anxious to get something new, up to date. Now, here is a contract that went into effect in 1884, and was recently brought out in a suit for discrimination for a large sum of money, which is now pending against the Pennsylvania Railroad. The amount sued for is several hundred thousand dollars. Representatives of a large concern in this country purchased oil and shipped it over the Pennsylvania Railroad, and sued for rebates, and they have recently produced the contract of 1884. I understand it is in existence at the present time. If I am mistaken about its being in force, I desire to be corrected, but I understand it is in force at the present time. If you desire to have it read I will get somebody to read it, but it is what I term a nefarious contract.

Q. (By Mr. CLARKE.) Can you answer the question whether that contract provided for rebates?—A. It provides for something that is a great deal worse.

Q. (By Mr. PHILLIPS.) What is that which is worse?—A. It requires that 26 per cent of the shipments of oil shall go over the roads. The pipe lines can carry it all if they want to, with the exception of the residuum. The railroads need not have made this contract, because the residuum has to go in cars anyway. You can not pump it.

Q. (By Mr. CLARKE.) Do you call that nefarious? Do you see anything written in the contract that a certain per cent of the product shall go over the road?—A. Yes.

Q. I would like to have you explain wherein that is wrong?—A. I would like to have it read.

Mr. PHILLIPS. If there is no objection the contract will be read.

A. I confess to you the provisions of this contract have only been communicated through another source, and it has never been given to the public, to my knowledge, until it came out in this suit. It is practically new to me, and, I think, will be new to the world.

"Agreements between the Pennsylvania Railroad Company and the National Transit Company, dated August 22nd, 1884, being two agreements of even date, as follows:

"Memorandum of a traffic agreement, made this twenty-second day of August, 1884, between the Pennsylvania Railroad Company, hereinafter designated the Railroad Company, and the National Transit Company, hereinafter designated the Transit Company, witnesseth:

"That for considerations mutually interchanged, the parties hereto agree, each with the other, as follows:

"First. The Transit Company owns an extended system of local pipes in the oil regions of Pennsylvania and New York, which are grouped into a separate division, known as the United Pipe Lines Division of the National Transit Company. This division will be hereinafter designated as the Transit Company's Local Division.

"The business of this division is to collect oil from producer, store it in tanks, and deliver it, as may be desired, to any through carrier of petroleum, which will transport the same to where it is to be refined or otherwise disposed of.

"The Transit Company also own certain through or trunk line pipes, extending from several points of connection with the aforesaid local pipe division to various refining and terminal points.

"With these latter pipes, which will be hereinafter entitled the Transit Company's Trunk Line Division, it competes in the through carriage of petroleum with all other through carriers, whether pipe or rail.

"The business of its local division is therefore entirely distinct from the business of its through trunk line division.

"It undertakes and agrees that its local division will deliver into cars furnished by the railroad company at any of its regular delivery points and under its regular delivery rules whatever petroleum the owners thereof may desire to have so delivered and as the railroad company may furnish cars to transport, and will make no discrimination either in its local charges for carriage, storage, and other services, or in the use of any of its local facilities, against such oil, but will at all times treat it in the said respects as favorably as it at the same time treats any other petroleum which may be delivered to its own trunk-line division or to any other through carriers.

"Second. The transit company agrees that all petroleum brought to the Atlantic seaboard by all existing carriers, whether rail or pipe, now engaged in transporting such property, or which may hereafter engage in such transportation in conjunction with the transit company's pipe lines, shall be ascertained monthly, and so much of it as shall have been shipped in the refined state shall be reduced to its equivalent in crude oil by considering that one and three-tenths (1 $\frac{3}{10}$) gallons of crude are required to make one (1) gallon of refined oil. It further undertakes and agrees that if of the total so transported the railroad company shall not have moved in its cars twenty-six (26) per centum thereof, the transit company shall cause to be delivered to cars furnished by the railroad company at Milton, Pennsylvania, such quantity of crude petroleum as shall, when added to the amount which has been actually transported by the railroad company to the seaboard in said month, make the total transported by the railroad company in said month equal to said twenty-six (26) per centum.

"The railroad company agrees to furnish the needful cars and facilities, and promptly transport the oil which the transit company agrees in this contract to deliver to it at Milton: *Provided*, That if during any month the railroad company is not able to assign from its oil equipments a sufficient number of cars to the traffic of the transit company to move the proportion of oil herein provided to be delivered at Milton, then during that month the transit company shall only be required to so deliver to the railroad company such quantity of oil as the railroad company shall be able to transport, and shall not be required to make up any deficiency that may occur during said month.

"Efforts shall be made by the transit company to deliver so much during each month, as will probably be necessary to make the total carried by the railroad company equal to said percentage.

"Shortages, if not due to short supply of cars, and such excesses as may be found to have occurred in any month, shall be adjusted in the following month, or as soon afterwards as shall be possible.

"Third. It is agreed that the proportion of petroleum which the transit company is to deliver under the second section of this agreement shall be considered as petroleum transported from Coalgrove, Pennsylvania, via Milton, Pennsylvania, to the Atlantic seaboard, and that the railroad company shall be entitled to one-half of the current through rates thereon.

"It is agreed that whenever the through rates shall be so low that the railroad company shall suspend the movement of oil by its cars, at other points than Milton, the transit company shall during such suspension not be bound to deliver to the railroad company any oil at Milton.

"Fourth. All joint rates for the joint transportation of oil from any delivery point of the local pipe division aforesaid to any refining or terminal point shall be fixed by the railroad company, subject to the advice and concurrence of the transit company.

"It is agreed that said joint through rates shall be uniform to all parties. The railroad company stipulates that it will make no discrimination whatever, either in rates or facilities, against the transit company or against the oil which the said transit company herein covenants to deliver to it.

"It is agreed that the joint through rates to Philadelphia shall always be five cents less per barrel on crude oil, or its refined equivalent, than shall be currently charged to New York Harbor.

"It is agreed that the joint through rates, which shall be so fixed from time to time, shall be as low as shall be currently made between same and similar points by rival carriers of petroleum, and shall not be higher than an approximate mileage proportion of rates current on petroleum produced south of Oil City, nor than rates from Clean and similar points.

"It is also agreed that rates on refined oil and other products of crude oil shall be fixed by the railroad company upon the following basis, viz:

"From railroad stations in the oil regions to which oil is delivered by local pipes the rate to any point east thereof on a barrel of refined oil or other products

shall be one and three-tenths ($1\frac{3}{10}$) times the current rate on a barrel of crude oil to the same point.

"From Pittsburg the rate to any point east thereof on a barrel of refined oil or other products shall be one and three-tenths ($1\frac{3}{10}$) the rate currently charged on crude oil to any such eastern point from rail points south of Oil City: *Provided*, That one and three-tenths times the charges for moving a barrel of crude oil by rail or through pipe from the local pipe to Pittsburg shall first be deducted therefrom.

"From Cleveland and Buffalo the net rate on a barrel of refined oil or other products to any point east thereof shall be not less than is currently charged to the same point from Pittsburg.

"Fifth. Whenever the term barrel is used herein, unless otherwise specified, it means forty-five gallons of crude petroleum, and whenever the term oil is used herein, unless otherwise specified, it means crude petroleum.

"Sixth. The transit company hereby agrees that it will not make any more favorable terms with any other rail line connecting with any of its pipes than the terms which under this agreement are given to the railroad company, or if for any reason it should desire to do so, it hereby agrees to modify this contract so as to give the said 'more favorable terms' to the railroad company.

"Seventh. All existing contracts between the parties hereto shall be deemed to have been accomplished and shall become void and of no effect upon the day this contract goes into operation.

"Eighth. This contract shall take effect as of the first day of August, 1884, and shall continue until terminated under the provisions hereof. It may be terminated after August first, 1889, by either party hereto giving ninety days' written notice to the other of a desire that it shall end, at the expiration of which notice it shall cease and determine.

"In witness whereof the parties hereto have executed this agreement under their corporate seals the day and date above written.

[L. S.]

"THE PENNSYLVANIA RAILROAD COMPANY,

"By FRANK THOMSON,

"Second Vice-President.

"Attest: JOHN C. SIMS, Jr., *Secretary*.

[L. S.]

"THE NATIONAL TRANSIT COMPANY,

"By C. A. GRISCOM, *President*.

"Attest: JOHN BUSHNELL, *Secretary*."

"Memorandum of agreement, made this twenty-second day of August, 1884, between the Pennsylvania Railroad Company, hereinafter designated the railroad company, and the National Transit Company, hereinafter designated the transit company.

"Witnesseth: That for considerations mutually interchanged the parties hereto hereby agree with each other as follows:

"Whereas the parties hereto have made an agreement of even date herewith, in which, among other things, it is stipulated that under certain circumstances the transit company shall deliver certain crude petroleum into cars furnished by the railroad company at Milton, Pa.; and

"Whereas it has been proposed that the railroad company shall contract with the transit company to the effect that the transit company shall transport through its pipe lines the aforesaid crude oil, which, under the other contract aforesaid, it has undertaken to deliver into the cars of the railroad company at Milton.

"Now, therefore, this agreement witnesseth:

"First. The railroad company agrees that instead of delivering said crude oil to said cars at Milton the transit company shall transport the same through its pipes to destination, and the transit company undertakes and agrees to do such transportation. It is mutually agreed that the compensation to the transit company for doing said work shall be as follows, viz:

"Whenever the through rate for transporting a barrel of crude petroleum from Olean to Philadelphia shall be forty cents, the transit company shall receive eight cents per barrel as such compensation for so much of said oil as under the provisions hereof shall be considered as Philadelphia oil.

"For each five cents of increase or diminution in said rates from Olean to Philadelphia the said compensation on Philadelphia oil shall be increased or diminished one cent per barrel.

"*Provided, however,* That the transit company shall not be obliged to accept less than six cents per barrel, and shall not receive more than ten cents per barrel on such Philadelphia oil.

"It is agreed that the said compensation on the oil, which under the provisions hereof is to be deemed New York oil, shall be one cent per barrel greater than it currently shall be on Philadelphia oil.

"Whenever, and from time to time, as the said joint through rates shall be so low that the said minimum compensation to the transit company of six cents per barrel shall be as much or more than the railroad company's share of said joint through rates, this contract may, at the option of either party hereto, be suspended during all or any part of the time such low rates shall prevail. During such suspension the aforesaid other contract shall alone remain in force; but whenever, and from time to time, as said joint through rates shall again be high enough to make the said minimum compensation, under said sliding scale, less than the said share of said joint through rates, this contract shall again resume its force and effect.

"Second. The transit company agrees to account for and pay to the railroad company, on or before the twentieth of each month, the latter's share of the joint rates on joint business via Milton (as provided in said other contract) during the next preceding month, first retaining, however, the proportion of such share which it is hereinbefore agreed the transit company is to have for its services in pumping said oil to the seaboard.

"It is agreed that all such joint business shall be considered as having transported from Coalgrove via Milton, Pa., to the Atlantic seaboard, and that it shall be considered as having gone either to Baltimore, Philadelphia, or New York, or partly to each. The proportion thereof which has constructively gone to New York shall be determined upon the following basis:

"The total amount of oil transported in any month by the railroad company to New York shall be compared with fifty per centum of the total oil which the railroad company is entitled to carry in said month under the aforesaid other agreement. If the amount which has been in such month carried by cars to New York shall be less than fifty per centum then the difference shall be considered as having been moved by the pipe to New York at New York rates, and shall be accounted for accordingly. The remainder of the oil via Milton shall be accounted for at Philadelphia rates.

"This contract shall commence and terminate simultaneously with said other contract.

"Witness the corporate seals of said parties duly attested the day and date above written.

"THE PENNSYLVANIA RAILROAD COMPANY,
By FRANK THOMSON, *President*.

"Attest.
[L. S.]

JOHN C. SIMS, *Secretary*.

"THE NATIONAL TRANSIT COMPANY,
By C. A. GRISCOM, *President*.

"Attest:
[L. S.]

JOHN BUSHNELL, *Secretary*.

The WITNESS. Mr. Chairman and gentlemen, according to this contract, first, the rates must be maintained as established by the pipe lines; that is, the open rate of 45 cents. The contract was made for the purpose of sustaining rates. The outside refineries were compelled before the construction of the United States Pipe Line to ship all their oil by rail to the sea for export. The reason for making this contract and guaranteeing about 26 per cent of the tonnage to the coast was to insure the maintenance of the rate according to its provisions. If 26 per cent of the oil was not shipped over the roads, the Standard Oil Company was obliged to make up that in dollars and cents for the payment of the freight at the toll rates. Now, the point is this: The cost of collecting oil from the well to the railroad or the storage tanks by what we term the gathering lines is from 3 to 5 cents a barrel; say 5 cents.¹ I speak intelligently on that point, because I am a collector of oil by several hundred miles of line belonging to myself. The cost of carrying the oil through to New York, or rather to a point in New Jersey 50 miles from New York, is about the same. We gather oil from the well and deliver it in New York at a cost not exceeding 10 cents a barrel at the present time. Now, if this contract was out of the way the railroads would seek that

¹ See Mr. Lee, p. 284; Mr. Phillips, p. 504; Mr. Archbold, p. 553; Mr. Rogers, pp. 581, 588, 590.

rate, just as they come and seek your freight at the present time, or seek to carry a person or a number of persons to Chicago. But this contract compels them to keep the rate up and compels an outside refiner to pay this enormous rate of freight. The Standard Oil Company deliver all their oil to New York at a cost of not over 10 cents a barrel. By railroad a barrel of oil has to pay 45 cents; and the Standard gets this rate held by guaranteeing 26 per cent of the tonnage to the several railroads which are classed as oil railroads.

THE CONTRACT DID NOT REALLY INCREASE THE BUSINESS OF THE RAILROADS.

Now, then, the by-products of petroleum are just about what this 26 per cent would amount to. Among by-products there are benzine and gasoline and tar. There is about 26 per cent they can not pump through the pipe, because it consists of lubricating oil and tar and such things as benzine, etc. The intent of this is to maintain rates, that there may be no competition between the railroads and the National Transit Company as a carrier. That is what I object to, and that is what the contract says. It is a combination which is illegal.

Q. (By Mr. PHILLIPS.) Do we understand this, Senator, from your testimony, that there is about this amount in by-products, and therefore they do not ship any crude or refined oil by rail in consequence of this contract?—A. No; the railroad would have to have this carrying anyhow.¹ They would have to carry benzine; you can not pump it. You can not pump wax. There is 26 per cent of oil that you can not get through the pipe line if you want to.

THE RAILROADS HAVE RAISED THE RATE.

Q. (By Mr. CLARKE.) As I understand you, you are not finding fault with the percentage or apportionment of this freight, but you are finding fault that the price is too high, and that it is an agreement to maintain rates?—A. No; I am finding fault because they cut off this competition; cut it from me in my products. The railroads have carried this stuff at 8 cents a barrel. I paid for years 33 cents a barrel to carry this stock through. At the present time the rate on these products is 16½ cents a hundred, making 52½ cents a barrel in bulk. The railroads have raised the rates. Then, in barrels, you have to pay for the weight of the barrels; that raises the total to something like 66 cents. That is the rate of freight.

Q. Then you do criticise this partly because the rate is too high?—A. I do on that ground. It has been raised from the original 45-cent agreement.

REASON FOR BELIEVING THE CONTRACT OF 1884 TO BE STILL IN FORCE.

Q. (By Mr. KENNEDY.) That contract was entered into 3 years before the passage of the interstate-commerce law. Have you any evidence that it is still in force?—A. I only know it from the admission of a railroad man who said that it was. He came to my place and invited me to go to a certain point and establish a loading station to ship oil by water to New York. Well, it is the Buffalo, Rochester and Pittsburg Railroad. I went to Rochester and I met the gentleman. I picked out the location for our station and made arrangements with him for the transportation of my oil to the Erie Canal. The station was to be built on their own land, with a nominal rental, which was agreed upon, and the transportation from Bradford was to go that way. He then said: "I would like to have you build a pipe line down at a place called Irvings and bring oil down to the Rochester and Pittsburg Railroad and let me draw it to your factory," all of which I agreed to. He said: "They do not see fit to recognize us as an oil road and I am going to do some of this business." All at once he was recognized as an oil road and he was to get his percentage under this contract. My station was not built, and my pipe line was not built to bring oil to his road. That was 2 years ago; this contract was in existence at that time. Under these circumstances, I believe it to be in existence to-day.

Q. Was that contract made for a term of years? Was any limit named in it?—A. I do not think there was; let us see. I think it is perpetual.

AS TO THE RECORD OF TESTIMONY TAKEN BY A COMMITTEE OF CONGRESS
IN 1872.

Q. (By Mr. FARQUHAR.) In a part of your testimony early this session you read the testimony of Peter H. Watson with respect to the South Improvement Company contract?—A. Yes.²

¹ See settlement on p. 702.

² See p. 618.

Q. You read from a pamphlet here. It, of course, is not official authority for the commission?—A. That was evidence; it is on file.

Q. But we want to know where this evidence came from and who took it.—A. It is in the reports of the Congressional investigation of 1870 and 1871.

Q. This testimony you have read—I want to correct the date of this. This may be important. Your own reporters may have come here to take your testimony here in Washington. They had an interview with the Congressional committee on the 25th—with a committee which was a subcommittee.—A. What year was that?

Q. 1872, at which time a subcommittee was appointed to take testimony, and subpoenas were issued for Watson and Lockhart. Now, of course, if this is simply a printed pamphlet the question is—A. You have your official record here. You have got it in the library—the investigation of Congress. It is here on file, the same as the investigation of 1888.

Q. This was in 1875—1872—1875?—A. It is the same as the investigation in 1888. It should be on file, because it is an investigation by Congress.

Q. (By Mr. PHILLIPS.) Is it in the Hepburn report?—A. No, no; it is 1871. The Hepburn report was in 1879. No, it is one of the first investigations ever instituted.

Q. (By Mr. KENNEDY.) You stated yesterday that you did not know what committee took the testimony.

Q. (By Mr. FARQUHAR.) Your testimony ought to show the commission the official source that it is taken from.—A. If you will give me access to your library here I will find it.

Q. (By Mr. PHILLIPS.) I wish to ask Mr. Boyle for information simply on this line.

Q. (By Mr. FARQUHAR.) This, as presented here, is unofficial.—A. I refer you to the library.

Q. (By Mr. PHILLIPS.) Mr. Boyle will tell you of it.

Mr. BOYLE. I have been searching for that report all through the books. I have not been able to locate it. There were newspapers giving reports at the time of the subcommittee. It was a subcommittee of Congress, of the House, of the spring of 1872, beginning on the last day of March, 1872, and continuing at various dates for two or three years.

Q. (By Mr. FARQUHAR.) The chairman of the committee seems to be well known—C. W. Gilfillin.—A. I think he was in Congress at that time.

Q. That is the identification you make?—A. I make that identification, that it is a Congressional report and was published at that time. At that time I read the testimony and it is familiar to me now. I was going to get it, but I could not. I know it was an investigation of Congress, and I suppose it is on file, just as these books are on file; it should be.

Q. (By Mr. PHILLIPS.) You do not know of your own knowledge that it is true, but if it is found by this commission on file you want it to be considered a part of your evidence?—A. I was in Washington in 1872 myself, and I know the investigation took place, and I know I have a complete copy of it—a paper file of it at home. I was keeping my scrapbook, and I think I can produce the investigation. I think I can produce the book itself. I think I can, and I shall be very glad to do it.

Q. (By Mr. FARQUHAR.) I should like to make a statement from Mr. Gilfillin's own report, whom we know to be of good repute everywhere. It seems that your own people took this matter to the committee of Congress and you had your own reporters. The question is, was it ever reported officially by Congress?—A. Well, does the Congressional committee go into a room without a stenographer?

Q. Sometimes; quite frequently.—A. It is the strangest thing I have heard.

Q. I am not discussing where the testimony came from. I think the origin of the testimony—it would be well for one of the parties to see that it is verified.—A. I rely upon that testimony as being valid, and the investigation can be produced. It is dated from Washington, and I know the investigation took place, and I know Mr. Gilfillin was on the commission. I do not know whether he was here on that day or not.

SCARCITY OF COPIES OF THE TESTIMONY OF 1888.

Q. (By Mr. PHILLIPS.) You said that, on your information and belief, as prescribed by the oath, you believe it to be true?—A. Just exactly as I believe my own testimony to be true. It is very unfortunate that it is not here; and I want to say to you right here that of this testimony of 1888 there were several thousand volumes printed, but I understand there are only 300 of them in circulation

to-day. I could not get one myself until just by good fortune I got one the other day of a friend who had two. Nobody knows how that evidence was spirited away from here, but it is gone.

Q. (By Mr. FARQUHAR.) 1888?—A. Yes. There were only 300 volumes sent out. I sent to Congressman Stone of our district for one.

WHY THE WITNESS, HAVING GOT BOOKS INTO COURT WHICH HE BELIEVES CONTAIN PROOF OF CRIMES, LET THEM GO UNEXAMINED.

Q. (By Mr. RATCHFORD.) I understand from your testimony you make the broad statement that if the books of the railroad companies could be brought into court some of the officials would be sent to prison?—A. If you can send anybody to prison for violating the interstate-commerce act, I say yes. I am not positive whether there is a criminal clause in it or not.

Q. If you wish to modify that statement you can.—A. If there is not a criminal clause I do want to correct it; if there is, I will let it stand. I stick to my statement if that is the law.

Q. Do I also understand, from the previous part of your testimony, that you caused one or more of those companies to produce their books in court?—A. The Pennsylvania Railroad.

Q. In the courts of Clarion County?—A. McKean County.

Q. You state that you produced convicting evidence against them?—A. We did not examine the books at all.

Q. Why?—A. Because the case was settled.

Q. Why did you settle it?—A. I told you yesterday that my partners got tired of fighting it. We had been at it for 3 or 4 years, and they offered us \$35,000, and we settled it. The claim was for \$107,000.

Q. Settled for \$35,000?—A. And costs.¹

Q. If the discriminating practices by railroads and the rebates that were given by railroads are so injurious to the interests you represent, and to all other interests, why did you settle it for \$35,000, or how did you believe yourself justified in settling for any sum?—A. Our association was too poor to carry it on. They could have gone on, and could have extended that suit for 10 years.

Q. And yet you are satisfied, and have been satisfied, that convicting evidence would have been adduced in court had the books been investigated?—A. We got all the evidence we wanted for them to settle upon, and we tried to get the books into court in the early history of the trial; but we could not get an order before the master, in taking this testimony, because he had not the power. When we got them before the McKean County court, the circuit judge having power, we demanded the books and papers. He issued an order and the books came. If my disposition had been followed, even in the depressed circumstances that I was in—if I had had my way about it I would have examined every one of the 3 tons of books. But I had a partner, Mr. Logan, who had lost every dollar in the world in speculation, and he said: "This money will do me good, and I would like to have you let up."

Q. You assign, then, as a cause for settling the trouble, the fact that the association controlled by you was too poor to fight?—A. And the dilatory action of the court.

THE OIL BUSINESS IS MORE PROSPEROUS THAN IT WAS TWO YEARS AGO.

Q. (By Mr. CLARKE.) Are you able to state whether the condition of the oil business generally is more or less prosperous now than it was 2 years ago?—A. Oh, it is more prosperous now, from the fact that all the factories of the country are running, and there is an enormous demand for goods, and the production of oil in New York and Pennsylvania is not adequate to the demand. That is one reason for the advance in the profits of petroleum. Every factory and every spindle is running, and every coal mine and every iron mill, and there is an enormous demand for the goods. We could sell from my factory five times as much as I am making, if I had it, and at good profits.

THE WITNESS HAS RECEIVED NO REBATES SINCE 1872, EXCEPT WHAT HE HAS COLLECTED BY LAW.

Q. (By Mr. FARQUHAR.) Have you frequently in your own business enjoyed rebates?—A. Never. Now, let me modify that. In my business previous to 1872,

¹ See p. 642.

² See p. 635.

in the refinery at Titusville, Pa., rebates were a common thing; but we were young and new in the commercial business, and the fellows in Cleveland and Pittsburg were a little more experienced. We did not seem to make very much money. They were running full tilt with their wells, barrel shops, and everything, and we began to look about to see what was the matter. We went to Pittsburg, and we learned, to our astonishment, that certain concerns were getting 25 cents a barrel. We were large shippers, and we demanded to be granted the same. That was away back in 1870. We were given 25 cents, and then we got on to the fact that some of the refiners were receiving 75 cents back, and some other refiners were receiving 50 cents. The rate at that time was in the neighborhood of \$1.50, and oil could be carried at a profit to-day at 25 cents. From that time to this—no, I am not guilty.

Q. (By Mr. PHILLIPS.) Following that up, have you in recent years received rebates?—A. No.

Q. For how many years?—A. Since 1872, excepting rebates we collected by law.

Q. Not since 1872?—A. I stated here that the president of the Pennsylvania said they were not giving any, but the auditor and bookkeeper admitted it.

MR. LOGAN, OF THE SOUTH IMPROVEMENT COMPANY, WAS NOT THE WITNESS'S PARTNER.

Q. I have been requested to ask Senator Emery a question. Mr. Logan, who was one of the parties to the South Improvement Company, is there, I believe, to-day.—A. Yes.

Q. Now, is that the same Logan that was a partner of yours in Philadelphia in recent years?—A. No; Alfred H. Logan is my partner. The two Logans that were connected with the South Improvement Company, William P. and John P. Logan, are both at the present time living; but Alfred is dead—my old partner.

THE REMEDY: GOVERNMENT OWNERSHIP OF ALL MEANS OF TRANSPORTATION, AND ESPECIALLY OF RAILROADS.

Q. We have been in the habit of asking persons here whether they had any remedial legislation to propose along any lines of the inquiry. Have you anything to propose to the commission in the way of remedial legislation to meet these problems?—A. I will simply state very briefly, because I do not expect to go into an argument on that point. I would simply say this: That I am an absolute believer in the government ownership of all means of transportation, and especially of railroads. I was anxious that when the United States Government had the opportunity of taking in the Central Pacific Railroad it should do it. All the railroads of Germany, excepting two in the south, are owned by the Government, and discrimination is not known; nor is there any dissatisfaction in business. They often go so far in that country as to take the canals; but the canals are free. If the waterways and the railroads can be put under Government control, gentlemen, you will do away with all difficulties that exist to-day, because the prime movers of all this trouble are the railroads. They make the trouble by giving discriminating rates, or giving rates to favored shippers lower than they give to the general public.

THE LAWS WE HAVE WOULD SERVE IF THEY WERE ENFORCED BY ACTUAL IMPRISONMENT OF OFFENDERS.

I know of no better remedy, because you have laws upon the statute books of the United States that would alter the present condition of things if they were enforced. If you would make an example of these men, if there is a criminal clause in the interstate-commerce act, and put them behind the bars, I think that would strike some terror to their souls. I recollect that, owning a large flouring mill in southern Michigan and quite a large amount of land in wheat in North Dakota, I desired to ship some of this most excellent hard wheat down to Three Rivers, Mich., and manufacture it, and I wanted a transit rate. It was given me previous to the interstate-commerce act by the then manager of the road. I went back the next year and he said: "I can not do by you as I did last year, because the criminal clause of the interstate-commerce act is such that if I violate it I am liable to get behind the bars, and I am afraid of them. Therefore I can not make a rate by which you can ship wheat from North Dakota and manufacture it and ship it to the East." Now, I say, Mr. Chairman and gentlemen, that some way has got to be found to cut off the rebate and drawback practices of the railroads. The mass of the people in this country are incensed, and that dissatisfaction reaches to the minds of all classes of men.

THE GOVERNMENT COULD MANAGE THE RAILROADS—EUROPEAN EXAMPLES.

I am firmly of the belief that if the Government would take charge of the railroads as it took charge of the transportation of the mails it could manage and control the railways and waterways in this country as well as it can control the mails. The example of Germany is before you; the example of Norway and Sweden. If I recollect right, 18 years ago the Kingdom of Norway and Sweden did not own a mile of railroad. Poor as those nations are, they saw English capital coming into that country and building railroads north and south up to the great Bessemer mines in the northern part of Sweden, and their own manufacturers were unable to compete, shipping over the same lines of road. Complaint was made to the legislature, and they at once said, "We will own these railroads ourselves," and they bought them from the English capitalists. When I was in Norway and Sweden 3 years ago, while I was there, the Government took the control of them, and they own to-day the principal roads north and south through both of those countries. They have not cared to take the lateral lines east and west, but they make a rate from the common points of these lateral lines to the water front, and they prorate with the lateral lines belonging to the smaller companies. They have brought back into the markets the old manufacturers, and they are to-day a happy people, because the Government has taken hold and made the rates equal to everybody—to the Englishman, to the Frenchman, to the German, and the Yankee, and everybody else. We distribute oil in those countries, and we find no discrimination. Government ownership is my proposition.

THE CORPORATIONS ELECT THE LEGISLATORS—STATE OFFICERS AND UNITED STATES OFFICERS IGNORE COMPLAINTS OF VIOLATIONS OF THE LAW.

You have upon the statute books to-day one of the best laws ever written, known as the Sherman Act, passed in 1890; but the difficulty in this country is that you can not enforce the law, or at least you do not. Complaint of our difficulties was made during the Cleveland administration to the Attorney-General of the United States, and no answer was made by the recipient of the letter. And to the present administration complaint was made more than 8 months ago. The letter was pigeonholed. In the State of Pennsylvania we have asked the aid of the Commonwealth, by application to the governor, since the suit I have mentioned. The letter was pigeonholed. The power of these monopolies and combinations is such that they elect or nominate their own men to serve in the legislatures. They make their own nominations a year ahead of the time, to prepare their candidate; and he is schooled to know their wants first and the people's second. I say that if our courts of the State, our attorney-general of the State, our Attorney-General of the United States would put forth the strong arm of the government, under the laws that exist, they could stop these encroachments upon the rights of the people. I say that if they will not do so you must come to the control of these great transportation lines, which are causing all this trouble, by Government ownership. I have been a traveler in every part of the world that I could reach by water or rail; and I have found this country advertised from China to the islands of the East as being a country whose people are bound hand and foot by corporate power. As I told you yesterday, we came to Congress, as you saw here, in 1872. We came here again and again. We have come to the Attorney-General of the United States a half dozen times without result; and it seems to me that the courts are approached without result also. The settlement of litigation before the courts is delayed. Corporations come when they please and stay away when they please. They defy the courts under the plea that they will incriminate themselves if they give evidence. What are you going to do about it? If the Government would stretch out its arm and take this man and say, "Answer this question or go to prison for contempt of court," he would answer. Now, I say Government ownership of railroads would be my remedy unless we can get Attorneys-General of the United States and of the several States that will enforce laws.

UNFAIR TRADING SHOULD BE PROHIBITED.

Q. Suppose that the Government did own the railroads to-day. Would not these great corporations or trusts still have the power to follow the smaller merchants into the cities and towns and sell oil or any other merchandise very low at given points? And could not these corporations, with their great accumulations of wealth, still prevent the small corporations from doing business and the merchant from selling his goods in various markets?—A. In that case you would want the law I spoke of yesterday—such as, I think, is adopted by Germany—to prohibit unfair trading. You have got to take care of the interests of the common people of this country. If you do not, you are going to have trouble.

WASHINGTON, D. C., November 10, 1899.

TESTIMONY OF MR. ANDREW D. GALL,

Manager of the Gall-Schneider Oil Company, Limited, Montreal, Canada.

The commission met at 2.10 p. m., Mr. Phillips presiding. Mr. Andrew D. Gall was introduced as a witness, and, being duly sworn, testified as follows:

Q. (By Mr. JENKS.) Will you kindly give your full name and address?—A. Andrew D. Gall, Montreal; a British subject.

Q. What is your business?—A. We are engaged in the marketing of petroleum products generally, principally in the Province of Quebec, in Canada.

Q. Do you handle American oils at all?—A. Almost exclusively.

PRODUCTION OF PETROLEUM IN CANADA.

Q. Can you give us an account of the production of crude oil in Canada, giving us the different places of production and something as to its extent?—A. The production of oil in Canada is confined almost exclusively at the present time to western Ontario; that is, the Bothwell, Oil Springs, and Petrolia districts, all of which are in western Ontario. The production of oil is largely in the hands of private individuals. The Standard Oil Company, as a company, does not own a great number of wells, but some of the men formerly in the old Imperial do. I will explain that the Imperial Oil Company to-day in Canada is directly the Standard Oil Company. It was the name of the company in Petrolia before the Standard Oil Company got control of the Canadian market, and has been continued under that style.

Q. You say that the Standard Oil Company has gotten control. Do you mean that the Standard Oil Company bought the stock of that company and continues the company under its old name?—A. Yes, under the name of the Imperial.

Q. (By Mr. SMYTH.) The Standard Oil Company are stockholders now in that company?—A. The Standard Oil Company are stockholders in that company. Mr. Fitzgerald, the former president of the old Imperial, admitted that only a small proportion of the stock was held by Canadians at the present time.

Q. They bought that in open market?—A. Well, I do not know. It was a kind of a deal; I do not know whether you would call it open market or not. There were a number of men who were formerly in the old Imperial who have large producing interests in Canada. These men no doubt control between 20 and 25 per cent of the production. The rest is held by the independents or small producers, pumping from 50 to 500 barrels per month.

Q. (By Mr. JENKS.) If I understand you, then, the Imperial Company, of which the Standard Oil Company owns the controlling interest, controls about 25 per cent only of the production?—A. Of the production, yes.

Q. About how much is the total production of Canada? Can you give us the figures?—A. Yes. The total production of crude oil amounts to about 750,000 to 800,000 barrels per year of 35 imperial gallons each.

CANADIAN OIL WORSE THAN OHIO.

Q. What is the quality of this Canadian oil; is it like Lima oil in Ohio or white sand oil?—A. We have handled a good deal of Ohio oil, and of course it is not to be compared with the Pennsylvania at all; but comparing the Canadian with what we get from Ohio we find that in marketing it at an equal price we can always get a preference for the Ohio product, so that I should be inclined to think that people would prefer the Ohio to the Canadian product.

Q. (By Mr. SMYTH.) You say "we;" do you represent the company?—A. Yes. I might say I am president and managing director of the Gall-Schneider Oil Company, Limited.

Q. Do you produce petroleum—do you have wells?—A. No; we have nothing to do with that whatever—it is only marketing it.

Q. Do you not refine the crude?—A. We have nothing to do with the refining.

Q. You simply buy refined oil?—A. Yes.

Q. (By Mr. JENKS.) You handle also crude oil?—A. No, sir; only refined, lubricating, etc.

¹ See p. 661; Mr. Lee, pp. 275, 278; Mr. Archbold, p. 532; Mr. Emery, p. 624.

REFINING IN CANADA ALL DONE BY THE STANDARD NOW.

Q. About how much oil is refined in Canada, and what proportion of that is controlled by the Standard Oil Company?—A. Well, these figures I am about to give are supposed to be official. They are made by the Department of Agriculture. Up to the present time of course all oil had to be inspected and went through the inland revenue or customs department, and I presume the figures are correct. The quantity of illuminating oil that was produced and sold by oil refiners in Canada in 1896 was 11,207,150 imperial gallons, valued at \$1,251,122; of benzine and naphtha, 719,453 gallons, valued at \$70,733; of gas and fuel oils, 6,788,853 gallons, valued at \$361,618; of lubricating oils and tar, 1,447,455 gallons, valued at \$77,109. The total gallonage for 1896 was 21,176,682, and the total value \$1,792,890. The total gallonage for 1898 was 21,153,192, and the value was \$1,723,293.

Q. Can you tell us about what proportion of this refined product is refined by the Standard Oil Company?—A. To-day every gallon is refined by the Standard Oil Company.

Q. That is, the Standard Oil Company now has control of all refineries in Canada?—A. Complete control.

Q. By complete control you mean they own them all?—A. They own them all.¹ There is one—there is the old Imperial in existence to-day.

Q. How long is it since the Standard Oil Company secured this complete control of the refined product in Canada?—A. That deal was put through in July or August, 1898.

Q. Perhaps you can give us a little fuller statement about it?—A. Well, I do not know exactly how it was done, I am sure. It was simply a deal of the Standard Oil Company, and how they did it I do not know. They bought up all the refineries, and they have demolished all of them except the old Imperial plant. That is running now and there is a plant at Sarnia, a little farther from Petrolia.

Q. How many independent plants were there before?—A. I have them here. Before the trust got control of the business there were 5 refineries in operation and 4 refineries that were not in active operation at that time, although not closed up by any means. As I stated before, all of these, with the exception of the old Imperial Company's works at Petrolia, have been dismantled, and most of the material broken up and sold as scrap or moved to Sarnia. I know about the figures they paid for one concern. That was the John McDonald refinery. He told me that he got \$65,000 for it and that it was not worth \$10,000.²

Q. You spoke of their having removed part of these refineries to Sarnia?—A. They removed part of the material, I believe, in building up their own works at Sarnia.

AMOUNT OF CANADIAN REFINED OIL AND AMOUNT IMPORTED.

Q. Do you know whether the amount refined at the present time is less or greater than the amount refined by the 5 refineries previously?—A. I do not see how it can be greater. The production of crude has been about the same, and I do not see how it can be greater than the production.

Q. You think it probable, however, that they are refining all of the crude oil now. I judge from what you say that possibly this 1 refinery at Petrolia is larger than the others have been at Petrolia, and that the one at Sarnia is a little larger. Have these 2 as much capacity as all the old ones?—A. I guess so; yes.

Q. While there has been a concentration of several into one management, the total output has not been lessened?—A. I do not think it has been lessened. It may have been somewhat increased; some crude having been sold for other purposes before, they may have made some changes which have increased it somewhat.

Q. (By Mr. SMYTH.) I suppose there is as much crude refined as is demanded?—A. No, sir.

Q. There is demand for more refined oil than there is on the market?—A. Much more.

Q. (By Mr. JENKS.) How much of the oil used in Canada is refined there, and how much is imported from the United States?—A. For 1898 the percentage of Canadian was 61.1, and the percentage of imported, which is altogether American—no oil is brought from elsewhere—was 38.9 of the consumption in Canada. In 1881 there was only 6.9 per cent of American and 93.1 of Canadian.

Q. (By Mr. SMYTH.) How do the total quantities compare? The percentages vary; are the total quantities any larger?—A. Much larger. In 1881 the number of gallons of Canadian was 6,406,783, while in 1898 it was 10,796,847 gallons.

¹ See Mr. Archbold, p. 573; Mr. Page, p. 783.

² As to prices paid for plants by the Standard, see Mr. Davis, p. 367.

Q. (By Mr. JENKS.) The Canadian output is also largely on the increase to-day; the demand simply outruns the supply, so you are getting more and more from the United States?—A. Yes.

THE COURSE OF PRICES.

Q. Can you give us some information on the course of prices for the last 8 or 4 years, so that we can see whether the purchase of these companies by the Standard Oil Company has had any effect on them?—A. I have invoices here, dating all the way back to 1892, of the old Imperial Company, which is at the present time the Standard. In September, 1892, they were selling oil for 12½ cents delivered in St. Johns, Quebec.

Q. That is the refined product?—A. Refined, in barrels. The cost of barreling and inspection is estimated to be about 2½, say 2½; then that would mean that you deduct 5 cents from 12½, or 7½ in bulk f. o. b. Petrolia. In 1894 it was delivered in St. Johns for 11 cents; that is, in barrels, freight paid. I might say that the first was July, 1894, and in September, 1894, it was still 11 cents. In April, 1896, it was 14½ cents delivered at St. Johns.

Q. That was before the Standard Oil Company took them in?—A. Previous to that altogether. In September, 1897, it was 13½, delivered in barrels; in May, 1898—that was just a month or two previous to the time they took control of it—it was 12½; to-day it is 17½ cents, delivered in barrels at St. Johns.

Q. (By Mr. CLARKE.) Do you know the prices of crude petroleum between the 11 cent time and the 13 and 17 cent times?—A. I will just give this to you here. I have them from a large producer of petroleum, under date of October 30 last. In January, 1895, the price was \$1.16 per barrel; in June, 1895, it was \$1.53 per barrel; in January, 1896, \$1.72; June, 1896, \$1.70; January, 1897, \$1.50; June, 1897, \$1.40; January, 1898, \$1.40; June, 1898, \$1.40; January, 1899, \$1.40; June, 1899, \$1.45, and the present price is \$1.60. I have the average price for this year, if you wish to have it; I have it here.

CRUDE OIL GOES UP ONE-HALF CENT A GALLON; REFINED, 4 CENTS.

Q. (By Mr. JENKS.) Can you give us the prices of refined oil at the beginning of this year, 1899? What was the price of refined, compared with the price of the crude, at the beginning of this year?—A. Well, I have no invoices that I could show you covering that time, but I have a memorandum here. This is a retail price. Of course, it is pretty hard to go by that. In January of this year it is quoted at 14 cents, and in February 14½.

Q. And the present price from that invoice was 17½?—A. No; I have no invoice to the effect that 17½ cents is the price of oil to-day.

Q. And this decided change in price has been during the latter part of this year? When the price of crude was \$1.45 per barrel the price of refined was down to 14 cents or possibly less?—A. Yes. It is only recently that crude is \$1.60; very recently.

Q. How long is it since refined went up to 17 cents?—A. That is very recently, too.

Q. Then the facts seem to be these: That the price of refined has gone up at about the same time as the price of crude?—A. Nearly so.

Q. You would say it ran up proportionately or nearly so?—A. I am not familiar enough with the refining; I do not know enough about that.

Q. They have simply gone together?—A. Yes.

Q. (By Mr. PHILLIPS.) Has the price of crude in Canada corresponded with the recent great advance in Pennsylvania and Ohio oil within the last 6 months or a year?—A. I do not know just what the prices have been in Pennsylvania or Ohio; but up to June of this year crude was only \$1.45 at Petrolia, and even lower than that.

But you can not give us the price of refined in June?—A. June of this year?

Of this year; that is, the wholesale price?—A. Yes, I have it. In June here; well, the retail price, 18½ cents. These, of course, are 1 cent over the wholesale prices.

Q. Well, that 18½, then, corresponds with \$1.45 and this 17½ with \$1.60. Is it claimed by anyone that this increase in the price of the refined oil is due to the control of the refining by the Standard Oil Company?—A. It is claimed so by everybody or nearly everybody.

Q. And do they make the same claim as to the increase in price of crude; that the Standard Oil Company has put up the price of crude?—A. Well, no. I might say that it pays the Standard Oil Company much better to refine Canadian oil

and force it on the Canadian market than it does to import, because there is an import duty of 5 cents per gallon, and you can readily see it is far better to pay a little more for crude and force the people to use the Canadian product.

FREIGHT DISCRIMINATION BETWEEN AMERICAN AND CANADIAN OIL.

Q. There have been some charges made in the papers for the last few months that there have been freight discriminations in Canada in favor of the Standard Oil Company. Can you give us any information on that subject?—A. The Sun Oil Refining Company, Limited, of Hamilton, Ontario, and ourselves laid a complaint before the railroad committee of the Privy Council regarding this matter sometime in January last. The complaint was heard by the railroad committee in February. At that time we were complaining principally of the discrimination in freight rates on local shipments on Canadian oil as against American. We also complained on the through freight rates from Black Rock, where it enters Canadian territory, to Montreal and other points.¹ So far as that investigation was concerned the railways raised the objection that the railroad committee had no jurisdiction over foreign freight, or at least freight originating in foreign countries, though they decided afterwards that they did have jurisdiction over it. On the local freight rate they threw up their hands and admitted that they were in the wrong. It was a put-up job in the start, and it was about time they admitted it. For instance, I went out and bought a barrel of Canadian oil and shipped it to George L. Meikle Company, of La Shutte. On the Canadian oil I paid 77 cents freight. Taking barrels of 450 pounds, that was at the rate of 17 cents per 100 pounds. On a barrel of American oil I paid \$1.08, a rate of 24 cents per 100 pounds. Here are the original bills of lading signed and receipted. I also shipped a barrel of each kind to St. Johns, Quebec. On the American oil I paid \$1.08 for the barrel, or 24 cents per 100 pounds, and on the Canadian I paid 54 cents, or 12 cents per 100 pounds. A more glaring injustice never existed.

Q. When you delivered this oil to the stations—

A. (Interrupting.) We had to say whether it was American or Canadian.

Q. They simply made up the freight bills accordingly?—A. They made up the freight bills accordingly, and you had to mark on the freight bills whether it was American or Canadian.

Q. What had been the custom before? Had they been shipping at the same rates?—A. Yes; whether American or Canadian it was shipped in the same way at the usual rate of freight.

Q. And this is simply a rating made by these roads?—A. Yes; and we think at the instigation of the trust to prevent us from marketing our goods at local points. Not satisfied with marking up the through rates, they wanted to cripple us further by charging double for American over Canadian.

Q. Why do you think that the Standard Oil Company was back of that?—A. They have got control of the Canadian business, and they were anxious to force people to use Canadian oil by making it impossible to get American oil.

Q. (By Mr. CLARKE.) Were both of these over the Grand Trunk?—A. No, sir; both over the Canadian Pacific.

Q. (By Mr. JENKS.) On what roads were those discriminations made against oil?—A. Both roads.

Q. On any others?—A. We have a number of small railways, but the Grand Trunk and Canadian Pacific railways are really the only roads, you might say, that we shipped by; in fact they are the only roads running into Montreal. There are others running in there, such as the New York Central, Delaware and Hudson, and some others, but they come in over the Grand Trunk tracks or the Canadian Pacific.

THE MICHIGAN CENTRAL LOSES STANDARD BUSINESS.

Q. How about the Michigan Central?—A. They come as far as Hamilton, but not any farther.

Q. Was there any discrimination made to Hamilton and through that part of the territory?—A. I might say the Michigan Central would not go in for increasing these freight rates. You might call it a deal, whatever you like. The exact result—they told our people that the Standard Oil Company trust had taken all their freight away from the Michigan Central. Nothing is billed over the Michigan Central, and the Michigan Central is still giving us a decent freight rate, what it was formerly, previous to October, 1898.²

¹ See Mr. Westgate, pp. 375, 378, 379.

² See Mr. Westgate, p. 379. Compare the case of the Little Rock and Memphis, p. 711.

Q. You think there was a formal agreement between the Grand Trunk and Canadian Pacific to put up the freight on oil, but none of the other roads came into the agreement?—A. No, none of the others came in; no other had anything to say about the matter; they were the only ones that could bring it into Montreal and other points; the only two through lines we have.

Q. You say you are informed by the Michigan Central Company that the Standard Oil Company have taken away their business since this. Did that information come from one of the officials or from some one in authority?—A. It did, although I am not prepared to say who it was from.

SUPPOSED SPECIAL RATES TO THE STANDARD—COMPLAINTS TO THE CANADIAN GOVERNMENT.

Q. Will you explain somewhat further in reference to through freight rates?—A. Of course we were not satisfied with the way the matter was handled in February last, so we made a further complaint to the railroad committee.

Q. Will you be kind enough to read this complaint and put it in evidence so that we can have it exact?—A. I will. I might say I took this matter up with Mr. Blair, minister of railways and canals, and he wrote me on May 15 last as follows:

OFFICE OF THE MINISTER OF RAILWAYS AND CANALS,
Ottawa, May 15, 1899.

GENTLEMEN: I have your favor of May 12 before me, and note its contents. If you have found any good reason to believe, as I infer you have, that the C. P. R. and the G. T. R. are carrying the Standard Oil Company's products at a lower figure than they are proposing to charge you, and if you make such an allegation and ask us to investigate it, the railway committee will summons such witnesses to Ottawa as you may think, or we conclude, will on oath be compelled to acknowledge the facts. We will not permit the C. P. R. or G. T. R., or any other railway, to tell us that it is none of the business of the public to ascertain whether there is discrimination or preference. It is essentially our business to see that it is not permitted. I will have the deputy minister ascertain, beyond this, whether there are any facts in his possession with regard to the tariff, or which he can procure, of which I can acquaint you.

Yours, faithfully,

ANDW. G. BLAIR.

GALL-SCHNEIDER OIL Co., *Montreal.*

The WITNESS (reading statement). Now, this is our complaint:

To the Railway Committee of the Privy Council:

The complaint of the Sun Oil Refining Company, Limited, and the Gall-Schneider Oil Company, Limited, with reference to the tolls charged by the Grand Trunk Railway Company, of Canada, and the Canadian Pacific Railway Company, upon petroleum and its products, humbly sheweth—

Your complainants are companies incorporated under the laws of the Provinces of Ontario and Quebec, respectively, for the manufacture and sale of petroleum and its products, and have their places of business and manufactories at Hamilton and Montreal, respectively.

Your complainants necessarily import from the United States large quantities of petroleum and its products.

According to the uniform classification of freight prescribed by the Governor in Council under the railway act, and now in force, illuminating oil and lubricating oil in wood are classed as fifth class for car lots and third class for less than car lots.

1. The said railway companies under like conditions and circumstances are naming unjust and partial discriminations between different localities.

2. The said railway companies are giving secret special toll rates, rebates, and concessions to the Standard Oil Company and persons and corporations affiliating with them on freight carried over their respective roads.

3. The said railway companies have been since October 1 last, and are at the present time, discriminating with regard to freight rate charges in favor of the Standard Oil Company and others affiliating with them against independent shippers, and all oils shipped by the Standard Oil Company and said other persons and companies from all points in the United States coming into Canada are carried at a less rate of freight than the same class of goods shipped by the independent refiners competing against the Standard Oil Company and said other companies.

4. The said companies are at present and have been since October 1 last charg-

ing 85 cents per 100 pounds from Buffalo and Suspension Bridge to Montreal, as per their tariff issued at Montreal,¹ while they charge only 25 cents per 100 pounds from Sarnia to Montreal on the same class of goods, notwithstanding the fact that the distance from Sarnia to Montreal is 77 miles more than that from Suspension Bridge to Montreal.

5. On all oils shipped from Buffalo and Suspension Bridge to Montreal by the Standard Oil Company and its connections the said railway companies are giving a secret rebate or reduction.

6. Shippers not connected with the Standard Oil Company and its connections are charged on shipments from Suspension Bridge to St. John, New Brunswick, on carload lots, 45 cents per 100, while shippers from Sarnia are charged 80 cents per 100, although the distance from Sarnia is 77 miles greater than from Suspension Bridge to St. John, New Brunswick.

7. On all other points on the international boundary to which shipments of oil are made the same discrimination was made in favor of and rebate given to the Standard Oil Company and companies and persons affiliating with them, against their competitors.

8. By reason of the facts herein complained of, your complainants have sustained loss and are greatly impeded in the transaction of their business.

9. Your complainants therefore submit that an order should be made directing the said railway companies to discontinue those illegal acts, and to refund all overcharges which they have so collected from your said complainants.

And that such further order may be made with reference thereto as to your committee may seem meet and the circumstances of the case may require.

And that for the purpose aforesaid full inquiry into the matters herein complained of may be made.

Dated at Hamilton, June 7, 1899.

THE SUN OIL REFINING COMPANY OF HAMILTON, Limited.

THE GALL-SCHNEIDER OIL COMPANY, Limited,

By

STAUNTON & O'HEIR, *their Solicitors.*

Q. (By Mr. JENKS.) I note that you speak of secret rebates that have been given to the Standard Oil Company. Did you have any positive proof that secret rebates had been given?—A. We hope to be able to establish that fact if we get the right men before the railway committee. I have good reason to believe and do believe that such is the case.

Q. But as yet you have not brought that out?—A. As yet I have not brought that out.

Q. Does the Standard Oil Company ship any American oil into Canada?—A. They do; but very little in comparison with former years.²

Q. Their expectation, apparently, is to supply the Canadian market with the oil there, in which there is the largest profit?—A. Yes; so long as the duty remains as it is.

Q. Have you any reason to think that for the American oil which they do ship into the country they pay any less rate of freight than you do?—A. I certainly do, and I have a good reason to believe so.

Q. The main charge, however, is this, that discrimination is made between American and Canadian oil to the detriment of those people who are dealing in American oil?—A. No; we do not charge that exactly. We charge that the Standard Oil Company and companies connected with them are getting a lower freight rate than we do, or at least than the independent shippers do.

Q. In every way and over all the roads?—A. Well, very nearly; anywhere and everywhere.

Q. (By Mr. FARQUHAR.) You mean on Canadian oil?—A. Any oil. There is nobody else handling Canadian oil except themselves. You can not buy a gallon of oil unless they see fit to sell.

THE STANDARD WILL NOT SELL IN CANADA EXCEPT TO THOSE WHO AGREE TO BUY ONLY FROM THEM.

Q. (By Mr. JENKS.) Do you know whether they refuse to sell Canadian oil to anyone; for instance, have you offered to buy?—A. I have tried to buy, and they refused to sell.

Q. As a matter of fact you can not get any Standard Oil Company products to handle?—A. We can not get any to handle unless we get it from an outsider.

Q. Does this same fact in reference to their refusing their products apply to the Sun Oil Company, of Hamilton?—A. Yes; precisely the same.

¹ See Mr. Westgate, p. 378.

² See p. 660, as to importations by independents; Mr. Page, p. 738.

Q. And all others except those formally recognized as their agents?—A. Yes; those who buy exclusively from them.

Q. Have you any knowledge of that fact, that they insist upon their dealers making an agreement that they will buy only from them?—A. Yes.

Q. You have positive information of that fact?—A. They have asked me two or three different times—sent a man to us, and asked us to buy all our stuff from them and stop this inquiry and all that kind of thing, which, of course, we refused to do.

Q. (By Representative LIVINGSTON.) What inducement did they offer you to do it?—A. Well, they wanted to charge us about twice what the stock is worth, and to cripple us as soon as they could; that was about the inducement, but they did not put it in that form. They offered us no inducement whatever.

IS IT TO 'PROTECT THE CANADIAN INDUSTRY'?

Q. (By Mr. FARQUHAR.) Is there evidently a policy on the part of the Canadian roads to build up Canadian oil as against the American product by making the rates they do?—A. I asked Mr. Bosworth, general freight agent of the Canadian Pacific, and he replied that he wanted to protect the Canadian industry.

Q. Has not that been the plan of your government in making as much discrimination as it could against the American product?—A. In past years it has been; I can not say it has been under the present government.

Q. Is it not of advantage to the Grand Trunk and Canadian Pacific to take the through rate and a short haul on the Canadian lines with the Canadian market in preference to prorating with American lines in competition south of the St. Lawrence?—A. It certainly is not; I can not see where it comes in, because on oils it is only a distance of 75 miles less.

Q. (By Representative LIVINGSTON.) Is it not done as a retaliatory measure entirely?—A. I do not think it is.

Q. (By Mr. FARQUHAR.) Has it not been the policy as announced in the Canadian press, and declared by your ministers, to take care of your products as against anything imported across the line?—A. Well, it was previous to the present administration. I can not say such is the case at the present time.

Q. Do not the two roads there that are backed up by foreign capital, Canadian capital, and subsidized, uniformly make rates to the Canadians to the disadvantage of the Americans?—A. That is what they have done, if you look at it that way.

Q. (By Mr. SMYTH.) Does the Standard Oil Company produce crude petroleum in Canada?—A. Well, men connected with the Standard Oil Company do. The Standard, as a company, owns very little.

RISKS OF STARTING AN INDEPENDENT REFINERY—NOT MUCH RISK TO THE STANDARD.

Q. They are simply refiners, are they, in Canada?—A. Yes.

Q. Can not anyone buy that crude petroleum in Canada?—A. They can; yes.

Q. And they could refine it if they wanted to?—A. If they felt so inclined they could.

Q. Then when you say no one can buy Canadian refined oil except with the permission of the Standard Oil Company, it is because they do not choose to refine it?—A. Anyone who is familiar with the Standard's operations in the past would think twice before he put up a refinery in Sarnia, or anywhere, to refine Canadian oil.

Q. (By Representative LIVINGSTON.) If they did, tell us what the Standard Oil Company would do with them, judging the future by the past?—A. I suppose they would lower the price at certain points and run them out of business as fast as they could. Then there is the uncertainty about the duty. The government, it is expected, will remove the whole or part of that duty, and if they did, a refinery in Canada would not be worth much.

Q. (By Mr. SMYTH.) Then the Standard Oil Company in buying those refineries in Canada have taken a very big risk if they gave \$65,000 for a refinery that was only worth \$10,000?—A. They have made that 10 times over in the last 3 months.

Q. (By Representative LIVINGSTON.) They have the railroads in Canada subsidized or under their control, have they?—A. I think they have.

Q. Then they do not take much risk?—A. I do not think they do.

Q. (By Mr. SMYTH.) They take the risk of the tariff, and you think that no one would invest in the refinery?—A. That is, an outsider. The Standard Oil Com-

pany is a different concern altogether from any private individual. It is not run on what are known as business principles at all; at least, not what might be called honorable.

CRUDE OIL HAS BEEN HIGHER—REFINED WAS NEVER SO HIGH.

Q. Do you consider that the price of crude oil has advanced to \$1.60 as against \$1.40 and \$1.80?—A. Of course, as I said before, I do not know much about the refining part of it, but it strikes me that a difference of 20 cents a barrel does not warrant an advance of 5 or 6 cents a gallon on the refined product.

Q. But it has only been advanced from 14½ cents; that is not 5 or 6 cents a gallon?—A. But in past years crude oil has been a great deal higher than it is; and the price of oil never was known to be as high. I do not remember of oil being as high as it is to-day. In 1896 crude oil was as high as \$1.72, while oil was selling for 14½ cents delivered in Montreal.

Q. Do you think there is any profit in it? Were not business conditions very much depressed in 1896? Is there not very much more margin of profit in all business to-day as compared with 1896?—A. There is for some people, the Standard Oil Company in particular. We do not find it so.

Q. Now, do I understand you that the Standard Oil Company is the sole buyer of crude oil in Canada?—A. They are.

Q. And yet they have advanced the price from \$1.45 to \$1.60?—A. Yes; that is done to encourage production, because they find, as I explained before, that it pays them better to refine Canadian than it does to import the American. They want to increase the production because it pays them much better to do so.

Q. Have they not really bid against themselves in raising the market price from \$1.45 to \$1.60 for crude?—A. They have.

Q. (By Representative LIVINGSTON.) But you say while they have done that they make more money by it?—A. They certainly do.

Q. (By Mr. SMYTH.) At the same time the producer of crude petroleum is getting 15 or 20 cents more per barrel than he got before?—A. But he is getting 12 cents a barrel less than he did in 1896, and the dealer is paying 2½ to 3 cents a gallon more for his refined oil.

Q. That may be, but the business conditions may be very different.—A. Yes; they are. It is the Standard Oil Company that is running the business now; that is the difference.

PRODUCERS VERSUS CONSUMERS.

Q. (By Mr. PHILLIPS.) Do you state that the Standard Oil Company had to put up the price of oil in order to induce development? There are a large number of persons outside of the Standard Oil Company that are engaged in the producing business in Canada.—A. Yes.

Q. Do we understand, then, that they put up the price of oil in order to increase production, because there was a much larger profit in refining Canadian oil than in importing American oil?—A. That is precisely the idea, as I understand it, and as it is generally understood; that they advance the price because it pays them so much better a profit to refine the Canadian product than to import the other, because there is a duty of 5 cents.

Q. (By Mr. SMYTH.) But the effect in the oil-producing regions has been beneficial?—A. Yes.

Q. It has caused more wells to be drilled?—A. Yes. There is a market for much more oil in Canada than is produced there, and they want to benefit by it, I suppose.

Q. But the people are benefiting by it also, are they not?—A. Some of them, I suppose, do, and some do not.

Q. Well, they are producing more oil and getting a higher price for it?—A. I do not know that they are producing more oil. They may be, but, anyway, up to 1898 the production was about even.

Q. (By Representative LIVINGSTON.) How is the consumer faring while that is going on; is he getting his oil for less money and making money by it?—A. No, sir.

Q. What is the ratio between the producer and the consumer as to population, as to numbers?—A. I do not know how many producers there are; there are quite a number of them, but I would not undertake to say.

Q. About 1 to 100?—A. No; not 1 in 10,000.

Q. Then where 1 in 10,000 is making money 9,999 are losing it?—A. Well, they are paying a good deal more for their light.

THE TARIFF ON OIL.

Q. (By Mr. FARQUHAR.) How long has this 5-cent tariff rate been in existence?—A. It used to be 7 and 6, if I remember right, although I am only taking it from memory; I think it was the late Conservative government that reduced it to 5; that would be the last session, in 1896. The present Liberal government said they were going to wipe out all these iniquities. They may be going to do it, but they have not done it yet.

Q. So the remedy lies with the Canadians in establishing a tariff that will admit American oil and bring the Standard's price down?—A. The remedy lies in that and in obliging the railways to carry petroleum products at a reasonable freight rate.

Q. You would say that these Canadian railroads, through establishing these tariff rates, discriminating in favor of Canadian oil, are carrying out the policy of the Canadian government, whether it is Liberal or Tory?—A. No, sir; most decidedly not.

Q. You think not?—A. No, sir; I think they were carrying out the policy of the Standard Oil Trust. I do not think it emanates from any other source.

Q. Then you would say that if they charge that 5-cent rate, and do not lower it to 3 or 2, and allow competition, the Canadian government is really in aid of the Standard Oil Trust?—A. Of course that has been standing for a long time—this duty. If they would remove that it would help us greatly, but while they allow the railways the monopoly of freight rates I do not know where they may put them to.

FREIGHT DISCRIMINATIONS (RESUMED).

Q. (By Mr. JENKS.) Do I understand you to say, in regard to local rates in Canada itself, that the railroads had all been compelled to put back the rate and make it the same on American oil as on Canadian?—A. Yes; they did.

Q. And the only discrimination now that remains against you in the Canadian rates is on the oil that is imported, on which there is a through rate from the United States?—A. Yes. Of course if we can not get through rates on the oil our stuff does not reach a local-rate town, and it doesn't amount to "shucks."

Q. (By Mr. SMYTH.) Have you evidence as to the rates of freight charged the Standard Oil Company from the United States into Canada, as compared with the rates you and other independent dealers in oil have to pay?—A. We have proved nothing yet. The railways say the freight is alike to them and all others, but we don't believe it, and we hope—in fact, we believe—that we can prove that such is not the case when we are given an opportunity to do so.

WAGES.

Q. (By Mr. JENKS.) Have you any information with reference to the rates of wages that are paid by the Standard Oil Company in their refineries as compared with the rates that were paid before?—A. No; I know nothing about that, except that I did hear that their men were complaining in Montreal, at their establishment there, that they had reduced their wages. Beyond that I have no definite knowledge.

Q. (By Mr. FARQUHAR.) Your last answer was hearsay; you know nothing about it?—A. Yes; from the men I know nothing about it.

INDEPENDENT IMPORTERS IN CANADA, AND WHERE THEY BUY.

Q. (By Mr. PHILLIPS.) Do the independents in Canada import more American oil into Canada than the Standard?—A. I do not know. I should not want to say that they import more, but the importations into Canada by independents have been largely increased during the past 15 months.

Q. What refining companies in the United States, independents, export or import their oil?—A. The Sun Oil Company and ours are the chief importers in Canada, and, in fact, the only ones I know of at the present time. We import all our stuff, or nearly all, from the Corn Planter Refining Company, in Warren, and the Warren Refining Company, in Warren, Pa. We also import some from the Craig Oil Company, in Toledo. We have bought a good deal from the Paragon Refining Company, in Toledo, and we have bought some from Scofield, Schurmer & Teagle, in Cleveland, I think.

AMERICAN OIL BETTER THAN CANADIAN, AND PENNSYLVANIA BETTER THAN OHIO.

Q. Is this oil that is bought by you, the independent oil, considered better than the Standard or equal?—A. From what I can learn from the consumers, the oil that we have been selling as American oil, which it was, is considered much better than what the Standard was selling them as Pennsylvania oil. As a matter of fact, I think they had been giving them for years the Ohio product and putting it off as Pennsylvania oil, although I have nothing to prove that by, except that the people have said that they considered what we were giving them far better.

Q. At the same price the citizens of Canada would buy of the independents in preference to the Standard, would they?—A. Every time. There is not 1 instance in 1,000 but they will give us the preference over the Standard.

Q. You speak of importing oil from Toledo, Ohio. That is what is called the Ohio or Lima oil, is it?—A. I think so.

Q. Do you sell that as Ohio oil?—A. Oh, yes.

Q. And you make a difference in price between the Ohio oil and the Pennsylvania oil?—A. Oh, yes.

Q. You sell them for what they are?—A. For what they are. We sold the Ohio oil last fall—that is, about this time last year—at precisely the same price that they were selling Canadian oil at. We were paying those excessive freight rates and 5 cents duty, but we still sold it at precisely the same price that they did, and we did not lose anything by it, although I admit we did not make much.

Q. (By Mr. SMYTH.) The Canadian public would not pay you more for that oil?—A. They would at that time, but they would not sometimes; but we did not want to ask them any more at that time.

Q. Is it not recognized in Canada among the consumers that the American oil is better than the Canadian?—A. It certainly is.

Q. And yet they will not pay more for it?—A. They will; but at that time we were not asking more for it.

Q. (By Mr. JENKS.) What difference do you make in prices between the Pennsylvania product and the Ohio product?—A. Well, generally about a cent or a cent and a half.¹

Q. (By Mr. SMYTH.) Do you sell much Pennsylvania oil?—A. Yes, we sell a lot of it.

Q. The parties you mention that you deal with were mostly Ohio people. Whom do you buy from in Pennsylvania?—A. From the Corn Planter Refining Company and the Warren Refining Company. I might say that the men who are interested in these two companies are also interested in our concern in Montreal, and also in the Sun Oil Refining Company, in Hamilton. Mr. Jameson is a shareholder in our company, and so is Mr. Todd, of the Corn Planter. They are also shareholders in the Sun Oil Company, in Hamilton.

CANADIAN OIL DUTY DISPROPORTIONATELY HIGH.

Q. (By Mr. CLARKE.) You think that the Canadian duties on American oil are disproportionately high; that is, higher than the duties on other products that are imported?—A. Oh, yes. Take, for instance, the oil that we bought in Ohio last year. It was worth about, say, 3 cents a wine gallon, and the duty was 5 cents a gallon on it. Of course, to-day Ohio oil is worth considerably more money, but the duty is still very, very high. I know of nothing in the whole list—there may be some things—but I know of nothing that compares with oil. And Mr. Fielding, in his budget speech last year before the house, said there was nothing he had any apology to offer for but coal oil. He did mention that, and said that he regretted he had not been able to remove any duty from that then. It was the only thing he apologized for, which would go to show that there was nothing else to compare with it.

Q. Have you figured out what the percentages of duty on oil and on other products would be?—A. No, I have not; but the duty generally goes all the way from 10 to 25, 30, and even 40 and 45 per cent; and even if it went to 50, it is still away behind the oil. I do not know of anything that comes anywhere near that.

Q. (By Mr. CONGER.) What is the percentage on the oil, approximately?—A. That would depend largely on the cost. We pay 5 cents a gallon regardless of the cost, unless it is an oil that costs over 25 cents a gallon; then we pay 25 per cent. Of course you know there are no oils sold for 25 cents, or very little, and hence we are not much concerned with that.

¹ As to the relative quality of Pennsylvania and Ohio oil, see Mr. Lee, pp. 275, 278; Mr. Archbold, p. 532; Mr. Emery, p. 324.

Q. (By Representative LIVINGSTON.) What is the price of crude oil in Ohio?—A. I do not know.

Q. What is the price of the crude oil that you buy this side of the line to-day?—A. We do not buy any crude oil; it is the refined only that we buy.

Q. What is the price of the oil you buy?—A. We have bought some for 8, 8½, and 8½, and lately we bought 3 tanks that cost us, if my memory serves me right, 5½.

Q. Then, at 5 cents' tariff, what is the percentage; isn't it over 100 per cent?—A. Well, that is over 100 per cent.

Q. (By Mr. CLARKE.) What was Mr. Fielding's reason for being unwilling to propose a reduction of the duty on coal oil?—A. As nearly as I can remember, he merely said that everything and everybody was prosperous or was prospering, and it was not advisable at that time to disturb any of the other industries, and hence he had not done anything with the coal-oil duty, because it would have been the only one that he would have wanted to touch at that time.

Q. It is a fact, is it not, that the Canadian government derives a considerable revenue from the importations of oil?—A. It does.

Q. And it needs that revenue—depends on it largely for government expenses?

Q. (By Representative LIVINGSTON.) Does the Canadian government want that tax for revenue, or what do they want it for?—A. That particular tax?

Q. Yes.—A. I do not think it needs it; I do not see why it does.

Q. (By Mr. CLARKE.) Do you not think the ministers consider that they need it?—A. From Mr. Fielding's own remarks I should not say that they thought they needed it. He did not say anything about it at that time.

Q. (By Mr. SMYTH.) Do you know how much it amounts to a year to the Canadian government?—A. No; I could not tell you. I suppose you could find out from this [producing book]. In 1898 there were 6,880,734 gallons, at 5 cents a gallon; just what that would amount to I have not figured out.

COST OF OHIO OIL, FREIGHT AND DUTY PAID, AND BARRELED.

Q. This oil that you bought in Ohio, you say, at 5 cents a gallon; what is the freight on it to Montreal?—A. Forty-three cents per 100, at the present time.

Q. How much would that be on a gallon?—A. I figure that it costs us 8½ cents on an imperial gallon.

Q. That would make it cost 13 or 14 cents?—A. It costs us more than that when we count the cost of barreling it. We have to barrel it, of course. After the 1st of October, 1898, they did charge us as high as 46½ cents from Toledo, and previous to that time the rate from Toledo was 29½ cents. We pay 43½ cents from Warren to Montreal; and before the Standard got control of the market we got a rate as low as 28 cents—that was no later than April, 1898—23 cents from Warren. But when you go and ask the railway people anything about it, they simply will not talk to you; they do not throw a man out, but they do the next thing to it; they will not have anything to say about it.

Q. You really could not sell that oil below 17 cents and make a profit on it after paying that high freight and paying the duty?—A. No; we can not sell it at that price to-day.

Q. The freight is double what it was a few years ago?—A. Almost.

Q. Forty-three and 28?—A. Forty-three is what they charge from Toledo now, although they did charge us as high as 46; and from Warren, which was as low as 28—that was in April, 1898—it is very nearly double.

Q. Then, one reason why the price of oil is higher in Canada to-day is the high freight charge?—A. Yes.

Q. And with the duty and the cost there is not very much profit in it at 17 cents?—A. There is no profit in it at 17 cents. We can not sell any Ohio oil at 17 cents. I figured it out. In barrels it costs us 17 cents an imperial gallon; so we can not do anything with it. We can not sell it for less than 18 or over, and make anything on it.

SUPPOSED RAILROAD DISCRIMINATIONS IN FAVOR OF THE STANDARD.

Q. Do you blame the Standard Oil Company for all that increase in the price of refined oil?—A. I do, so far as freight is concerned.

Q. You think they instigate that high freight from Toledo and Warren?—A. Yes. We knew nothing about this, mind you, from the railway companies. They are supposed to give due notice or post a notice in the stations, etc., as regards an advance of freight or any other notice of that kind; but we knew nothing about that. I heard of it first from our people in Warren. They had got

hold of it in some way or other—I do not know how—and I went up and for 10 days I tried to find out from the Canadian Pacific Railway what the freight was going to be, what the increase was going to be, and I could get no satisfaction whatever. It was in the afternoon of September 30, 1898, about half past 3, that they told me what the rate was going to be, and the Standard knew all about it, because their man was running around the office there as though he owned the office. Nobody else could get anything. They would tell you that they had no time; they would not talk to you and they would not listen to you about it. We could not get any information, although they knew all about it.

Q. That is your supposition, that they knew anything about it?—A. Well, I know as nearly as I know anything that they knew about it, because they got a large lot of oil in at that time, before these freight rates came up. Just why they brought that in I could not make out; but they must have known. Any amount of it came in about the 30th of September and along about the 1st of October, which must have been on the way at that time.

Q. You think that the Standard Oil Company pay the same rates from Pennsylvania and Ohio that you do?—A. No; I certainly do not; I do not think anything of the kind. The railways say they do, but I do not believe it.

Q. You think they absolutely pay it and there is a rebate?—A. Yes.

WATER ROUTES.

Q. (By Mr. JENKS.) Is any oil shipped in by water from Toledo?—A. Last year we had a lot of contracts on hand, and we had to fill them in some way. We could not bring in oil by rail to fill them, because the rate from Toledo to Montreal was advanced from 29½ cents to 46½ cents per 100 pounds, on October 1, 1898; and the only notice we had was given to us at half past 3 in the afternoon of September 30, 1898.¹ We brought in a schooner load of 1,500 barrels to fill our contracts. That was about the only barreled oil of any account that came in in that way. The Standard are now bringing in refined oil by water in tank vessels. They have been doing that for the last 3 or 4 months.

Q. (By Mr. CONGER.) Where do they bring that from?—A. I think the American oil is loaded in New York, because it comes up the St. Lawrence River. The Canadian they load at Sarnia, and bring it down through Lake Ontario and the St. Lawrence to Montreal.

LUBRICATING OIL.

Q. (By Mr. PHILLIPS.) Do you handle any lubricating oil in Canada?—A. Yes; that is the greater part of our business. We were forced to handle the lubricating oil almost exclusively, because we could not handle the other after the railways began manipulating the freight rates.

Q. Where do you buy lubricating oil?—A. Nearly altogether from Warren, Pa., from the Warren Refining Company and the Corn Planter.

Q. Is there any lubricating oil made in Canada out of the Canadian oil?—A. Yes.

Q. Can you state the amount?—A. There is quite a lot of lubricating oil made.

Q. Does it make as good a quality as you get from this country?—A. No. Of lubricating oil and tar there was made in 1898 868,957 gallons. That is much less than in 1896. In 1896, you will notice, it was 1,447,455. It has gone back nearly half. That, I think, is due to the fact that they find the American product much better than the Canadian; I do not know of any other reason.

Q. Perhaps they are refining more of the Canadian oil on account of the tariff?—A. Well, I do not know; the tariff was a little less in 1898 than it was—well, in 1896; it would just depend in 1896 on what time that stuff was brought in. There was nearly one-half more used in 1898 of the American than there was previous to that time; and there must have been a great deal more oil consumed in 1898 than there was in 1896, because it was increasing all the time. There are new industries and that kind of thing going on.

FREIGHT RATES RAISED BY CANADIAN ROADS, NOT BY AMERICAN.

Q. (By Mr. FARQUHAR.) Was there any other reason given at that time for the raising of the American freight rates on the roads that were prorating with the Canadian; did they give any business reasons for it?—A. No; the American roads did not increase their freight rates; our own Canadian roads did.

Q. On the through bill they added the Canadian tariff?—A. Yes, or they increased the tariff so much and made it up to what it is at the present time. The rate from Warren to Suspension Bridge is still 8½ cents; it was that before and it

¹ See Mr. Westgate, p. 373.

is yet; but the rate from Suspension Bridge to Montreal is 35 cents, making a through rate of 43½. The American roads remain precisely the same as they were before.¹

SAMPLING COMPETITORS' OIL, AND KNOWING COMPETITORS' BUSINESS.

Q. (By Mr. JENKS.) Have you any further statement that you would like to make on any points that have been omitted?—A. When our tank cars come in, the Standard Oil Company have a habit of sending their man and opening that tank car and taking a sample out of it to see what it contains. I have known this for a long time, but it was only a little while ago that I was able to bring them to time for it. They did it regularly, and I had hard work to catch them. Of course we were not wasting all our time standing along the siding looking after our cars, but I got them one day and I called their attention to it and they said it was a mistake. I had a letter from our foreman at Mile End complaining of the fact; however, that is no matter. They would take a sample down to their office and find out just what we had and deal with us accordingly. As a matter of fact, before I went into this company, before it was organized, we used to buy an occasional car load of American goods. That was before the Standard got control of the Canadian business. There were some American oils that we had to have any way, because they were better. And I remember one day that the Standard Oil Company's man came into the office, and he gave me the numbers of the cars and the number of barrels contained in them and what I paid for them. I knew him very well, and he jokingly said, "I know all about it," and he wanted to sell me the stuff. Well, how he knew it I must confess is beyond me.²

Q. (By Mr. SMYTH.) Do they open your letters?—A. Oh, no. (Laughter.)

Q. (By Mr. KENNEDY.) Are these employees and officials of the Standard Oil Company Canadians or Americans?—A. I do not know; I will give that up, too.

Q. (By Mr. SMYTH.) The opening of your tank cars must be done with the connivance of the officials?—A. No.

Q. (By Mr. KENNEDY.) Do you not know the nationality of the Standard people in Canada?—A. Some of them have been brought from here, and some of them are Irish, and others are Scotch; but whether they are British subjects or otherwise I do not know.

Q. (By Mr. SMYTH.) Do you not think the railroad officials must have known of these cars being opened and samples being taken from them?—A. They did, but, like myself, the agent at Mile End, where my stuff had come in—he knew it was going on, and he never had been able to catch them. When, however, our man found them at it he went and got the agent and brought him out, and showed him the man on the track. Corn Planter was written on the car in letters at least 18 inches long, and he never could have made any mistake about the tank; but they said it was a mistake. He got on the wrong tank. Of course, that was all right, as far as an explanation goes. Then they will persecute a man in every shape, manner, and form. They will send a man or men around to watch where you are delivering oil, and then they will send their salesman right there afterwards, and all such kinds of things.³ They do anything and everything. There is nothing but what the Standard trust will do; I do not care what it is.

Q. (By Mr. CLARKE.) You think, then, that they practically run your railroads and your government?—A. At the present time I will not say that much about the government, because I expect to have these things regulated a little; but they run the railways, that is sure.

Q. (By Mr. SMYTH.) How long have you been in the oil business?—A. About 11 years.

Q. How long since the Standard Oil Company has had the control of Canadian oil?—A. Since the latter part of July or the beginning of August of last year.

Q. (By Mr. FARQUHAR.) Previous to that, were they open competitors there in the refining and sale of oil?—A. Yes. There were 5 separate refineries, different concerns, in active operation at that time, and 4 others that were not active then.

FREIGHT RATES AGAIN.

Take the freight on other lines of goods. The Lake Shore tariff, No. 193, in April, 1895, shows sixth-class articles, carload from, 21½ cents per 100 pounds from Pittsburg to Montreal. In September, 1899, the rate is 19½, showing a decline of

¹As to the policy of the New York Central, see Mr. Westgate, p. 375, 379.

²See Mr. Monnett, p. 316; Mr. Westgate, pp. 367, 368; Mr. Emery, pp. 614, 615; Mr. Archbold, p. 573; Mr. Davis, p. 356.

³See Mr. Clark, pp. 335, 336, 341; Mr. Westgate, p. 386; Mr. Emery, p. 629.

2 cents per 100 pounds. I do not know why it went up on oil. I know why, but there is no reason for it. I offered to guarantee them 400 tank cars a year—made the offer in writing to the Grand Trunk. The reply was this, dated the 5th of July, 1899:

"Freight rates on oil.—Replying to your favor of the 30th ultimo and previous conversation, I have now had an opportunity of discussing this matter with our general traffic manager and beg to advise you that we are not prepared to make any modifications on our present rates for oil.

"Yours, truly,

J. W. LOUD."

They simply will not listen to you at all or give you any satisfaction whatever. These same railroads have been built largely with the people's money. The Canadian Pacific Railway, for that western extension through to Winnipeg and the coast, have got some 20,000,000 acres of land and about \$30,000,000 in money; and the land is worth all the way from \$3 to \$10 an acre to-day in Manitoba and the Northwest. It gives you some idea of whether that road cost them very much or not.

Q. (By Mr. SMYTH.) You do not think this is altogether political action on the part of the Canadian government, influencing the railroads, in the way of retaliation, to keep out American products?—A. I do not think anything of that kind. I have not any such idea at all, and I do not think anybody else in Canada has.

Q. You do not believe the railroads get all the freight they charge?—A. No; I do not. I think part of it goes back to the Standard Oil Trust; that is my opinion.

Q. But you have no proof of that?—A. We have not. Of course there are lots of things we have got that I could have given you more information about if I had come before you later; but we have not proved those facts yet. We are sure enough that we have got information, but it is rather a serious thing to do that unless you know you are right.

Q. (By Mr. FARQUHAR.) As far as you know, then, you have to pay practically the same freight as the Standard?—A. The railways say that.

Q. So far as you know, I say.—A. So far as I know.

CANADIAN RAILROAD LAW—POWERS OF THE RAILWAY COMMITTEE.

Q. (By Mr. SMYTH.) Is there any law in Canada against rebates by railroads?—A. Well, yes; I do not know what it is, but they have laws governing these things; but the trouble is there, as it is elsewhere, it is pretty hard to handle these things and enforce them. You just fancy a concern of no more magnitude than our own tackling the Grand Trunk and the Canadian Pacific on questions of that kind!

Q. (By Mr. FARQUHAR.) You spoke of the railway committee. Do you know what scope and power that committee has?—A. Well, they have, as near as I know, control of all such matters as freight rates, crossings of railways, and passenger rates, and in fact anything of that nature that concerns the general public and the railways.

Q. Are their findings and judgments final?—A. No; I think it is merely a court of inquiry.

Q. Investigation?—A. Yes, and they can order the railway to do so and so; but I do not for a moment think that if we prove all that we have said, the Canadian Pacific Railway or the Grand Trunk either will obey that decision. We should have to go to work then, I suppose, to have it enforced, which would mean a long time, and be of practically no use to us at that time when we got it.

Q. (By Mr. PHILLIPS.) Enforce it through the courts, you mean?—A. Yes, we should have to begin a civil action against them on the strength of the findings of the railway committee, because I do not think they would pay any attention to the railway committee.

COMBINATIONS FEW AND SMALL IN CANADA—SENTIMENT AGAINST THEM.

Q. (By Mr. KENNEDY.) Is there any sentiment in Canada against these large industrial combinations?—A. There is, and the Globe newspaper, which is supposed to be the official organ of the present administration, has been hammering away at industrial combinations, particularly the Standard Oil Trust.

Q. Have you industrial combinations in Canada similar to those in this country and England?—A. Oh, we have not anything of any account. The oil business is a kind of a monopoly, and so is the sugar business; but that is due to the duty, and so on. There are a few of what we might call monopolies or trusts, but they

are very insignificant and small. They do not amount to anything outside of the oil business. It is something new to our people there, that kind of thing, and we have to thank the Standard Oil Company for introducing it.

Q. Are the people disposed to seek redress through legislation?—A. I think that if the present government do not alter things in some way so that the people will not be at the mercy of these trusts, or the oil trust in particular—well, I think that that will be one means of defeating them at the next election. That is about the only thing that is spoken of; this freight discrimination and the duty on oil and binder twine and a few things like that. I might say that the present government said that if it was shown that there was any inclination to a trust, in any manner whatsoever, they would immediately remove the duty on the articles complained of. They committed themselves in that way; so I made a declaration to the effect that there was a combination in the oil business, and it was read before the House at its last session. They were going to consider it, and I suppose they are considering it yet. There was nothing done about it. This is the declaration that I made:

CANADA, PROVINCE OF QUEBEC, DISTRICT OF MONTREAL.

I, Andrew Downie Gall, of the city of Montreal, in the Province of Quebec, oil merchant, do solemnly declare that I am extensively engaged in the wholesale trade of coal oil, burning oil, and other oils in the Dominion of Canada; that all the petroleum oil refineries in Canada, at the present time, are under the control of the Standard Oil Company or Standard Oil Trust through the said company having acquired some outright and a controlling interest in others; that since acquiring the said refineries in Canada the Standard Oil Company, which is operating in Canada under the style of the Imperial Oil Company, Limited, has closed up some refineries, demolished others, and is operating only such as it sees fit; that no petroleum oil from Canadian refineries can be obtained to-day unless it is procured from or through the Standard Oil Company or the Imperial Oil Company, Limited, directly or indirectly; that it is quite apparent, and investigation will establish beyond doubt, that the said Standard Oil Company or the Imperial Oil Company, Limited, has so acquired and controls said refineries for the purpose of forming, and they have thereby formed, a trust or combination to unduly enhance the price of such oil and to unduly promote the advantage of the said company at the expense of the consumers; that the firm of which I am a member, and other firms engaged in the oil business, are compelled to buy in the United States and import therefrom our supplies of oil to supply our customers and the trade.

And I make this solemn declaration conscientiously, believing it to be true and knowing that it is of the same force and effect as if made under oath and by virtue of "The Canada Evidence Act, 1898."

A. D. GALL.

Declared before me at the said city of Montreal this 21st day of March, A. D. 1899.

[SEAL.]

B. A. DUNTON, *Notary Public*.

Testimony closed.

Whereupon, at 3.55 p. m. the commission adjourned until to-morrow morning at 10 o'clock.

WASHINGTON, D. C., November 11, 1899.

TESTIMONY OF GEORGE RICE,

Independent oil producer, Marietta, Ohio.

The commission met at 11.15 a. m., Senator Kyle presiding. At 11.15 a. m. Mr. GEORGE RICE was introduced as a witness, and, being duly sworn, testified as follows:

Q. (By Mr. JENKS.) Will you give us your full name and address?—A. George Rice, Marietta, Ohio.

Q. What is your business?—A. I am a moderate producer of oil at the present time.

PAMPHLET PREPARED BY THE WITNESS.

Q. (By Mr. CLARKE.) Have you prepared, printed, copyrighted, and published a pamphlet which purports to be testimony given, or to be given, before this commission?—A. I have.

Q. Were you under oath when it was prepared?—A. No, sir.

Q. Was it known to any officer of this commission that such a pamphlet was being prepared?—A. Yes; I notified Professor Jenks, and also the secretary, that I was getting up my testimony to be put in pamphlet shape; and I was also directed to send 2 copies here 2 days before the time I should appear, which I did.

Q. Were any questions asked of you or answered by you, in the preparation of this pamphlet, by members of the commission?—A. No, sir. Not any of the members that I know of asked me anything in regard to the preparation of it.

Q. Was any schedule of questions sent you?—A. No; nothing of the kind.

Q. Do you claim any right, then, to issue that pamphlet as in any sense authorized by this commission?—A. No, sir; I do not claim that they have authorized me in any shape or manner to issue this pamphlet. I have published it and copyrighted it on my own responsibility.

Q. Did any member of the commission know or have any notice of the contents, or proposed contents, of that pamphlet before you printed and published it?—A. Not that I know of; no, sir.

Q. You do not claim, therefore, that you have any right to in any way authenticate that by the use of the name of this commission?—A. No, sir; I do not claim any authority from the commission for the use of it.

Q. That is all.—A. I have not been authorized in any manner, shape, or form.

Q. (By Mr. JENKS.) I understand that you have a statement that you are prepared to make of your own accord in reference to the business of the Standard Oil Company. You may make that in your own way, subject to such interruptions as the commission may think desirable.

The WITNESS. My testimony, in the main, is in pamphlet form and I will proceed to read from it. Page No. 3. (the witness read as follows):

"I am a citizen of the United States, born in the State of Vermont. Producer of petroleum for more than 30 years, and a refiner of same for 20 years, but my refinery has been shut down during the past 3 years, owing to the powerful and all-prevailing machinations of the Standard Oil Trust, in criminal collusion and conspiracy with the railroads to destroy my business of 20 years of patient industry, toil, and money in building up, wholly by and through unlawful freight discriminations. I have been driven from pillar to post, from one railway line to another, for 20 years, in the absolutely vain endeavor to get equal and just freight rates with the Standard Oil Trust, so as to be able to run my refinery at anything approaching a profit, but which I have been utterly unable to do. I have had to consequently shut down, with my business absolutely ruined and my refinery idle. This has been a very sad, bitter, and ruinous experience for me to endure, but I have endeavored to the best of my circumstances and ability to combat it the utmost I could for many a long waiting year, expecting relief through the honest and proper execution of our laws, which have as yet, however, never come. But I am still living in hopes, though I may die in despair."

The witness offered, as exhibit, the following:

"MAGNITUDE OF THE PETROLEUM INDUSTRY.

"The magnitude of the petroleum industry of this country may be inferred by its being first in manufacture and fourth in value of our exports.

"Its total production in the United States for 40 years—1859, when discovered, to 1898, inclusive—per Government report, is 886,442,759 barrels of 42 gallons each. There was produced in the past 5 years—1894 to 1898, inclusive—279,129,467 barrels (about one-third of total), or an average of 55,825,898 barrels per annum, 152,947 barrels per day, inclusive of Sundays. The total average annual exports of values past 2 years—1897-98—was 990,399,183 gallons, valued at \$56,804,297. Total value of exports, 1864 to 1898, inclusive, \$1,445,941,156.

"The combined wealth of the railroads and trusts are jointly owned and used by railway and trust officials to absolutely control the internal commerce of this great nation and absorb unto themselves for their own private gain the immense profits to arise from off all producing interests and manufactured products by higher rates of freight through unlawful rebates or freight discriminations, to be increased as they see fit, through compulsory railway tariff exactions, underhand secret tribute and demands, that must absolutely be complied with if shipments are made."

There will be several exhibits in connection with that which I have just presented.

Witness includes exhibits as follows:

"STANDARD OIL TRUST OFFICIALS PRESIDENTS AND DIRECTORS IN ONE-FIFTH TOTAL RAILWAY MILEAGE OF THE UNITED STATES.

"I shall be able to fully prove to this commission a living and prominent example thereof, as embodied in the Standard Oil Trust, which has thus achieved its great wealth and power by dishonest and criminal methods in the unlawful use of our public highways, and through this means have become the largest owners in railway bonds and stocks; and to-day its officials are presidents and directors in one-fifth of the total railway mileage of the United States, all accomplished since 1872. This state of affairs is absolutely startling to contemplate—appalling, indeed, and as monstrous as it is infamous. This could not have been done except through one source, the railroads, whose officials have criminally conspired with Standard Oil officials for the past 27 years to give them their great power and unlawful, ill-gotten wealth.

"In 1887 the interstate commerce act was passed to stop these criminal conspiracies, but with 12 years' trial it has proved absolutely abortive.

"RAILWAY FREIGHT DISCRIMINATION IS THE FATHER AND BREEDER OF TRUSTS.

"I understand Mr. Havemeyer says that 'the tariff is the mother of trusts,' while I assert that railway freight discriminations is the father of them, the breeder of trusts, from which the greatest commercial evil of the present day arises. Although the tariff has its material effect, it is in no wise commensurate with the frightful freight discriminations; prominent example, The Standard Oil Trust.

"Under the tariff it is not questioned but that everyone pays the same duty, which is not the case in the payment of railway freights, for all competitors of the trusts must pay the enforced full tariff rates, jointly made by trust and rail officials, while trust freights are carried for nothing, one-fourth and one-half of the regular established rates, as is easily proved in the case of the Standard Oil Trust. There is no question in my mind but all recent formation of trusts and combinations, and in which Standard officials are largely interested, are based upon and permeated with the same general plans, and investors therein privately advised that necessarily great advantages will accrue and larger dividends be declared on watered stocks through freight discriminations in the concentration of freight.

"The Standard Oil Trust was the first industrial trust organized in this country, the originator and father of them all, from which all the rest have been bred. It is directly responsible for the formation of many subsequent trusts, because at an early date it lent its aid and support in the organization of other trusts, receiving therefrom large sums of money, to the extent of \$250,000 from some of them (Cotton Seed Oil trust) for a copy of the secret unlawful trust agreement,¹ decided illegal by two States (Ohio and New York), consequently all subsequent acts and resolutions changing into corporate form, etc., are regarded illegal.

"MAGNITUDE OF THE STANDARD OIL TRUST.

"The magnitude of the Standard Oil monopoly, as consummated and centered in the Standard Oil Trust, will be seen from the last enforced public utterance, in February, 1898, in which they really do admit having at least 20 corporations in the trust, capitalized at \$102,238,700, of which pipe-line companies represent over one-half—\$52,455,200.² In 1888 they reported 89 corporations in the trust, capitalized at \$47,880,200, or less than one-half of the combined 20, and \$5,000,000 less than the present capitalization of the pipe-line companies.

"At the market price in May of 500, on par of 100, represents a valuation of over half a billion of dollars.

"SINCE THEIR PRETENSE OF A DISSOLUTION, MARCH, 1892, THE STANDARD OIL TRUST HAS PAID OUT IN DIVIDENDS \$170,730,373.

"For the first 10 years of the Standard Oil Trust—1882 to 1892—it paid out in dividends more than double its entire capitalization in 1888. Since their pretense of a dissolution, March 21, 1892, and including September dividends, 1899, they

¹ See Mr. Page, p. 756.

² See Mr. Monnett, p. 301.

have paid 80 quarterly dividends of 3 per cent, or 90 per cent, and paid 77 per cent in specials (none paid previous to December, 1895), or a total of 167 per cent, and on a capitalization of only \$102,238,700 amounts to the sum of \$170,780,279.¹

"There could have been paid much larger dividends if net earnings had not been and were not now being used in the purchase of large blocks of producing properties, paid for out of surplus earnings to the extent of many millions of dollars. While this trust accumulated these immense dividends and extra surplus earnings, there is not an independent refinery in the country which can even pay a small dividend. No new refineries have been built for several years, owing to this monstrous condition of affairs, and no material additions made to the old ones. The independent refiner is simply struggling for an existence, in the hope that an overruling Providence may yet come to the rescue.

"The Standard Oil Trust now owns nine-tenths of all the local gathering pipe lines in the oil-producing regions, consequently purchases 90 per cent of all the crude oil produced, and thus absolutely makes the market price for this great product, dictating to the producer the price he shall take for his oil and to the consumer what he shall pay for the products thereof, and take whatever quality of oil they choose to give. This monopoly governs and controls production by its necessities, increasing the price when more oil is needed and reducing it when less oil is required, so that greater percentage of profits may accrue with less capital used between the lowest-priced crude possible and the highest price for the refined and not materially restrict consumption.

"The Standard Oil Trust dictates to the railway lines the compulsory tariff rates on petroleum its competitors must pay, while its own is carried at nominal figures, as was fully proven in my own experience when in business.

"1872—ATTACK BY THE TRUNK LINES OF RAILWAY ON THE PETROLEUM INDUSTRY, BY WHICH THE STANDARD OIL MONOPOLY WAS CREATED, AND WHICH CAUSED THE FORMATION OF THE STANDARD OIL TRUST, UNDER AND BY VIRTUE OF SEVERAL CONTRACTS MADE BY THESE ROADS WITH THE SOUTH IMPROVEMENT COMPANY, WHICH GAVE TO THEM THE MONOPOLY OF THIS GREAT INDUSTRY THROUGH RAILROAD REBATES OR FREIGHT DISCRIMINATIONS. COMPLETE CONTRACT.

"The origin of the Standard Oil Trust was the Standard Oil Company of Ohio, which was organized January 10, 1870, with a capitalization of \$1,000,000, increased to \$3,500,000 March 13, 1875, at which it now stands. January 2, 1872, was the advent of the Standard Oil monopoly, by the directors of the Standard Oil Company of Ohio organizing a fictitious corporation called the 'South Improvement Company,' with a nominal capital of \$200,000, whose sole aim and object was to make secret rebate contracts with the railroads, as subsequently will be shown, and was exposed in 1879 by the Hepburn investigating committee, of New York; and fortunate it was that these contracts happen to be in writing and are now upon the records to condemn the makers of them from time to eternity. The Standard Oil Company received the grossest discriminations in the form of rebates, not only upon its own shipments, but also a like amount on the shipments of its competitors.² These rebates ranged from 40 cents to \$1.06 per barrel on crude petroleum and from 50 cents to \$1.32 per barrel on refined.³

"JANUARY 1, 1872, THE STANDARD OIL COMPANY ONLY HAD 5 PER CENT OF THE PETROLEUM INDUSTRY AND ITS COMPETITORS 95 PER CENT, WHILE IN 1879 THIS WAS REVERSED.

"At this early date in the oil business its competitors had 95 per cent of the petroleum industry, while the Standard Oil Company had less than 5 per cent, so that the Standard Oil Company received 19 times more rebates per barrel from off the shipments of its competitors than it did from off its own shipments.

"Henry M. Flagler, secretary of the Standard Oil Trust, testified, in April, 1888, before a Congressional committee⁴ (page 288) that in 1870-71, just prior to the making of these unlawful rebate contracts—January 18, 1872—the refining capacity of the Standard Oil Company was 600 barrels a day. The average annual production of petroleum in the years 1870-71, per Government report, was 5,232,989 barrels, or an average of 14,836 barrels a day, showing conclusively by the testimony of one of the highest of Standard officials that the Standard Oil Company had control of less than 5 per cent of this great industry just previous to the signing of these nefarious contracts.

¹ See Mr. Monnett, p. 308.

² See Mr. Archbold, p. 579.

³ See the South Improvement Company contract, p. 612. See also Mr. Archbold, pp. 540, 559; Mr. Rice, p. 602, bottom.

⁴ See Fifth Congress, first session, House Reports, vol. 8. See p. 606 of the present volume.

"HENRY M. FLAGLER, SECRETARY OF THE STANDARD OIL TRUST, TESTIFIES THAT WILLIAM G. WARDEN, AN ORIGINAL TRUSTEE OF THE STANDARD OIL TRUST, AND THE LOGANS 'WERE THE GREAT LEADERS IN THE SOUTH IMPROVEMENT POLICY.'

"Mr. Flagler further testifies (pages 289, 290) that William G. Warden and the Logans, who were directors with him in the South Improvement Company, 'were the great leaders in the South Improvement policy' and in the next breath denies it by saying that Payne and himself, 'or anyone connected with the Standard Oil Company, had any confidence in or regard for the scheme known as the South Improvement Company,' and that 'the company never did a dollar's worth of business and never had any existence other than its corporate existence,' while William G. Warden, its secretary, testifies, on March 30, 1872, before a Congressional committee, that its purpose was to refine oil and get 'all the refineries in the country into the company;' also gives the names of its 13 directors, as follows:

"Q. Where did that company intend to refine oil?—A. Their calculation was to get all the refineries in the country into the company.

"Q. Was it the design of the stockholders to include all the oil refineries in this country?—A. Yes, sir; every one of them.

"Q. Can you give us a list of the stockholders in the South Improvement Company?—A. I can give you them from the minutes. They are as follows:

	Shares.
John D. Rockefeller.....	180
William Rockefeller.....	180
H. M. Flagler.....	180
J. A. Bostwick.....	180
W. G. Warden.....	475
O. H. Payne (treasurer).....	180
"Above were original trustees of the Standard Oil trust (1882).	
P. H. Watson.....	100
O. F. Waring.....	475
Richard S. Waring.....	10
Charles Lockhart.....	10
William Frew.....	10
John P. Logan.....	10
W. P. Logan.....	10

Original issue (par value, \$100)..... 2,000

"The original trustees of the trust, as above shown, held 1,375 of the 2,000 shares, or 70 per cent of its capitalization, while the balance of the shares were held by the officials of the Standard Oil Company.

"This proves absolutely and conclusively that ostensibly the South Improvement Company was to control all the refineries in the country, but in reality its only official purpose was to make rebate contracts with the railroads.

"THESE GROSS REBATE CONTRACTS WERE APPROVED BY THE BOARD OF DIRECTORS OF THE SOUTH IMPROVEMENT COMPANY, COMPOSED WHOLLY OF THE OFFICIALS OF THE STANDARD OIL COMPANY.

"Peter H. Watson, its president, testified, on April 5, 1872, before a Congressional committee, as follows (page 67, Rise and Fall of the South Improvement Company):

"Q. Was there any ratification by the company of your contracts with the railroad companies in its formal capacity?—A. Yes, sir. They were approved by the board of directors, as appears in the minutes, and as I am informed, it having been done in a meeting at which I was not present."

"This conclusively establishes the fact, by the testimony of the president of the company, that the above 13 directors of the South Improvement Company approved of these iniquitous contracts by a resolution of its own board of directors, as against the oft-repeated denials of some of these men that they were not in said company or had anything to do with these unpalatable and unsavory contracts; but this clear and indisputable evidence places the responsibility of the inauguration of this villainous and most infamous scheme where it properly belongs—with Standard Oil officials.

"John D. Rockefeller, president of the Standard Oil Trust, on February 27, 1888, testified, before a legislative committee of New York State, relative to trusts (page 419) that he was *not in it*, but Warden above and Flagler below say that he was.

“Had there been, previous to that, a trust company called the South Improvement Company?—A. No, sir.

“Q. There was such a company?—A. I have heard of such a company.

“Q. Were you not in it?—A. I was not.”

“H. M. Flagler, secretary of Standard Oil Trust, 2 months later, April 27, 1888, testifies before the Manufacturers' Committee of Congress (p. 289):

“Q. Do you remember what was called the South Improvement Company?—A. Yes, sir.

“Q. We have had in evidence here some facts relating to it. Who composed that company?—A. I can not recall the names of all the gentlemen who were supposed to be interested in it.

“Q. Tell us to the best of your knowledge.—A. The South Improvement Company was a matter brought to Mr. Rockefeller's and my attention perhaps 6 months before it was known publicly. Perhaps I shall ramble if I undertake to tell you all about it.

“Q. Precisely what I want to know is the names of all whom you knew to be connected with it.—A. William G. Warden, Charles Lockhart, William P. Logan, John Logan, J. D. Rockefeller, William Rockefeller, C. H. Payne, and myself, are the only names I recall.”

“Mr. Scheide, a former prominent official of the Standard Oil Monopoly, testified before the Hepburn Committee (p. 2766), as follows:

“Q. Was the Standard Oil Company and the South Improvement Company the same at that time?—A. The Standard Oil Company was part of the South Improvement Company.

“Q. The South Improvement Company at that time was the larger, comprehending the Standard Oil Company?—A. Yes, sir; it comprehended the Standard Oil Company and a dozen other different firms in Pittsburgh and Cleveland.”

“These most extraordinary contracts were the sole cause of the creation of the Standard Oil Monopoly, and the subsequent formation of the Standard Oil Trust, and the inauguration of subsequent trusts.

“These contracts were signed by the trunk lines of road and Peter H. Watson, representing the Standard Oil Company, within 16 days after the organization of the South Improvement Company.

“It is a significant fact to note that Peter H. Watson, who signed these contracts on behalf of the Standard Oil Company, January 18, 1872, a few months later, July 9, 1872, was elected to the office of president of the Erie Railway Company, one of the trunk lines of this combine, and continued in office for the period of 2 years, until July 14, 1874.

“It is also a further most significant fact to note, that at the time these contracts were signed by the officers of these trunk lines of railway, they were cognizant of the fact they were dealing with a mythical organization, which did not even own a refinery, nor was it in possession of a single oil well.

“It is difficult to conceive of a more malicious scheme to throttle competition, under the forms of law, and, if permitted to continue, sooner or later sounds the knell of liberty.

“BRIEF EXTRACTS FROM THE FREIGHT CONTRACTS.”

“To pay and allow to the party hereto of the first part, on all petroleum and its products, transportation for it over the railroads of the party of the second part and its connections, the following rebates, and on all transported for other parties, drawbacks of like amounts as the rebates from the gross rates, the same to be deducted and retained by the party hereto of the first part (Standard Oil Company),¹ for its own use, from the amounts of freights, payable to the party of the second part.”

“And it is hereby further covenanted and agreed by and between the parties hereto, that the party hereto of the second part (Pennsylvania Railroad Company),² shall at all times cooperate, as far as it legally may, with the party hereto of the first part (Standard Oil Company),³ to maintain the business of the party hereto of the first part against loss or injury by competition, to the end that the party hereto of the first part may keep up a remunerative, and so a full and regular business, and to that end shall lower or raise the gross rates of transportation over its railroads and connections, as far as it legally may, for such times and to such extent as may be necessary to overcome such competition. The rebates and drawbacks to the party of the first part to be varied *pari passu* with the gross rates.”

“The party hereto of the first part (South Improvement Company)⁴ from time to time shall notify the party of the second part, in writing, of the change required.

¹ See pp. 610-616 for the most important parts of the South Improvement Company contract.

² The words in parenthesis are comment by Mr. Rice.

whereupon the party hereto of the second part (Pennsylvania Railroad Company)¹ shall forthwith make a corresponding change of such gross rates.

"It is further mutually agreed by and between the parties hereto that this agreement shall continue and remain in force for the period of not less than 5 years; and shall not then nor thereafter terminate until one of the parties shall have given 12 months' written notice to terminate it."

"South Improvement Company, party of the first part, by Peter H. Watson, president (president of Erie Railway Company 1873 to 1874)."

"Parties of the second part:

"Pennsylvania Railroad Company, J. Edgar Thomson, president, and for the Pennsylvania Company, Philadelphia and Erie Railway Company, Northern Central Railway, Allegheny Valley Railroad, Camden and Amboy Railway.

"The New York Central and Hudson River Railroad Company, William H. Vanderbilt, vice-president, and for the Lake Shore and Michigan Southern Railway Company.

"Erie Railway Company, Jay Gould, president, and for the Atlantic and Great Western Railroad Company."

"(Original contract, Pamphlet B, p. 7, George Rice.)

"Frank Rockefeller, brother of John D., on July 7, 1876, testified before a Congressional committee against his brother (per following extracts), and fully confirmed the results of the disastrous effects of the above contracts by saying that John D. Rockefeller and Henry M. Flagler told him, 'If you don't sell your property to us it will be valueless, because we have got advantages with the railroads' (tactics of Jack Sheppard, Claude Duval):

"Q. Do you know how many refiners there were in Pittsburg prior to this alleged combination?—A. I have been told there were 60 and odd refineries.

"Q. How many are there now?—A. I was told by the same parties that there were now less than 20, and very few doing any business.

"Q. (By Mr. REGAN.) What is the cause of that reduction in the number of refiners?—A. I suppose the main cause has been the fact that they could not make money. I have understood that the same lever was brought to bear upon them as upon the Cleveland refiners. We had in Cleveland at one time about 80 establishments, but the South Improvement was formed and the Cleveland companies were told that if they didn't sell their property to them it would be valueless; that there was a combination of railroad and oil men; that they would buy all they could, and that all they didn't buy would be totally valueless, because they would be unable to compete with the South Improvement Company, and the result was that out of the 80 there were only 4 or 5 that didn't sell.

"Q. From whom was that information received?—A. From the officers of the Standard Oil Company. They made no bones about it at all. They said, "If you don't sell your property to us it will be valueless, because we have got advantages with the railroads."

"Q. Give the names?—A. J. D. Rockefeller, H. M. Flagler, and O. H. Payne.

"Q. (By Mr. Ross.) Mr. Payne is the son of the member of Congress of that name?—A. Yes, sir.

"Q. Have you heard those gentlemen say what you have stated?—A. I have heard Rockefeller and Flagler say so. Other parties have told me that Payne has used the same argument with them.

"Q. What other parties?—A. I won't give you the names now. There are some 20 men in Cleveland who sold out under the fright, and almost any of them will tell you that story.

"Q. Give us the names of some of those that sold out?—A. J. W. Faucett, of Cleveland; W. C. Scofield, Joseph Stanley, John Chritchely. Those are some of them."

"I also refer to the testimony of John Alexander, W. H. Doane, Charles I. Morehouse, and Isaac L. Hewitt, who sold out one-third to one-half of the cost of their refineries (B. 18-19).

"FREIGHT RATES DOUBLED WITHIN 30 DAYS AFTER SIGNING OF THESE CONTRACTS IN ORDER THAT THE REBATES MIGHT NOT BE SO DISPROPORTIONATE TO THE TARIFF CONTRACT RATE.

"On February 26, 1872, 30 days after these iniquitous contracts were made, freight rates on petroleum were doubled, and on oil only (South Improvement pamphlet, p. 5), by which these most extraordinary of rebates would not seem so disproportionate to the tariff rates.

"In this connection it might be well to state that the charter of the South

¹ The words in parenthesis are comment by Mr. Rice.

Improvement Company was repealed by the legislature of Pennsylvania, under the intense excitement and universal indignation aroused against it throughout the oil regions from producers, refiners, and shippers of oil.

"On March 25, 1872, the same lines of railway, under threats of destruction of their properties, entered into an agreement with the independent refiners and producers of oil to give them equal rates and facilities as enjoyed by the Standard Oil Company, as follows:¹

"That all arrangements for the transportation of oil after this date shall be upon a basis of perfect equality to all shippers, producers, and refiners, and that no rebates, drawbacks, or other arrangements of any character shall be made or allowed that will give any party the slightest difference in rates or discrimination of any character whatever. * * * *

"And said rates shall not be liable to any change, either for increase or decrease, without first giving to William Hasson, president of the producers' union at Oil City, at least 90 days' notice in writing of such contemplated change.

"In the distribution of cars for shipments it shall be done without discrimination.

"On the basis as hereinbefore stated, the parties respectively agree to carry out the arrangements in good faith and work for the mutual interests of each other.

"In witness whereof the parties have hereunto affixed their signatures, this 25th day of March, A. D. 1872.

"For the Lake Shore and Michigan Southern Railroad Company, H. F. Clark, president.

"For the Erie Railroad Company, O. H. P. Archer, vice-president.

"For the New York Central and Hudson River Railroad Company, Wm. H. Vanderbilt, vice-president.

"For the Atlantic and Great Western Railroad Company, George B. McClellan, president.

"For the Pennsylvania Railroad Company, Thomas A. Scott, vice-president."

"It is important to note the fact that the above 90-day notice was never given in order that competitive shippers would understand that said agreement was honestly kept in full force and effect.

"Simon Sterne, counsel for the Hepburn committee, says that 'after the South Improvement Company was broken up these same terms and rebates were, without any open contract, substantially continued to the Standard Oil people.'

"George R. Blanchard, then second vice-president of the Erie Railway Company, on October 17, 1879, testified before the Hepburn committee 'that this agreement, although fully considered and agreed upon, lasted less than two weeks.' So that necessarily the same contract transportation rates and rebates continued indefinitely.

"TRUSTEES OF THE STANDARD OIL TRUST TESTIFY IN 1879 THAT THEY CONTROLLED 95 PER CENT OF THE OIL INDUSTRY, WHERE 7 YEARS PREVIOUSLY THEY ONLY CONTROLLED 5 PER CENT.

"In October, 1879, Henry H. Rogers, present trustee (p. 2615), and J. A. Bostwick, a former trustee (p. 2696), testified before the Hepburn committee of New York that the Standard Oil Company at this early date controlled 95 per cent of the entire oil industry of the United States,² when just previous to the making of these rebate contracts the Standard Oil Company only had 5 per cent of it, having acquired, by dishonest and unlawful means, within the brief space of 7 years 90 per cent more of this great industry, transforming and completely changing ownership from the hands of the many into the hands of a minor few, wholly through the connivance and conspiracy combination and acts of Standard and railroad officials.

"Moreover, while the Standard was thus building up its monopoly the railroads were at the same time destroying the value of their own properties, and the nonpayment of dividends and appointment of receivers in many instances were due to these unwise, illogical, and dishonest practices.

"The effect of these contracts was to carry Standard oil free and pay it a large bonus besides. Railroad freights were doubled that greater rebates might follow, while the consumer of petroleum became the victim, and was forced to pay, indirectly, untold millions of rebates in higher-priced oil and of a poorer quality

¹ Cf. p. 640.

² Mr. Blanchard's statement, with the context, is quoted on p. 642, footnote.

³ See the text of Mr. Rogers's and Mr. Bostwick's testimony, pp. 646, 647, footnotes.

through railway tariff exactions for the sole benefit of a few unscrupulous rail and trust officials jointly interested.

"Frank Rockefeller also testifies, July 7, 1876, that such prominent railroad men as William H. Vanderbilt, Amasa Stone, Devereaux, and John Newell, were stockholders in the Standard Oil Company.

"Q. You spoke a while ago of having personal knowledge of certain railroad officials having been stockholders in the Standard Oil Company—how do you know that?—A. I know it from the officers of the Standard Oil Company telling that they were stockholders.

"Q. Who are they?—A. William H. Vanderbilt, the vice-president of the New York Central Company, was at one time a stockholder in the Standard Oil Company; also Amasa Stone, of Cleveland, the general manager of the Lake Shore road, and I have very good reason for believing, though I do not know it, that Mr. Devereaux and Mr. Newell are both stockholders at the present time. Mr. Stone sold his stock some 2 years ago, at or before the time when he quit the railroad. He put his stock on the Cleveland market and sold it, and he is not, I believe, a stockholder to-day."

"And says he thinks that William H. Vanderbilt, Tom Scott, Devereaux, Newell, and other officials of the railroads received rebates.

"Q. (By the CHAIRMAN.) Give us the names of the officials of the railroads that you think received the benefit of this rebate.—A. Understand me. I don't say that they did get it. It is merely my opinion.

"Q. Give me the names of the gentlemen that you think do reap the benefit of that rebate.—A. I think that Mr. Devereaux gets it, and that Mr. Newell gets it, that Tom Scott gets it, and that Mr. Vanderbilt gets it, and other officers of those roads whose names are not in my mind at present."

"Also further testifies that rebates go into a pool and are divided up between the Standard Oil Company and railroad officials.

"Q. What do you mean by the pool—a pool among the railroads or among the oil men?—A. I don't give this as a positive fact, but, as I understand the arrangement, the New York Central, the Erie, the Atlantic and Great Western, the Pennsylvania Railroad, the Cleveland, Columbus and Cincinnati, and the Baltimore and Ohio roads have a pool—are combined for the purpose of shipping oil, and oil only—and in this pool the Baltimore and Ohio gets a certain number of barrels to go over its road, the Lake Shore so many to go over its road, and the Pennsylvania Company so many to go over its road from different points in the country, and on the oil that is shipped over these roads by the pool and the Standard Oil Company there is a rebate or a drawback from the shipment of so much, which is put into this pool, over whichever road the oil may go, and that rebate is divided up between the Standard Oil Company and the railroad officials.

"Q. The railroad officials, do you say?—A. So I understand it. I don't say that of my own knowledge.

"Q. Then it does not go to the railroads themselves?—A. No, sir.

"Q. But to the railroad officials?—A. To the railroad officials."

"It will be quite interesting to figure out in dollars and cents the amount of rebate money per barrel the Standard Oil Company received off the shipments of its competitors under these ironclad rebate contracts, it being made the medium to pay over into a trust pool the following gross competitive rebates, which were to be divided between rail and trust officials:

"REBATES OF \$7.00 TO \$20 PER BARREL TO RAIL AND TRUST OFFICIALS ON COMPETITIVE SHIPMENTS OF CRUDE OIL. THE AVERAGE MARKET PRICE OF CRUDE OIL FOR THIS YEAR WAS \$3.04 PER BARREL.

"On shipments of crude petroleum from any common point, Oil City, Union, Corry, Irvineton, so designated by the contracts, the open public tariff rates from said points to Cleveland and Pittsburg, where Standard Oil refineries are located, was 80 cents a barrel, while the underhand, secret rebate was 40 cents a barrel, so that the Standard Oil Company not only received 40 cents a barrel rebate on each barrel it shipped for its own direct use, while it additionally received from off the shipments of its competitors' a share in 19 times this amount, or \$7.60 per barrel, as against each barrel it shipped, which went into the rebate trust pool, as previously testified to by Frank Rockefeller.

"From said points to Baltimore and Philadelphia the open tariff rate on crude petroleum was \$2.41, to New York \$2.56, and to Boston \$2.71 per barrel, while the rebate to each point was \$1.06 a barrel, so that the Standard Oil Company not only received \$1.06 a barrel rebate on each barrel it shipped for its own use, but additionally received from off the shipments of its competitors a share in 19 times

this amount, or \$26.14 per barrel, as against each and every barrel it shipped, which was also dumped into the rebate trust pool.

REBATES OF \$9.50 TO \$25 PER BARREL TO RAIL AND TRUST OFFICIALS ON COMPETITIVE SHIPMENTS OF REFINED OIL.

"On refined oil, benzine, and other products of the manufacture of petroleum these secret rebates were greater, as the following will show:

"The open, public tariff rate under these contracts, from Cleveland and Pittsburgh to Baltimore and Philadelphia was \$1.85 per barrel; to New York, \$2. From Cleveland to Boston (Pittsburg left out), \$2.15 per barrel, while the rebates from and to all these points was 50 cents a barrel, so that the Standard Oil Company not only received 50 cents a barrel rebate on each barrel it shipped for its own use, but additionally received from off the shipments of its competitors a share in 19 times this amount, \$9.50 per barrel rebate, as against each barrel it shipped, which also went into the rebate trust pool.

"The tariff rates under these contracts from designated common points, such as Oil City, Union, Corry, Irvineton, where competitive refineries were located, was 92 cents per barrel more with less hauls to all seaboard points, as follows:

"To Baltimore and Philadelphia, \$2.77; New York, \$2.92; Boston, \$3.07 per barrel, while the rebates from and to all these points were \$1.32 per barrel, so that the Standard Oil Company not only received \$1.32 per barrel rebate on each barrel it shipped for its own direct use, but in addition thereto it received from off the shipments of its competitors a share in 19 times this amount, or \$25.08 per barrel, as against each and every barrel it shipped, which was also put into this rebate pool to be divided between rail and trust officials. The average market price per barrel of crude petroleum in 1872 was \$3.64, or 8.66 cents per gallon, while the average market price of refined oil for export in the same year was 24.9 cents per gallon, or \$12.45 per barrel, and this is how the Standard Oil monopoly has made oil so cheap to the consumer.

"These most extraordinary revelations seem incredible and beyond belief, but they are the facts as revealed by these contracts, and are plainly the sole cause of the creation of the Standard Oil monopoly, the Standard Oil Trust, and the formation of the present epidemic of trusts.

"Hon. Franklin B. Gowen, former president of the Philadelphia and Reading Railroad Company, had this to say before the Interstate Commission January 17, 1888:

"I remember well, in those halcyon days when Fisk and Gould controlled the Erie Railway and managed the Atlantic and Great Western Railroad, that an oil association made a contract with the railroad company which gave them a rate on oil, based upon the price at tide water, with a guaranty that a fixed rate per barrel profit should be made in handling it. The first year's business over the Atlantic and Western Railroad developed the fact that the hundreds of thousands of barrels transported under this contract brought not 1 cent into the treasury of the railroad for transportation, and that the railroad company had to pay, at the end of the year, 25 cents upon every barrel for the privilege of transporting it in order to make up the guaranty of a fixed profit to the dealer."

"TO TAKE EFFECT OCTOBER 1, 1874.—PLAN BY WHICH A COMBINATION OF RAILWAYS FORCE THE INDEPENDENT PIPE LINES OF THE OIL REGIONS TO SELL OUT TO THE STANDARD OIL MONOPOLY AT THE PRICE OF OLD JUNK, AND ALSO GAVE THEM ADDITIONAL DISCRIMINATIONS IN THE SHIPMENTS OF REFINED OIL, IN GROSS VIOLATION OF THE AGREEMENT OF MARCH 25, 1872.

"After the wholesale destruction of competitive oil refineries by the railroad rebate contracts of 1872, which absolutely gave the Standard Oil Company the monopoly in the manufacture of petroleum and of its rail transportation, achieved so easily and with such great success, that 2 years later (1874) it eagerly sought and again applied to the railroads for help to secure the control and monopoly of the local pipe-line transportation of petroleum in the oil-producing regions, which was easily accomplished by their mutual and trusted friend, J. H. Rutter, general freight agent of the New York Central and Hudson River Railroad Company. He issued a circular, to take effect October 1, 1874, as follows:

"From which shall be refunded 22 cents a barrel only on oil coming from pipes which maintain the agreed rates of pipeage."

"The agreed rates of pipeage could not, of course, be maintained by the independent pipe lines, which had to lower transportation rates in order to offset the exclusive 22-cent rebate advantage given to the Standard Oil Company, by which

¹ See the circular in full, p. 641.

² See Mr. Boyle, p. 424.

they were enabled to bid 23 cents a barrel more for crude oil and not lose anything. The resulting effects were that the old, established pipe lines had to succumb. They could not make money and were forced to sell out their properties at the price of old junk to those joint-interested railroad and Standard Oil conspirators.

"E. G. Patterson, before the Hepburn committee, August 28, 1879, testified as follows:

"A. The effect of it was that whoever was dealing through a pipe line which was receiving that 23-cents drawback from a railroad company, absorbed or crushed out the business of any opposition pipe line, by putting its buyers into the field and bidding the whole or a portion of that drawback, more for the product than those who were buying through another pipe line could, not receiving such a drawback."

"Simon Sterne, in his argument before the Hepburn committee, said as follows:

"After the Rutter circular appeared the independent pipe lines died off like sheep and were all bought up by the Standard Oil Company."

"As early as 1874 the Standard Oil Company was in possession of all tank cars and the terminal facilities of the railroads at the seaboard. (George Rice book, pp. 88, 89, 40.)

"Franklin B. Gowen's argument (p. 18) before the Manufacturers' Committee of Congress (1889) has this to say:

"At this time the American Transfer Company, according to the testimony of its owner, Mr. J. A. Bostwick (p. 386), was a corporation having from 50 to 75 miles of local pipeage, a capital of \$100,000, and no debt. And yet upon this small capital it received from the 3 trunk lines in 1878 the magnificent income of \$3,093,750, or 22½ cents upon the 13,750,000 barrels of oil shipped in that year, equal to a dividend of 3,093 per cent annually."

"1877-1878.—ATTACK BY THE RAIL LINES UPON THE EMPIRE TRANSPORTATION COMPANY, BY WHICH ITS REFINERIES, PIPE LINES, 1,000 TANK CARS, AND 400 RACK CARS WERE FORCED INTO THE HANDS OF THE STANDARD OIL COMPANY AT A RUINOUS PRICE.¹ FREIGHT RATES CUT TO 8 CENTS PER BARREL LESS THAN NOTHING DURING THE FIGHT, AND WHEN ENDED, COMPETITORS OF THE STANDARD OIL COMPANY WERE CHARGED \$1.90 PER BARREL, WHILE STANDARD OIL WAS CARRIED AT 11 CENTS PER BARREL, NET, IN TANK CARS, LUMP SUM, REGARDLESS OF WEIGHT—1,600 PER CENT DISCRIMINATION.

"The transportation tariff rates on refined oil to competitive refineries in 1878 was \$1.90 per barrel to the seaboard. The Standard Oil Company, through its well-trained railroad agent, J. H. Rutter, general freight agent of the New York Central and Hudson River Railroad Company, gave it a special freight rate on petroleum, Cleveland to New York, of \$60 per tank car, lump sum, regardless of weight, or 60 cents a barrel, average rate, from which there was deducted the transportation charge on crude oil from the oil wells to Cleveland and Pittsburg on the basis of 14 barrels of crude, at 85 cents a barrel, or \$4.90, as against 10 barrels of refined from Cleveland and Pittsburg to New York, at 60 cents a barrel, or \$6, leaving \$1.10, net, or only 11 cents a barrel paid by the Standard Oil Company, as against \$1.90 per barrel their competitors had to pay, or 1,600 per cent freight discrimination allowed them by the conspiracy acts of rail officials."

"1879.—ATTACK BY THE RAIL LINES UPON THE TIDE-WATER PIPE COMPANY TO CRUSH AND DESTROY IT IN THE INTEREST OF THE STANDARD OIL COMPANY.—THE TRUNK LINES OF RAILWAY AGAINST THE PHILADELPHIA AND READING RAILROAD COMPANY, BY WHICH RAIL RATES WERE REDUCED TO ONE-SIXTH OF A CENT PER TON PER MILE AND 'BARELY YIELDED THE COST OF THE FUEL FOR THE ENGINES."

"The fight against the Tide-Water Pipe Company⁴ would have succeeded but for the prompt financial support given it by the Philadelphia and Reading Railroad Company, of which Hon. Franklin B. Gowen was president.

"The Tide-Water Pipe Company, first projected seaboard pipe line, had contracted to get its oils to tide water by another and cheaper route to avoid the excessive discriminating freight rates constantly being imposed by the trunk lines of railway in the interest of the Standard Oil Company.

"The Tide-Water Pipe Company laid a 6-inch trunk line of pipe, 110 miles in length, from the Bradford oil regions to Williamsport (a station on the Reading Road), and, by a joint traffic arrangement between the Philadelphia and Reading

¹ Proceedings of the Special Committee on Railroads of the Assembly of the State of New York, 1879, p. 1392.

² See Mr. Archbold, pp. 512, 514; also p. 642, footnote.

³ See p. 718.

⁴ See p. 738; Mr. Boyle, p. 490; Mr. Emery, p. 630.

and the Central Railroad Company of New Jersey, had secured rates to the seaboard which were to be equal to the rates paid by the Standard Oil Company over the trunk line of railway, and on account of the fight freight rates were cut to 15 cents a barrel in favor of the Standard Oil Company, which barely yielded the cost of the fuel for the engines.

"EXTRACT FROM ANNUAL REPORT OF FRANKLIN B. GOWEN, PRESIDENT OF THE PHILADELPHIA AND READING RAILROAD COMPANY, TO THE STOCKHOLDERS.

"Within the last 2 or 3 years certain producers and shippers of oil, in order to reach the few refineries in the neighborhood of New York which yet remained independent of the Standard Oil Company, associated themselves as the Equitable Pipe Line Company, laid a local pipe to connect with a railway terminating at Buffalo, and shipped from the latter place crude petroleum in canal barges, via the Erie Canal, to the waters of New York Bay.

"As this avenue of transportation was closed during the winter, it proved ineffectual as a source of permanent supply, and in order to secure an outlet for the entire year, as well to Philadelphia as to New York, certain gentlemen interested in the Equitable Pipe Line associated themselves into a limited company, as the Tide-Water Pipe Line Company, limited, and, having secured the right of way, laid a 6-inch pipe line a distance of over 100 miles, from the Bradford oil region, in McKean County, Pa., to Williamsport, the terminus of the Catawissa branch of this company, and a contract was entered into between the Tide-Water Pipe Line Company, this company, and the Central Railroad Company of New Jersey for the transportation of the oil to Philadelphia and New York by rail from Williamsport.

"This attempt of the producers of oil to secure an outlet independent of the Standard Oil Company and the trunk lines was at once resented by both interests affected, and from the date of the completion of the pipe line to the present, every effort has been made by some of the companies interested to convert the profitable business of the transportation of oil into a losing one.

"The trunk-line rates on oil by rail have been so reduced as to yield at times but about one-sixth of a cent per ton per mile for its transportation, or about one-quarter of the actual cash cost, and for many months motive power which might have been most profitably employed in hauling remunerative traffic has been occupied with an enormous tonnage of oil which barely yielded the cost of the fuel for the engines."

"I also refer this commission to the report of the Hepburn committee of New York, January 23, 1880, investigating the Standard Oil monopoly, in which those astounding and celebrated rebate contracts of 1872 were exposed. The following are extracts of the report:

"In which these roads agreed to pay said company rebates on shipments to different points, ranging from 40 cents to \$3.07 per barrel."

"The roads transporting the refined oil shall refund to the refiners, as a drawback, the charges paid by them upon the crude oil reaching their refineries by rail; and the roads transporting through crude oil to the Eastern seaboard shall refund to the shippers 22 cents per barrel; both of said drawbacks to be paid only on oil reaching the initial points of rail shipment through pipes, the owners of which maintain agreed rates of pipage." By this agreement the roads carry crude oil from the oil regions to Cleveland and Pittsburgh and then carry the refined oil to the seaboard as cheaply as they would from the mouth of the well. Mr. Vanderbilt explains this (Testimony, p. 1596)."

"In June, 1879, the Tide-Water Pipe Line effected a connection with the seaboard and commenced shipping oil. Opposition, of course, was not to be brooked, and again the Standard called upon the railroads to protect them "against injury by competition," and again the railroads responded. On June 5, at a conference between the 4 trunk lines and the Standard people held at Niagara, the rate on crude oil was made to the Standard over the Erie and Central 20 cents per barrel (from \$1.40).³ The rates to Philadelphia and Baltimore were made the same. (See statement of Messrs. Rutter and Blanchard, exhibits, pp. 621, 622.) This reduction was made on the 5th of June, to take effect as of the 1st of June."

"The Standard got the 'plum;' and as a result it owns exclusively the terminal facilities for handling oil in Philadelphia and Baltimore.

¹ Report of Hepburn Committee, p. 4.

² *Ibid.*, p. 43.

³ "From \$1.40" is comment by Mr. Rice.

⁴ Report of Hepburn Committee, p. 45.

"It owns and controls the terminal facilities for handling oil of the 4 trunk roads. It owns and controls the pipe lines of the producing regions that connect with the railroads. It controls both ends of these roads. It ships 95 per cent of all oil. (Testimony of Bostwick, p. 2696; Rogers, p. 2615; Welch, p. 2675.)

"It dictates terms and rates to the railroads. (Testimony of Mr. Rutter, p. 2549, which is confirmed by Mr. Vanderbilt and Mr. Bostwick.)

"They can use the power here given them, and have used it to crush out opposition.

"This company also owns all the oil cars run on the Central Road.

"It has bought out and frozen out refiners all over the country.

"By means of the superior facilities for transportation which it thus possessed it could overbid in the producing regions and undersell in the markets of the world.

"Resting under the common-law obligation to treat all parties alike, they deliberately undertake to protect a certain company 'against injury by competition.'

"Thus it has gone on buying out and freezing out all opposition until it has absorbed and monopolized this great traffic, this great production, which ran second on the list of exports of our country.

"And yet all the trunk roads have grown into such relations with this oil combination that they were forced to forego all these millions they might have earned and look to the other produce of the country for their revenues.

"They bury their own interests in the interest of the Standard Oil Company and join in this war of rates to protect it 'against injury by competition,' whose business and transactions are of such a character that its members declined giving a history or description of it lest their testimony be used to convict them of a crime. (See testimony of Messrs. Bostwick, Archbold, Rogers, etc.)

"JOSHIAH LOMBARD, R. T. BUSH, GEORGE F. GREGORY, COMPETITIVE OIL REFINERS AT THE SEABOARD, TESTIFY IN 1879 WHAT A. J. CASSATT, NOW PRESIDENT OF THE PENNSYLVANIA RAILROAD COMPANY, AND TOM SCOTT, FORMER PRESIDENT, SAID TO THEM ABOUT THE STANDARD OIL COMPANY.

"Cassatt says to Lombard:

"That the Standard Oil Company was the only party that could keep peace between the trunk lines."

"He said "I can not trust," or, rather, he said "They are the only people that can keep harmony."

"I asked Mr. Cassatt if we shipped as much oil over the Pennsylvania Railroad as the Standard Oil Company whether we should have the same rate of freight. He said "No." I said "Why?" He said because they would not be satisfied.

"We asked him whether the discrimination against us would be larger if the rate of freight were high than it would if the rate of freight were low. He said yes; it would be."

"Also said:

"That if we built a pipe line he would buy it up for old iron in 60 days."

"He said there would be no peace or profit in the business until we made some arrangements with the Standard Oil Company."

"R. T. Bush to Mr. Cassatt:

"Q. That is, you asked Mr. Cassatt?—A. Mr. Cassatt, whether we should have as low a rate of freight as the Standard Oil Company or any other shipper. He said "No." We asked him why. "Well, in the first place, you can't ship as much oil as the Standard Oil Company." "Well, if we could ship as much oil"—I think Mr. Lombard put this question—"would we then have the same rate?" He said "No." "Why?" "Why, you could not keep the road satisfied; it would make trouble; you would not keep the road satisfied; you could not satisfy the roads; you could not satisfy the different trunk lines;" and he remarked, in connection with that, that the Standard Oil Company was the only party that could keep the road harmonized or satisfied."

"Well, you may lay all the pipe lines you like and we will buy them up for old iron."

"To Tom Scott:

"Q. Go back again to the interview with Colonel Scott and tell us more particularly about it.—A. They tried to make us believe and feel, I suppose, that we were getting our due proportion, when for some considerable time previous to this we had not been able to do any business in advance. We could only do business from hand to mouth. We could not sell any refined oil unless we absolutely had the crude oil in our possession in New York, and Mr. Lombard, one of our number, had sold a cargo of crude oil, I think, of 9,000 barrels, and Denslow &

Bush absolutely stopped their refinery for 8 weeks, consequently, in order to let their oil go to Lombard & Ayers to finish their vessel, because they would only get 3 or 4 cars a day; and we stopped our place for 8 weeks to give them our crude oil, all we could give—our proportion—in order to lift them out and get their vessel cleared.

“Q. At the interview between Colonel Scott and Mr. Cassatt and yourself, here at Philadelphia, did you gentlemen propose to build your own cars or provide yourselves with cars?—A. Yes, sir; we told Mr. Scott that if they hadn't sufficient cars on their road we would like to put some on, and he told us flatly that they had just bought out one line and they would not allow another to be put on; that if they hadn't cars enough they would build them.

“Whether we could have—if there was any means by which we could have the same rate of freight as other shippers got, and he said flatly “No;” and we asked him then if we shipped the same amount of oil as the Standard, and he said “No,” and gave the same reasons Mr. Cassatt had in New York.

“Q. Did he give you the information as to the rate of discrimination?—A. No, sir. All the information we got on that point was from Mr. Cassatt, in New York, when he stated that the discrimination would be larger on a high rate of freight than on a low rate of freight, which led us to infer that it was a percentage discrimination. That is all the point that I recollect we ever got as to the amount of the commission.”

“George F. Gregory to Cassatt:

“We asked him if we should have as low a rate of freight—we spoke a good deal of what had been printed in the newspapers in regard to rates, etc., and we asked him if we should have a rate of freight as low as the Standard Oil Company, and he said “No.”

“Mr. Lombard asked him if we could have the same rate of freight that the Standard had if we shipped the same amount of oil. He said “No; you can not.”

“Mr. Cassatt declined to state what the discrimination was. I said to him, “Is it a greater discrimination on a higher rate of freight than it is on a low rate,” and he said “Yes.” He said, “Well, I didn't mean to answer that question; but very well,” he said, “I have answered it.”

“Q. Please to state what you denominate the squeeze.—A. A squeeze or a scarcity of cars; that is what we called it; a difficulty in getting cars in sufficient amount; that is what I mean.

“Q. That is, Green Line cars, you mean, from Mr. Brundred, as agent of the Pennsylvania Railroad?—A. Yes, sir.”

“This ought to be sufficient to briefly summarize how the Standard Oil Company acquired its monopoly of the petroleum industry and still holds it with a bulldog grip, and by its actions considers all competitors as interlopers or outlaws. My pamphlets, here introduced, marked “A,” “B,” and “C,” and Newlin's, marked “D,” will more fully substantiate it. I also refer this committee to my testimony given in 1888 before a Congressional committee, pages 573, 627, 644, 651, 739, 746.”

FAVORITISM IN BUYING LUBRICATING OILS.

Q. (By Mr. JENKS.) Have you a copy with you of this testimony before the Congressional committee?—A. No, sir; I have not. You have that volume. Since I have put these in as exhibits I think I had better put these others in as exhibits now. I also present and submit to this commission Exhibit E, the authorized Official Railway Guide of the United States for September, 1899, which gives, on page 43 and subsequent pages, a list of the 44 unlawful freight associations and freight committees heretofore mentioned by me.

You will also perceive on the front page of said guide an advertisement of the “Galena Oil Company”—Standard Oil Trust—in which this trust advertises its goods as follows:

“Galena oils are used on nineteen-twentieths of the total railway mileage of the United States, Canada, and Mexico, and are being introduced in Europe.”

That is to say, the Standard Oil Trust here admit that they furnish their lubricating oils to 95 per cent of all the railways in the United States, Canada, and Mexico, and portions of Europe. That is to say, this trust furnished 95 per cent of all such oils as are used by the railways mentioned, for no railroad would use trust and competitive oils in conjunction. These oils are taken by the railroads at most extraordinary prices, ranging from 25 to 75 cents a gallon; and here comes in another species of favored freight discriminations.¹

Q. (By Mr. FARQUHAR.) That seems quite a large claim in respect to the Standard Oil Company in the matter of Galena oils. What is the character of the

¹ See Mr. Lee, p. 208; Mr. Davis, p. 383; Mr. Monnett, p. 309; Mr. Archbold, p. 510; Mr. Page, p. 756.

Galena oils in the market among railroad men and among buyers?—A. Well, I know from hearsay that they furnish different grades of lubricating petroleum, running from 25 cents up to cylinder stock. The higher grades of lubricating oils are generally cylinder stock—cylinder goods.

Q. Has it not been a fact that Galena oil has really held the American market for years as one of the best standard oils—best quality of oil?—A. I do not know anything about the quality.

Q. Is it not a fact that the headlight oil is the best oil made in the world?—A. I do not know it to be a fact.

Q. Is not its general use a good reason for thinking that it is so?—A. Well, I suppose they would have to make a pretty good quality of oil to get good prices, but at the same time they get greater prices than any competitor could get, and a competitor could hardly get any chance. I know that on general hearsay. Parties have been told that they could not sell the railroads of the country lubricating oils, because if they did the Standard Oil Company would not give them any freight.

Q. Do you know whether it is the fact or not that the Standard Oil Company paid exorbitant prices for the Galena formula, for the word?—A. No; I do not know.

Q. Have you ever sold oil in competition with the Galena oil anywhere?—A. No; I have sold some, but in a very moderate way. I never manufactured any fancy brands of lubricants at all. I just manufactured ordinary oil—ordinary lubricant—a cheap grade.

Q. (By Mr. JENKS.) You spoke a moment ago about the high prices the Standard Oil Company received from the railroads for lubricating oil. Were you going to support that general statement by the specific prices?—A. No; I can not support that by specific prices, excepting by talking with persons that knew about it who have tried to sell the railroads and have been told. It is only hearsay.

Q. (By Senator KYLE.) What are the figures that are paid for this kind of oil?—A. From 25 cents up to 75 cents a gallon. There are some oils as high as \$1 a gallon.

Q. (By Mr. JENKS.) Your information in reference to high prices is on authority of the Standard's competitors and not on authority of any of the Standard's officials or of railroad officials?—A. No, sir; no, sir.

Mr. JENKS. Continue, please.

DESPEAUX v. PENNSYLVANIA RAILROAD COMPANY, DISCRIMINATIONS 1882 TO 1883

The WITNESS. By permission of Mr. J. W. M. Newlin, of Philadelphia, who was the attorney for some French refineries, I put in this book, marked "D," under the title of *Despeaux v. Pennsylvania Railroad Company*. It is a bill of exceptions in a suit for freight discrimination that occurred in 1882 and 1883; but the cases were tried last year, and William Rockefeller and several Standard Oil Company officials testified in Philadelphia. I did not expect that Mr. Newlin was going to give me the privilege of putting it in. In this exhibit there are several important contracts made with the Standard Oil Trust, including a special contract of August 22, 1884, made by the National Transit Company and the Pennsylvania Company, by which the Standard Oil Trust, through the National Transit Company, was to pay to the Pennsylvania Railroad Company 26 per cent of all the petroleum freights carried from the oil region to the seaboard at tariff rates.¹ I have referred to this in my testimony. I will now read a letter of the counsel covering the substance of the case:²

PHILADELPHIA, PA., November 2, 1899.

DEAR MR. RICE: Referring to your request for information as to the facts developed in the taking of testimony in the cases of *Fenaille & Despeaux v. The Pennsylvania Railroad Company* in the circuit court of the United States for the eastern district of Pennsylvania, and in the case of *Ladenburg, Thalmann & Co. v. the Pennsylvania Railroad Company* in the court of common pleas, No. 4, of Philadelphia County (both of which cases are still pending), I beg to say as follows:

In the *Fenaille & Despeaux* case it was shown that the plaintiff paid local pipeline 20 cents per barrel to Foxburg and other points in that region on crude oil, and that in addition thereto the plaintiff paid to the Pennsylvania Railroad Company 48 cents per barrel for its carriage, all rail, from Foxburg to Communipaw during the years 1881, 1882, and 1883. It was also shown that the Pennsylvania Railroad Company at the same time and between the same points carried crude

¹ For the text of this contract see p. 663.

² See p. 759 for criticism of Mr. Newlin's argument.

oil for the Standard Oil Company of New York at a reduction of 22½ cents per barrel.

It was further shown in the same case that the plaintiff paid 20 cents local pipeage on crude oil to McCalmont and other points in the same region, and that the Pennsylvania Railroad Company then carried it to Communipaw and charged the plaintiff 33 cents per barrel.

At the same time the Pennsylvania Railroad Company was carrying crude oil between the same points for the Standard Oil Company of New York as proven in this way:

On May 6, 1881, the National Transit Company made an agreement with the Pennsylvania Railroad Company concerning the shipments of crude oil to the seaboard under which these reductions in favor of the Standard Oil Company were effected. I have furnished you a copy of this agreement.

It was shown on the trial of the Fenaille & Despeaux Case that at the time named a majority of the stock of the National Transit Company was deposited, with other corporation stock, with the Standard Oil trustees, who also held practically all of the stock of the Standard Oil Company of New York, and that upon the basis of the stockholdings of the trust the Standard Oil Trust certificates were issued.

The agreement between the National Transit Company provides for a division of the through rate on crude oil from the wells to seaboard between the National Transit Company and the Pennsylvania Railroad Company. The clauses of the contract particularly referring to this are paragraphs 4 and 8 thereof.¹

Now, taking Foxburg to Communipaw, the local pipeage being 20 cents and the all-rail carriage 48 cents, or 68 cents, and the evidence showing that the transit company under this agreement delivered large amounts of oil to the railroad company at Foxburg, which oil it was shown by the transit company's secretary, Mr. John Bushnell, belonged to the Standard Oil Company of New York, this particular oil was paid for on the following basis:

Starting with 68 cents as the through rate from the wells to Communipaw, via Foxburg, one-fourth of 68 cents, viz, 17 cents, went to the local pipe line (i. e., the Transit Company) "and one-half of the difference between this one-fourth (i. e., 17 cents) and the said public rate (i. e., 68 cents) shall be considered as due and to be paid to the railroad." The charge is worked out thus:

	Cents.
Local to Foxburg	20
Through to Communipaw (New York)	48
	68
One-fourth to local pipe	17
This leaves balance of	51
One-half of this balance to railroad company is	25½
The amount paid railroad company by Fenaille & Despeaux was	48
Amount paid by Standard to railroad company	25½
Rebate to the Standard Oil Company equals	22½

In other words, while the word "rebate" nowhere occurs in the agreement between the Transit Company and the railroad company, all the railroad company received was the 25½ cents per barrel.

See paragraph 8 of the contract of May 6, 1881.

It is to be observed that this paragraph in terms only applies to cases where the through rate from the exit point of gathering pipe shall be less than 40 cents. This is the only provision in the contract, and in terms would apply to McCalmont and similar shipments, which were 33 cents per barrel. But not only is this the only provision in the contract for the division of the through rate between the transit company and the railroad company,² but, in addition thereto, the officers of both the railroad company and the Transit Company stated in evidence that the railroad company received payment from the Standard Oil Company of New York on the rail shipments from Foxburg to Communipaw under this contract, and received what the contract called for. It was further testified by these officials that what the railroad company got it collected directly from the Standard Oil Company of New York, and that the railroad company received no money from the Transit Company on these shipments.

The evidence was to the same effect as to all-rail shipments between McCalmont and Communipaw, Fenaille & Despeaux paying 20 cents local pipe rate and 33 cents open rail rate to Communipaw, making 53 cents in all.

The evidence further was that the Transit Company furnished to the railroad

¹ For the text of these paragraphs, see p. 760.

² See section 7 of the contract, p. 760, footnote 2.

company crude oil of the Standard Oil Company of New York for carriage between McCalmont and Communipaw, for which the railroad company was paid directly by the Standard Oil Company the amount called for by this agreement of May 6, 1881.

Hence the railroad company charged Fenaille & Despeaux, between McCalmont and Communipaw, New York, 88 cents, and charged the Standard Oil Company 19.875 cents a barrel. This is worked out thus:

	Cents.
Local pipe rate.....	20
Open rate rail McCalmont to Communipaw.....	58
Through rate.....	58
One-fourth to local pipe.....	13.25
Balance.....	89.75
One-half of this balance paid by Standard Oil Company of New York to the railroad company.....	19.87

Under the contract of May 6, 1881, the railroad company was to be guaranteed one-third of the total movement of oil to New York.

Under a subsequent contract between the National Transit Company and the Pennsylvania Railroad Company, dated August 23, 1884, of which I have furnished you a copy, the railroad company was to be guaranteed 26 per cent of the total movement of oil to the Atlantic seaboard, which would include Baltimore, Philadelphia, New York, and Boston.

Prior to 1884 the railroad rates to seaboard, i. e., New York, were from Foxburg 48 cents, and from McCalmont 88 cents.

There was a difference in favor of Philadelphia of 5 cents per barrel.

From 1884 to 1887 the rail rate between Foxburg and similar points and Communipaw was 55 cents per barrel, and between Clarendon and Kane and similar points and Communipaw was 45 cents per barrel. There was a difference in favor of Philadelphia of 5 cents per barrel.

It was in evidence in the case of *Ladenburg, Thalmann & Co. v. The Pennsylvania Railroad Company*, as to shipments made between 1884 and 1887, under the contract of August 23, 1884, between the National Transit Company and the Pennsylvania Railroad Company, that monthly settlements were made between the Transit Company and the railroad company, showing the total movement of oil to seaboard and the amount carried by the Pennsylvania Railroad Company on account of its 26 per cent allowance, and then the deficiency on the 26 per cent (and there was always a deficiency) was settled between the transit company and the railroad company in this way:

I take for illustration the settlement made for the month ending September 30, 1884, as shown by a copy of the settlement certified to be correct by John Bushnell, comptroller of the National Transit Company:¹

Total number of barrels so transported.....	1,574,961
Railroad company's share.....	409,490
Amount carried by railroad.....	825,596
Deficiency.....	83,894

On this deficiency the railroad company was allowed on New York oil, at one-half of the current through rate, 45 cents, equals 22½ cents per barrel, on 43,665 barrels.....	\$9,824.63
Less compensation allowed transit company for pumping the same, at 9 cents.....	3,929.85

Total.....	5,894.78
The railroad company was allowed on Philadelphia oil for 40,229 barrels, at one-half current through rate, 40 cents, equals 20 cents per barrel.....	8,045.80
Less allowed National Transit Company for pumping same, at 8 cents.....	3,216.32

Total.....	4,827.48
Total payment by the National Transit Company to the Pennsylvania Railroad Company for deficiencies for the month ending September 30, 1884.....	10,722.26

In the *Fenaille & Despeaux* there are two cases against the Pennsylvania Railroad Company, one for \$10,778.56 and the other for \$164,220.03. This is exclusive

¹ For explanation, see contract, pp. 655, 656.

of interest and treble damages. In the smaller case the treble damages were remitted in order to allow the plaintiff to call the officers of the defendant company as witnesses.

In the case of *Ladenburg, Thalmann & Co.* against the Pennsylvania Railroad Company the amount claimed is \$172,832.46, with interest, and treble the amount of the claim for damages, also with interest.

Referring generally to the contract of August 22, 1884, that contract was for the purpose of keeping up the freight charges by making the rail rates and pipe rates the same.

You will observe, however, that if the Standard Oil Company of New York, on its shipments, went through the form of paying the full rates, inasmuch as practically all of the stock of the National Transit Company (*viz.* 96 per cent.) belonged to the Standard Oil trust, it all came back again except the actual cost of pumping; and then you will observe that in the case of the railroad company it was only allowed one-half the current rates which were open to the public in the settlement made between it and the National Transit Company for monthly differences, as per the settlement above quoted.

Yours, truly,

JAMES W. M. NEWLIN.

GEORGE RICE, Esq., *Astor House, New York City, N. Y.*

Q. (By Mr. JENKS.) These cases referred to here, I understand, are still pending?—A. Yes.

Q. But they refer back to discrimination between the years 1881 and 1887?—A. 1881, 1882, and 1883, I believe.

Q. But there is no discrimination since 1887 that is charged?—A. I think not; I do not think there is any.

Q. Is this the original or a copy?—A. That is the original signature.

RAILROAD MAGNATES INTERESTED IN STANDARD OIL.

(Reading.) "William H. Vanderbilt, who signed one of the contracts in behalf of the trunk-line combine, was a stockholder in the Standard Oil Company as early as 1875, and it is fair to presume, under these circumstances, that he became one when these contracts were entered into. In 1875 John D. Rockefeller acted as attorney for Vanderbilt and also for Samuel F. Barger, his protégé, to vote an increase of the stock of the Standard Oil Company.

"At same meeting Henry M. Flagler, secretary of said company, acted for the same purpose as attorney for Peter H. Watson, president of the Erie Railway Company, one of the combine. Vanderbilt testified August 27, 1879, before the Hepburn committee of New York, that E. D. Worcester, treasurer of the Lake Shore and secretary of the New York Central, was a director in the United Pipe Lines, the pipe-line branch of the Standard Oil monopoly, and that he held from \$100,000 to \$250,000 of its stock. At the same time Vanderbilt testified as follows:

"Q. You were disgusted with them a long while ago' (meaning Standard officials)?—A. 'I was, because I said if the thing kept on the oil people would own the roads instead of the roads owning them.'

"He also said: 'I don't believe that by any legislative enactment or anything else through any of the States or all of the States you can keep such men as them down.'

"These were strong words for a Vanderbilt to say, and also how prophetic, for William Rockefeller, vice-president of the Standard Oil trust, has just been elected director in the New York Central and Hudson River Railroad Company, to take the place of Cornelius Vanderbilt, lately deceased. Since his advent he has been made a member of the executive committee, and on October 23 the issue of \$15,000,000 additional stock was authorized, and all this within a few weeks only after the death of Cornelius Vanderbilt, the son of the late William H. Vanderbilt, who testified that he did not believe that even 'by any legislative enactment or anything else through any of the States you can keep such men as them down.' He was in truth prophetic, and it has dramatically reached his own family.

"Hugh J. Jewett, recent president of the Erie Railway Company, who died in March, 1898, left by his will to his sons and daughters equal shares of his holdings in the trust certificates of the Standard Oil Trust.

"Clement A. Griscom, for many years a director in the Pennsylvania Railroad Company, testified on April 30, 1888 (p. 395), before a Congressional committee, that he then was president of the National Transit Company, the principal pipe-line company in the Standard Oil trust, with over \$25,000,000 of capital, and had been so connected since its formation in 1881 or 1882.

¹ Proceedings of Hepburn Committee, p. 1598.

² *Ibid.*, p. 1

"This clearly proves my assertion that rebates or freight discriminations created the Standard Oil monopoly, out of which came forth in 1882 the great Standard Oil Trust, the originator of all the other trusts, receiving corresponding rebates on the transportation of general products, the resulting effects of which are that about nine-tenths of the commerce of the country is controlled by a score of men, who dictate and exact from the masses high-tariff transportation rates, while their own goods are carried at nominal figures, which is nothing more or less than the levying of an embargo, or secret indirect heavy confiscation tax upon general production and manufactured products, in the interest of a few men, to the destruction of all private industrial interests, with large depreciation also of personal and realty holdings.

"MY EXPERIENCE.

"In 1876 I commenced the refining of petroleum with a capacity of 500 barrels per week, and later on increased same to 2,000 barrels a week, or 100,000 barrels per annum. In 1879, I became interested in an investigation by the Ohio legislature of freight discriminations, which came to naught and practically had no appreciable effect, although it was proven that independent refineries at Marietta had to pay 50 per cent more freight than did the Standard Oil monopoly. Being thus shut out of the markets to the north, east, and west, I turned my attention to the south, when I was again peremptorily brought up with a short and decisive turn by an attack of the railroads at both ends of the line, through the tireless, smokeless rebate, or freight discriminations, not only upon the manufactured products, but also upon the transportation of crude petroleum to my refinery.

"Outside of rebates or freight discriminations I had no show with the Standard Oil trust, because of their unlawfully acquired monopoly, by which they could temporarily cut only my customers' prices, and below cost, leaving the balance of the town, nine-tenths, uncut. This they can easily do without any appreciable harm to their general trade, and thus effectually wipe out all competition, as fully set forth. Standard Oil prices generally were so high that I could sell my goods 2 to 3 cents a gallon below their prices and make a nice profit, but these savage attacks and cuts upon my customers' goods, and their consequent loss, plainly showed to them their power for evil, and the uselessness to contend against such odds, and they would buy no more of my oil."

Q. (By Mr. RATCHFORD.) A question there, if you please. At the beginning of that paragraph you said that, outside of rebates and freight discriminations, you have no show with the Standard Oil Trust?—A. Yes, I say that. I mean by that their power of monopoly. That is, by their getting this great wealth, they can jump right on to my cars of oil, outside of rebates or freight discriminations. They can clean me out on any one car I may send to any one town.

Q. Is it not a fact that your contention is that the Standard Oil Company has its greatest advantage over you and other independent producers in the matter of rebates and freight discriminations?—A. Certainly, that is the whole thing.

Q. You say that outside of this they have a great advantage over you. Where is it?—A. They get this great power through these rebates and from discriminations. They, for instance, could lose a moderate amount of money in any one town, which would not affect all the rest. That is what I had reference to in that.

"PLEASE TURN ANOTHER SCREW."

(Reading:) "In 1881 a Standard official wrote to J. M. Culp, the general freight agent of the Louisville and Nashville Railroad Company, to turn another screw upon my shipments, which they did in 5 days, exacting from me 50 per cent more freight, which shut me out of the Tennessee markets."

I have the original letter if you would like to see it.

(By several of the COMMISSIONERS.) Yes.

The WITNESS. I think I have a facsimile of it, too. It is a very nice letter to see. Here is the original. I will present this to the chairman, and here is the facsimile of the original.

Q. (By Mr. SMYTH.) This was before the interstate-commerce law?—A. Yes, certainly; but that does not help them out. Rebates were unlawful before the interstate-commerce law, just as unlawful as they are now.

Q. Were the letters Mr. Archbold read regarding rates before 1887?—A. I will come to freight discriminations since 1887 in my own cases.

Q. (By Mr. CLARKE.) Can we not have this letter read?

The WITNESS. I will read it. Chess, Carley & Co., who signed this letter, were a branch of the Standard Oil Company at that time, and they wrote a letter to

¹ See pp. 747, 748; Mr. Page, p. 763.

J. M. Culp, who was general freight agent of the Louisville and Nashville Railroad. This is the original stamp of receipt by the railroad company: "J. M. Culp, General Freight Agent."

Now, before I read the letter I want to say that Wilkinson & Co. were my agents in Tennessee.

CHESS, CARLEY & Co., LOUISVILLE.

J. M. CULP, Esq., G. F. A.

DEAR SIR: Wilkinson & Co., Nashville, received car of oil Monday, 18th, 70 bbl., which we suspect slipped thro' on the usual 5th-class rate—"in fact, we might say," we know it did—paying only \$41.50 freight from here. Charges \$57.40. Please turn another screw.

Yours, truly,

CHESS, CARLEY & Co.

JUNE 16, '81.

That screw was turned on me to the extent of 50 per cent in 5 days.¹

Q. (By Senator KYLE.) That contract he speaks about was the same as charged the Standard Oil Company to that point, was it?—A. Yes; I suppose it was.

Q. (By Mr. JENKS.) \$41.50?—A. Well, let us say \$41.50; I do not know about that, whether the same as charged, \$41.50.

Q. (By Senator KYLE.) You have not an inside rate?—A. No.

Q. (By Mr. FARQUHAR.) Is not \$41.50 the open rate?—A. No; I will tell how it is. The \$41.50 is the rate from Louisville to Nashville and the \$57.40 was the previous rate from Marietta to Louisville.

Q. (By Mr. PHILLIPS.) Then do I understand they added 50 per cent after that?—A. Yes, 50 per cent; the road raised the rates on me, but they did not on the Standard.

Q. (By Mr. FARQUHAR.) Did they make that rate?—A. No, that was the open tariff rate.

Q. It was not a discriminating rate particularly against your product in this matter, but they had made a new rate for all?—A. Why, yes, certainly; the tariff rates are published rates. I paid tariff rates and the Standard paid less rates.

Q. (By Mr. PHILLIPS.) Was there any other competitor considered at that time but yourself?—A. I do not recollect now. I think I was about the only competitor about that time; that is my impression; it was a good many years ago. I do not recollect.

Q. (By Mr. CLARKE.) How do you know that they did not make the same rate to the Standard?—A. I do not know, but it is fair to presume they did not on all past experience. I do not know it certainly. I can not prove it; it is a pretty hard thing to prove rate discriminations.

Q. (By Senator KYLE.) You do not think they intended to turn another screw on themselves?—A. I do not think so.

Q. (By Mr. SMYTH.) I should think that if you could get this letter, you might find out how much the Standard Oil Company paid.—A. I guess one would have a nice time doing that. I would like to see you come here and bring an action in court and get them to show their books.

Q. You had a nice time in getting this letter?—A. Yes, I did.

Q. I thought that if you could get that from the railroad you could find out what the rates were?—A. You can not sue a railroad; you can not get their books.

Q. I was only comparing; it seemed to me that if you could get that letter you could also find out what the rates were?—A. How could I? What good would that do?

Q. That is what I want to know. I do not know how you got this letter.—A. No.

Q. If you are able to get the private correspondence of the railroad company, why are you not able to find out what their private rates are?—A. Some things are impossible, and that is one of them. It is a mighty hard thing to find out rebates.²

Q. The rates must be on the books, you know; it must show in some way.—A. I do not know about that, whether it shows on the books or not.

Q. (By Mr. FARQUHAR.) Of your own knowledge, do you know that other parties had to pay this particular rate the same as you had to?—A. I do not know that, but if they shipped they would; of course they would.

Q. It was well understood that that was the rate made and given out to all shippers?—A. I have always shipped on tariff rates, and, of course, they were public to everybody.

¹ See p. 300

² As to how the letter came into Mr. Rice's hands, see Mr. Page, p. 785.

THE CLEVELAND AND MARIETTA RAILWAY CASE.¹

(Reading:) "Phineas Pease, receiver of the Cleveland and Marietta Railroad Company, under the jurisdiction of a United States court, suddenly doubles its crude petroleum freights on me, without previous notification or warning, from 17½ cents a barrel to 35, in the carriage of same 25 miles from the oil-producing fields of Macksburg to Marietta, Ohio, where my refinery was located, while at the same time he makes a rate to the Standard Oil Trust of 10 cents a barrel, or 250 per cent of a discrimination against my shipments."

Q. (By Mr. SMYTH.) What proof have you of that?—A. You will see it right along as I come to it; there is plenty of it.

(Reading:) "Not satisfied with that, the trust demanded of the receiver, in addition thereto, under threat to remove its business from his road, that the 25 cents per barrel so paid by Mr. Rice in excess of tariff rates be paid over to the Standard Oil Trust for the privilege of the road having its business to do, and it was so paid. In other words, Mr. Rice was compelled not only to pay his own freight, but the freight of his rival in the business, and 15 cents per barrel to his rival besides, for the privilege of living and doing business."

"To be sure of its victim and secure the spoils, the Standard Oil Trust pay the local railroad freight agent at Marietta \$25 per month to collect and turn over to the trust this enforced freight contribution, which he did."

The WITNESS. I will put in as exhibits extracts from two letters to prove both statements.

Pease to Rapello, February 25, 1885.

"But Mr. O'Day compelled Mr. Terry to make a 35-cent rate on all other oil going to Marietta, and that we should make the rebate of 25 cents per barrel on all oil shipped by other parties, and that the rebate should be paid over to them (the Standard Oil Company), thus giving us 10 cents per barrel for all oil shipped to Marietta, and the rebate of 25 cents per barrel going to the Standard Oil Company, making that company, say, \$25 per day clear money on Mr. George Rice's oil alone."

"In order to save the oil trade along our line, and especially to save the Standard Oil trade, which would amount to 7 times as much as Mr. Rice's, Mr. Terry verbally agreed to the arrangement, which, upon his report to me, I reluctantly acquiesced in, feeling that I could not afford to lose the shipment of 700 barrels of oil per day from the Standard Oil Company. But when Mr. Terry issued instructions that on and after February 23 the rate of oil would be 35 cents per barrel to Marietta, Mr. George Rice, who has a refinery in Marietta, very naturally called on me yesterday and notified me that he would not submit to the advance, because the business would not justify it, and that the move was made by the Standard Oil Company to crush him out. (Too true.) Mr. Rice said: 'I am willing to continue the 17½-cent rate which I have been paying from December to this date.'"

"Now, the question naturally presents itself to my mind, if Mr. George Rice should see fit to prosecute the case on the ground of unjust discrimination, would the receiver be held, as the manager of this property, for violation of law? While I am determined to use all honorable means to secure traffic for the company, I am not willing to do an illegal act (if this can be called illegal), and lay this company liable for damages. Mr. Terry is able to explain all minor questions relative to this matter."

"Hoping for your careful consideration of this matter and an early reply, I remain, sir, truly yours,

"P. PEASE,
"Receiver and General Manager."

Rapello to Pease, March 2, 1885.

"That company also owns the pipes through which oil is conveyed from the wells, owned by individuals, to your railroad, except those pipes leading from the wells of Mr. George Rice, which pipes are his own."

"The company has or can acquire facilities for storing all its oil until such time as it can lay pipes to Marietta and thus deprive your company of the carriage of all its oil. The amount of oil shipped by Mr. Rice is comparatively small; say a quantity sufficient to yield \$300 per month for freight."

"The Standard Oil Company threatens to store, and afterwards pipe, all oil

¹ See Mr. Lockwood, pp. 390, 401; Mr. Archbold, pp. 556-559.

under its control, unless you make the following arrangement, viz: You shall make a uniform rate of 35 cents per barrel for all persons excepting the Standard Oil Company; you shall charge them 10 cents per barrel for oil, and also pay them 25 cents per barrel out of the 35 cents collected from other shippers. * * *

"You may agree to carry all such oil of the Standard Oil Company or of others delivered to your road through their pipes at 10 cents per barrel. You may also charge all other shippers 35 cents per barrel freight, even though they deliver oil to your road through their own pipes; and this, I gather from your letter and from Mr. Terry, would include Mr. Rice.

"You are at liberty, also, to arrange for the payment of a freight by the Standard Oil Company, calculated upon the following basis, viz: Such company to be charged an amount equal to 10 cents per barrel, less an amount equivalent to 25 cents per barrel upon all oil shipped by Rice, the agreement between you and the company thus being that the charge to be paid by them is a certain sum ascertained by such a calculation. If it is impracticable so to arrange the business that the Standard Oil Company shall, in effect, collect the 25 cents per barrel from those persons using the company's pipes from the wells to the railroad without its passing into your hands, you may properly also deduct from the price to be paid by the company an amount equal to 25 cents per barrel upon the oil shipped by such persons.

"Provided your accounts, bills, vouchers, etc., are consistent with the real arrangement actually made, you will incur no personal responsibility by carrying out such an arrangement as I suggest.

"It is possible that, by a proper application to the court, some person may prevent you in future from permitting any discrimination. Even if Mr. Rice should compel you, subsequently, to refund to him the excess charged over the Standard Oil Company, the result would not be a loss to your road, taking into consideration the receipts from the Standard Oil Company, if I understand correctly the figures. There is no theory, however, in my opinion, under the decisions of the courts relating to this subject, upon which, for the purpose, an action could be successfully maintained in this instance.

"Yours, truly,

EDWARD S. RAPELLO."

Now, I will read Judge Baxter's decision [reading]: United States Judge John Baxter delivers the following opinion of the court in *Handy et al. v. Cleveland and Marietta Railway Company et al.* (Federal Reporter, vol. 31, p. 692. Circuit court, southern district of Ohio, E. D., 1887):

"It appears that the Standard Oil Company and George Rice were competitors in the business of refining oil; that each obtained supplies in the neighborhood of Macksburg, a station of said railroad, from whence the same was carried to Marietta or Cleveland, and that for this service both were equally dependent on the railroad, then in the hands of the receiver.

"It further appears that the Standard Oil Company desired to 'crush' Rice and his business, and that, under a threat of building a pipe for the conveyance of its oil, and withdrawing its patronage from the receiver, O'Day, one of its agents, 'compelled Terry,' who was acting for and in behalf of the receiver, to carry its oil at 10 cents per barrel and charge Rice 35 cents per barrel for a like service, and pay it 25 cents out of each 35 cents thus exacted from Rice, 'making,' in the judgment of the receiver, '\$25 per day clear money' for it 'on Rice's oil alone.'

"But it is due to the receiver to say that, notwithstanding his admitted 'reluctant acquiescence' in the contract made by Terry on his behalf, and the indorsement thereof by Rapello, and the further conceded fact that he charged the Standard Oil Company 10 cents and Rice 35 cents per barrel, as aforesaid, he denies that he ever paid to the Standard Oil Company any part of the money ever received from Rice. We will therefore, for the present, accept his affirmation touching this matter as true."

In a parenthesis I have stated here "Subsequent proceedings proved the statement of the receiver in this respect was false." [Reading:] "But why should Rice be required to pay 250 per cent more for the carriage of his oil than was exacted from his competitor? The answer is that thereby the receiver could increase his earnings. This pretense is not true. But, suppose it was, would that fact justify, or even mitigate, the injustice done to Rice? May a receiver of a court, in the management of a railroad, thus discriminate between parties having equal claims upon him, because thereby he can accumulate money for the litigants? It has been repeatedly adjudged that he can not legally do so. Railroads are constructed for the common and equal benefit of all persons wishing to avail themselves

¹ See p. 558.

of the facilities which they afford. While the legal title thereof is in the corporation of individuals owning them and to that extent private property, they are, by the law and consent of the owners, dedicated to the public use. By its charter and the general contemporaneous laws of the State, which constitute the contract between the public and the railroad company, the State, in consideration of the undertaking of the corporators to build, equip, keep in repair, and operate said road for the public accommodation, authorized it to demand reasonable compensation, from everyone availing himself of its facilities, for the services rendered. But this franchise carried with it other and correlative obligations. Among these is the obligation to carry for every person offering business, under like circumstances, at the same rate. All unjust discriminations are in violation of the sound public policy and are forbidden by law."

This was before the interstate-commerce act.

(Continuing reading:) "We have had frequent occasions to enunciate and enforce this doctrine in the past few years. If it were not so the managers of railroads, in collusion with others in command of large capital, could control the business of the country, at least to the extent that the business was dependent on railroad transportation for its success, and make and unmake the fortunes of men at will.

"The idea is justly abhorrent to all fair minds. No such dangerous power can be tolerated. Except in the mode of using them, every citizen has the same right to demand the services of railroads on equal terms that they have to the use of a public highway or the Government mails; and hence, when in the vicissitudes of business a railroad corporation becomes insolvent, and is seized by a court, and placed in the hands of a receiver to be by him operated pending the litigation and until the rights of the litigants can be judicially ascertained and declared, the court is as much bound to protect the public interests therein as it is to protect and enforce the rights of mortgagors and mortgagees. But after the receiver has performed all obligations due the public and to every member of it—that is to say, after carrying passengers and freight offered for a reasonable compensation, not exceeding the maximum authorized by law, if such maximum rates shall have been prescribed, upon equal terms to all—he may make for the litigants as much money as the road thus managed is capable of earning. But all attempts to accumulate money for the benefit of the corporators or their creditors by making one shipper pay tribute to his rival in business at the rate of \$25 per day or any greater or less sum, thereby enriching one and impoverishing another, is a gross, illegal, and inexcusable abuse of a public trust that calls for the severest reprehension.

"The discrimination complained of in this case is so wanton and oppressive it could hardly have been accepted by an honest man, having due regard for the rights of others, or conceded by a just and competent receiver, who comprehended the nature and responsibility of his office; and a judge who would tolerate such a wrong or retain a receiver capable of perpetrating it ought to be impeached and degraded from his position.

"A good deal more might be said in condemnation of the unparalleled wrong complained of, but we forbear. The receiver will be removed.

"The matter will be referred to a master to ascertain and report the amount that has been as aforesaid unlawfully exacted by the receiver from Rice, which sum, when ascertained, will be repaid to him. The master will also inquire and report whether any part of the money collected by the receiver from Rice has been paid to the Standard Oil Company, and if so, how much, to the end that if any such payments have been made suit may be instituted for its recovery."

Q. (By Mr. JENKS.) This is the formal decision of the court?—A. Simply.

Q. (By Senator KYLE.) What was the outcome of that matter?—A. The court appointed a master commissioner, who is the present elected governor of Ohio, George K. Nash. The court appointed him a master commissioner to investigate this matter, and he found these to be the facts of the case as I have stated them here.

Q. (By Mr. JENKS.) Did you collect the money paid over?—A. Yes. It was not very much. I got on to it right quick, so it did not injure me much. As soon as they doubled the rate of freight on me I thought there was something wrong. I immediately went to Cambridge, to the headquarters of the road, in person, to see the receiver, and asked him why my freight rates had been doubled. He pretended to know scarcely anything about it. He says: "That is a matter that belongs to the freight agent. I understand there has been an advance; I understand it is necessary that the road should have more revenue." That is the substance of the interview; but he gave me to understand that the rates were going to remain. He did not give me any good reason why they were advanced, but I, of course, thought there was something up, and I went back and got up a

correspondence with him to put him down on paper to see where he would land, whether he would make any evasions or give me some reasons by which I could find out what the trouble was. He made some replies that were not to the point, and I had counsel at Marietta write to Judge Baxter, who had charge of this road of which Phineas Pease was receiver, asking if a private hearing could not be had before him in chambers upon what these letters showed. He granted the request at once. I went down to Cincinnati with my attorney, and the local attorney of the road went down, and he owned up the whole business right there before Judge Baxter, although this thing had all passed through the hands of ex-Judge Rapello, of New York City, who was then the leading counsel of the road. That is the way it came out.

Q. (By Mr. FARQUHAR.) Do you know whether it was customary in those days, before the interstate-commerce law was passed, for the receivers usually, under instructions from the courts, to get all out of a road it was possible to get for the benefit of the stockholders?—A. I do not know anything of that kind. I do not think, though, that any receiver of a road should charge any less to a big shipper than to a small shipper, because it violates the law, the common law of the land, which no road had a right to do even before the interstate-commerce law, as Judge Baxter here says. It was just as bad before 1887; it was unlawful. As I understand it, the only additional thing that was put into the interstate-commerce act was the penalty clause, by which every shipper and every carrier is subject to a penalty of \$5,000 and two years in the penitentiary for each and every offense. And what good has it done? They discriminate every day just as much as they ever did. It has had no effect whatever, and I can show it as I go along here by my own cases before the Interstate Commerce Commission.

Q. Has it not been a fact that there were some very great discriminations made by receivers in giving rates?—A. I do not know that.

Q. As against all competing roads, and the court itself would sustain them in working for the benefit of stockholders, to get all the revenue it was possible to get out of it?—A. No; I do not think that any honest judge would ever decide that a railroad could discriminate in favor of a large shipper against the small shipper.

Q. Is it not a fact that in some cases receivers have discriminated and cut rates on their road?—A. Right there in my own case they did; and here are Receivers Cowen and Murray admitting it themselves, when they wrote the letter to the Interstate Commerce Commission, December, 1898, that they were giving rebates; criminally doing it.

Q. (By Mr. RATCHFORD.) Is it not a fact that the managers of railways generally follow that practice, discriminating in rates to all large shippers and giving them inside prices?—A. Why, certainly.

Q. That is your observation, is it?—A. Yes, certainly.

Q. That being the case, does it not follow that receivers necessarily have to resort to the same practice in order to compete?—A. Well, I do not think that receivers of a railroad ought to violate the law. No man ought to; but in particular, receivers of a road; it does not make any difference how it strikes the road.

Q. Do you recognize their inability to compete in case they do not resort to the same practice?—A. Very likely they do; but the receiver is specially appointed by the court, and it is supposed that the courts do not want to sanction any unlawful act. I mean to say there is a greater obligation on receivers of a railroad not to discriminate, because they are appointed by the court and are under the jurisdiction of the court. Supposing the railroad does lose freight—that is no reason; they must obey the law. That is the trouble with this country—our laws are not obeyed nor enforced.

THE STANDARD GOES INTO THE GROCERY BUSINESS.

(Reading:) "Threats and intimidations, highwayman tactics, used by the Chess Carley Company (Standard Oil) on my agents, that 'competition will not be confined to coal oil or any one article.' Also 'that the Standard Oil Company had authorized him to spend \$10,000 to break up any concern that bought oil from anyone else.'"

Now I refer to one of my exhibits, B, p. 84, for that.¹

Q. (By Mr. JENKS.) Perhaps you can state in a word what the substance of this is and then put it in as an exhibit; it will save you some time?—A. Well, it is

¹ The exhibit referred to is a printed book of some 275 pages, written and copyrighted by Mr. Rice. The title page is as follows: "Standard Oil Company, first decade, 1872 to 1882; profits, \$455,414,155. Standard Oil Trust, second decade, 1882 to 1892; profits, \$945,493,677. Total profits, \$1,400,907,832 in twenty years."

merely that the Chess Carley Company wrote my agents, Wilkinson & Co., at Nashville, threatening letters, of which I have copies in my exhibits. They had tried to buy them out, and made threats that if they did not come to time they would not only cut the prices of oil, but all the general goods that they sold; that was the substance of it, but I have it all here.

Q. I understand from what you have said elsewhere that they did, as a matter of fact, set up a separate grocery store?—A. Oh, no, not at that point; that was at another place; that was in Mississippi.

Q. But that was this same company that did subsequently set up a grocery store?—A. Yes.

Q. In order to drive the rivals out?—A. That is right; this same company.

(Reading:) "Rust-proof oats, meats, sugar, coffee used as weapons by the Standard Oil Monopoly to kill off competition.

"R. M. Fraser, general freight agent of the Marietta and Cincinnati Railroad, wires a Standard official as follows: '_____, at Marietta, is inquiring for rates of freight on oil to Chillicothe. Don't you control that field?' Colonel Thompson (he was a Standard official) to Mr. Fraser: 'Yes, that is our meat.' (B 85)"

Q. (By Mr. SMYTH.) Will you give us the date of that telegram?—A. I do not know whether I have the date. I refer to B 85.¹ I do not know whether there is a date to it or not; but it is all true, all the same.

Q. (By Mr. FARQUHAR.) This occurred in 1881, did it not?—A. I guess along in there. I calculated that all these things where there were not dates would come along about in chronological order.

Q. Did you get the name that you had left blank in the copy of the telegram?—A. Well, no; I did not get the name. It came over by wire, and a friend of mine, hearing it going over the wire, gave it to me. He was a telegraph operator himself.

(Reading:) "Standard Oil also establishes a grocery house at Columbus, Miss., and sells groceries at cost in order to force merchants to buy their oil. (B 86)."

There is quite an extensive account in connection with that.

Q. (By Senator KYLE.) How prevalent is that custom with the Standard Oil Company?—A. It is not so prevalent now, because they are establishing their agencies all over the United States—separate agencies—and they do not have to go into that kind of work.¹

Q. Threats are made and have been made—they resort to threats?—A. Oh, yes; there is no trouble about that.

RATES DOUBLED FOR MR. RICE, UNCHANGED FOR THE STANDARD.

(Reading:) "The Standard Oil Trust makes contract with a merchant of New Orleans to pay him the sum of \$48,000 not to handle my oils (B 118), and while I was down there to reestablish another agency I was apprised by wire that my rates to Memphis and New Orleans were doubled without previous warning."

That was to discourage me from establishing another agency; but I did it, all the same. I went on and got another man to take hold, and when I got back to Cincinnati I stopped off to find out what this meant. I called upon the general freight agent of the road, and he said that the connecting line was all the trouble. You know the initial line makes the rate, and Mr. Fraser was the general freight agent of the initial line out of Marietta, but he made the excuse that the connecting line caused the trouble. I did not get any satisfaction, and I said that I would like to see the president of the road, Mr. Orland Smith. I said, "Mr. Smith, why has my freight rate been doubled all at once without any warning?" He did not seem to know anything about it, but I guess he did. He called Mr. Fraser in and said, "What is this trouble with Mr. Rice about these rates?" Mr. Fraser said: "The connecting lines have been writing us and writing us that they must have their freight rates advanced; they could not see any other way to do." Well, what do you suppose they did? After two or three months' correspondence they restored my rate, but in the following year they put up a job on me that stood, by which on July 15, 1886, they set up a rate on my shipments, on all of my shipments—they were about all from Marietta—from 48 to 162 per cent. They never raised the rates on the Standard Oil Company 1 cent, which had a big refinery at Parkersburg, 12 miles from Marietta. The tariff rates from both points were exactly equal. On subsequent investigation I got the attorney-general of Ohio to bring an action, and I bore all the expenses of it, to forfeit the charters of the Cincinnati, Baltimore and Washington Railroad and the Queen and Crescent Road for these accursed discriminations. I spent a lot of money and it took a lot of time, and I got a verdict from the supreme court after a while saying that they should

¹ See Mr. Page, p. 764.

² The telegrams appear, without date, in the witness's "Exhibit B," p. 85.

not do it any more; and it did not amount to anything. They continued to do it right along under my nose. And it shut up 19 agencies out of 24 and shut me out of 89 towns in 73 in 5 months; that is what it did. And these men here, Orland Smith and R. M. Fraser, are responsible for this collusion to ruin my business.

Q. (By Mr. FARQUHAR.) What year was this thing in?—A. In 1886.

Q. (By Mr. SMYTH.) Were the published rates the same from Parkersburg as from Marietta?—A. Yes.

Q. You believe that the Standard Oil Company received a rebate?—A. I proved 48 to 162 per cent. I went into court and proved it before a referee. There were 2 suits to forfeit the charters, and the court said they could not do this any more. It was a very fine, sweet verdict. Of course, it had no effect.

Q. (By Mr. JENKS.) In connection with the statement that the Standard Oil Trust made a contract with a merchant of New Orleans to pay him the sum of \$48,000 not to handle the oil, in the exhibit that is given, you set out the contract in full?—A. Yes.

Q. You are perfectly certain as to the trustworthiness of this?—A. Yes, of course; because I got the facts right from the party, Mr. Ong. I got the contract; without a question these are genuine contracts.

Q. Mr. Ong gave you the contracts?—A. Oh, yes; they are absolute facts. They are the contracts without a question. These are the genuine contracts.¹

(Reading:) "October 15, 1886, a friend of mine writes me from Cleveland as to inside rates given to the Standard Oil Trust as follows: 'They say that they only get so many tons of freight and so many dollars and cents in payment of so much tonnage. Can't tell whether in barrels or tank cars.'"

(Reading:) "The general freight agent of the Little Rock and Memphis Railroad Company wrote me on November 17, 1890, as follows: 'We are hauling your oil. This, of course, we expect, as common carriers, to be compelled to do. It is a fact, nevertheless, that on account of handling your oil the Standard Oil Company will not route any of their freight over our lines. As a consequence, we have none of their tanks.'"

That is very nice.

(Reading:) "By the power and fear of the Standard Oil Trust I have paid 5 cents a barrel more for crude oil than the regular established market price of the trust for additional stock to run my refinery."

TANK-CAR DISCRIMINATIONS.

"Can't purchase tank cars except for cash, because of my 'supposed controversy' with the Standard Oil Company."

OFFICE OF THE MILTON CAR WORKS,
Milton, Pa., December 6, 1887.

GEORGE RICE, Esq., Marietta, Ohio.

MY DEAR SIR: We have just wired you as follows: "Our financial friends decline to advance the money. We can not build them except for cash," which we confirm.

¹The contract, as printed in the witness's "Exhibit B," p. 118, is as follows:

"The Chess Carley Company, of Louisville, Ky., as the first party to this agreement (and a branch of the Standard Oil Trust), hereby agrees to pay to Richard M. Ong, of New Orleans, La., as second part, the sum of \$48,000 in sixty equal payments, consisting of one payment each month during the five years of this contract, commencing with the month of May, 1886 A. D.

"This said amount of \$48,000 is in full payment for the purchase by the Chess Carley Company of the entire profits of the business of R. M. Ong in naphtha, gasoline, and refined petroleum for illuminating purposes. R. M. Ong hereby sells to the Chess Carley Company the profits of this branch of his business during the said period of five years, and will make no charge for conducting said business except for drayage when actually incurred for full drayload from warehouse or depot.

"R. M. Ong agrees to sell no petroleum for illuminating purposes, or naphtha, which is not supplied by the Chess Carley Company, and shall be privileged to sell at same prices with the Chess Carley Company to the same class of trade. The invoices of each month will be payable on the 10th day of the following month less the rebates or commission allowed to wholesale dealers by the consent of the Chess Carley Company. And the said Ong shall have the right to deduct the allowance for each month of the said amount of \$800 from the amount of invoices for the same month.

"R. M. Ong agrees to conduct this branch of his business in the best manner possible to promote the interests of the first party, and under the general directions of the first party, and save all the margins possible in receiving and distributing said products, and will make no charge for storage in his warehouse. R. M. Ong will sell at same prices charged by the Chess Carley Company for same class of trade.

"CHESS CARLEY COMPANY,
"By F. D. CARLEY, President.
"R. M. ONG.

"NEW ORLEANS, LA., February 28, 1886."

²See Mr. Page, p. 766.

Our Mr. Dickerman returned this morning and, after using every exertion, failed to negotiate the deferred payments on your cars. Our financial friends state that they have declined to do this mainly on account of some supposed controversy which they claim you have had with the Standard Oil Company and various railroads in the West. They feared you could not use these cars to advantage if the railroads should be hostile to your interests.

We regret this very much as we have been to considerable trouble and expense in making arrangements to build the cars, and are now seriously disappointed at the refusal of the parties to take the deferred payments, as they had partially promised to do.

We should be very much pleased to build these cars for you if you can negotiate the notes with your friends and pay us the cash.

Please let us hear from you at your earliest convenience concerning your ability to raise the money.

Yours, very respectfully,

MURRAY, DOUGAL & Co., LIMITED.

You see there was a discrimination in the carriage of oil in barrels as against tank cars of about 25 per cent; and if anybody could afford to buy tank cars—rolling stock for the railroad—of course, shippers ought to furnish railroads all the cars they want and then let them charge what they please—so I saw that it was necessary to get hold of some cars. The way it is generally done is, a person goes and contracts for tank cars and pays down 20 or 25 per cent, and then pays the balance in installments in 4 or 5 years; and they hold the title to the cars.

Q. (By Mr. FARQUHAR.) Yet this is a business letter from Murray, Dougal & Co.; that if you would furnish the cash they would build the cars?—A. Yes, but the trouble was that that would take just so much money out of my business, and, of course, cramp me so much that I could not afford to do it.

Q. You went into the building of tank cars afterwards?—A. Yes, I got 10 cars afterwards, later on—got the Pennsylvania Works to build them for me and paid 20 or 25 per cent down, and the balance in 5 years.

Q. Do you think it was an advantage to the Standard Oil Trust to have the tank cars built?—A. Well, that might be, if everybody got the same rate, if the railroad would furnish the same tank cars; but they did not furnish the tank cars. The Standard Oil Company in the early days bought up all the tank cars from the railroads, and no doubt with the understanding that they must not build any more tank cars.¹ The railroads have not furnished tank cars to the shippers, who thought they ought to do it, and they had to put box cars on, just as the Pennsylvania road did for years and years; and after the interstate act went into effect, the Standard got them to charge for the weight of the wooden package.

Q. You made quite a contention there, did you not, for a long time against the tank cars?—A. Why, certainly. It is all right enough if the roads would only furnish that means of carrying, but they will not do it; and they know that the independent refiners of small means can not afford to buy tank cars. Why should they not do this? It is the duty of the railroad to furnish all the cars that are necessary. It is only a freeze out; that is all.¹

Q. That is the question we are reaching now. You know the private-car system of the United States to-day; they are used in transportation, refrigerator cars, and everything of that kind, furnished by private corporations. Was it not a positive advantage to have tank cars in the transportation of oil?—A. No, I do not think it was. I think it was the greatest possible evil in petroleum transportation, for the reason that the railroads carried tank cars of oil for the Standard Oil Company at a lump sum tank-car rate. I proved that before the Interstate Commerce Commission, between barrel rates and tank-car rates; that I paid four times as much to Birmingham, Ala.

Q. Where they were able to furnish tank cars, did not the railroads try to discourage the barrel?—A. I can not answer. Why should they?

Q. I can not say that. Was it not a condition while you were shipping?—A. Yes, they did. I will say that they did it for the purpose of freezing out the refiners; I will answer that, "Yes." They did it certainly, because they wanted to discourage the smaller ones; because the railroads and the trusts all work hand in hand together; each one owns the stock and bonds of the other, and they are all working in collusion and in conspiracy to freeze out all competition.

Q. Did any railroads ever propose that you should put on your cars and they would pull them for so much a mile; did they ever refuse you at all?—A. Yes. I have had railroads that refused; I forget what the lines were.

Q. Some roads did not?—A. Why, certainly; I will tell you something about the tank-car business. In 1878, J. H. Rutter, the general freight agent of the New York Central and Hudson River Railroad, in an investigation before the Hepburn

¹ See Mr. Page, p. 765.

committee of the New York legislature, put in a special tariff sheet of rates for the Standard Oil Company, and in that tariff was a particular special rate on tank cars of \$60 per tank car, lump sum, from Cleveland to New York, which would be 60 cents a barrel. The outside rate was \$1.90 a barrel to all competitors. They also got a reduction off that 60 cents for the carriage of crude oil from the oil regions to the refineries at Cleveland, 35 cents per barrel of crude. Fourteen barrels of crude at 35 cents were allowed for 10 barrels of refined shipped from Cleveland to New York. That made \$4.90 drawback. The freight on 10 barrels, at 60 cents a barrel, would be \$6; \$6 less \$4.90 drawback is \$1.10, for transporting 10 barrels of oil from Cleveland to New York. That is 11 cents a barrel as against \$1.90, or 1,600 per cent discrimination.¹

Q. (By Mr. SMYTH.) Do you know any railroad in this country that owns tank cars?—A. I think the Pennsylvania Railroad has a lot of tank cars, or did have; but in the early days it was almost impossible for a competitor to get the use of them; the Standard Oil Trust had practically the exclusive use of them.

Q. Is it not the custom in all oil refineries, both in petroleum and cotton-seed oil, that the tank cars are owned by the refiners?—A. Yes; to a certain extent I think the cotton-seed oil refiners are owning their own cars.

Q. And the railroad companies do not furnish any cars?—A. I think not.

Q. (By Mr. RATCHFORD.) You are aware that the representatives of the Standard Oil Company have stated before this commission that no such thing as rebates were given them?—A. (Interrupting:) Since the interstate-commerce act?

Q. Yes.—A. Yes; I will come to that.

Q. And the claims that you have just mentioned, referring to the rate from Cleveland to New York, you should support by the strongest possible testimony that you can present. Proof is what we want.—A. Well, I am going to give it to you as I go along. I am going to give you plenty of proof as to freight discrimination since the interstate-commerce law went into effect. I was coming to that; I have not got to that yet.

(Reading:) "I have for years vainly sought Government protection through Congress and the Interstate Commerce Commission, and get it not; also through State legislatures, and get it not; through the courts, and get it not. Soon there will be trouble in this land if such nefarious work does not cease, for anarchy will be supreme. The railways and the trusts are run conjointly on a fraudulent, dishonest, and destructive basis. The channels of trade and transportation are no longer open free to the people at large. Our greatest criminals and corruptionists are at the head of these mighty and all-powerful institutions, who also use their vast resources to corrupt our politics. They have no fear of the law, because of the fabulous fortunes so easily and quickly obtained, from which they expect to buy immunity.

"It is quite evident our Government is a failure, because of nonenforcement of our laws against this piratical crew who infest our inland commerce under the secret cover of unlawful rebates and commissions and thus rob the people out of hundreds of millions of dollars.

"The trusts are worse than the pirates of the seas, for they sailed in the open; and, though they gave no quarter, they did their work under their own pirate flag, and not under the livery of the law.

"I have had a number of applications from unknown correspondents to take hold of new oil developments in different States, and have invariably replied that it would be useless, that however prolific an oil field might be, it would be made unprofitable and no money in it, as against the power of the Standard Oil monopoly over the rail lines of this country."

Whereupon at 1 p. m. the commission took a recess until 2 o'clock p. m.

The commission met at 2.15 p. m., Chairman Kyle presiding. GEORGE RICE again on the stand and examination resumed.

Q. (By Senator KYLE.) You may proceed.—A. (Reading.)

"JOHN D. ARCHBOLD AND HENRY H. ROGERS, TRUSTEES OF THE STANDARD OIL TRUST, TESTIFY BEFORE THIS COMMISSION, SEPTEMBER 8 AND 9, THAT THIS TRUST HAS NOT RECEIVED DISCRIMINATING FREIGHT RATES SINCE THE INTERSTATE-COMMERCE ACT TOOK EFFECT, APRIL 5, 1887."

"In 1886 I entered complaints with the attorney-general of Ohio to forfeit the charters of the Cincinnati, Washington and Baltimore, and Cincinnati, New Orleans and Texas Pacific railways for gross oil freight discriminations. The petitions were filed December 23, 1886, and depositions filed November 23, 1887.

¹ See p. 666.

² See pp. 526, 527.

The referee made his report July 8, 1889, and the supreme court rendered its decision March 4, 1890. I proved that the Cincinnati, Washington and Baltimore Railroad Company, the initial line out of Marietta, and governing connecting lines, issued an order to take effect July 15, 1886, by which freight rates were not only advanced, but that my shipments were discriminated against by this road in favor of the Standard Oil Trust from 43 to 163 per cent.

"That the Cincinnati, New Orleans and Texas Pacific had so discriminated from 29 to 212 per cent. That the Louisville and Nashville Railroad Company had so discriminated from 35 to 260 per cent. That the St. Louis, Iron Mountain and Southern Railway had so discriminated from 48 to 191 per cent, which continued at least to March 4, 1890, and probably much longer, regardless of the order of the commission (see pp. 582, 583, 584, 585, Congressional investigation 1888). These unlawful freight discriminations had the effect to close up 19 out of 24 of my agencies, and shut me out of 39 towns in 73 within 5 months.

"The supreme court of Ohio, after this abundant and most extraordinary proof before them, ignored the people's sacred right of eminent domain, and simply decided that these roads be ousted from charging less rates per 100 pounds on tank-car shipments, as compared with barreled oil, which decision proved ineffective."

This suit was to forfeit their charters for these discriminations.

DISCRIMINATIONS AT LEAST UP TO 1888.

"In November, 1887, before the Interstate Commerce Commission, I proved the following gross freight discriminations, which were exclusively in favor of the Standard Oil Trust and for no one else. The cases were decided February 23, 1888, and the several defendant rail lines pretended to acquiesce in the verdict by simply changing their mode of rating.

"The following outrageous and most extraordinary of freight discriminations, exclusively in favor of the Standard Oil Trust, was proved by me and existed at least up to April 1, 1888, that we know of, and from my subsequent complaints and proofs it is exceedingly doubtful if the decision of the commission had any appreciable effect on the railroads."

Now, I have put in exhibits which show discrimination to the extent of 333 per cent. There is a lot of them, and I just merely mention that fact; the exhibits show that the highest discrimination was 333 per cent.

LOUISVILLE AND NASHVILLE RAILROAD COMPANY.

	Mills per gallon charged Standard Oil Trust.	Mills per gallon charged George Rice.	Per cent discrim- ination.
Louisville to—			
Nashville, Tenn	7	15	114
Chattanooga, Tenn.	9.9	19.4	87
Memphis, Tenn.	5.7	12	110
Atlanta, Ga.	15.8	36.8	132
Selma, Ala.	15.1	36.5	141
Montgomery, Ala.	13.6	36.5	168
Mobile, Ala.	14.4	24	66½
Columbus, Ga.	17.7	40.9	131
Augusta, Ga.	16.2	35.1	116
Pensacola, Fla.	13.5	24	76
Cincinnati to Birmingham, Ala.	10.9	47.2	333

CINCINNATI, NEW ORLEANS AND TEXAS PACIFIC (CINCINNATI SOUTHERN).

Cincinnati to—			
Lexington, Ky.	4.9	8	63
Chattanooga, Tenn.	10.1	26.4	161
Knoxville, Tenn.	9.6	26.4	176
Birmingham, Ala.	10.7	37.6	261
Meridian, Miss.	12.1	44.8	297
Vicksburg, Miss.	11.1	31.2	181
Shreveport, La.	17.3	53.6	309
New Orleans, La.	11.8	31.2	164
Atlanta, Ga.	11.7	36.8	214
Macon, Ga.	12.1	36.8	204

¹ See Mr. Page, p. 765.

NEWPORT NEWS AND MISSISSIPPI VALLEY COMPANY.
(Formerly C., O. & S. W.)

	Mills per gallon charged Standard Oil trust.	Mills per gallon charged George Rice.	Per cent discrim- ination.
Louisville to—			
Memphis, Tenn.....	4.4	9	100
New Orleans, La.....	9.7	15	54
Vicksburg, Miss.....	10.7	15	40

ST. LOUIS, IRON MOUNTAIN AND SOUTHERN.

St. Louis to—			
Houston, Tex.....	15	53.6	257
Galveston, Tex.....	15	53.6	257
Little Rock, Ark.....	10	18.2	82
Newport, Ark.....	10	18.2	82

"The above gross freight discriminations continued for at least 1 year of the interstate-commerce act, regardless of the penalty of \$5,000 fine and 2 years in the penitentiary for each and every offense.

"On May 28, 1888, the Missouri Pacific Railroad, regardless of this decision, were still carrying tank cars by the lump sum. This same road (1888) in the State of Arkansas were carrying petroleum in iron barrels for the Standard Oil Trust at 284 per cent discrimination in their favor.

"In 1889 I made several general complaints to the commission of general violations of the interstate-commerce act by the Southwestern lines of railroads, reaching to the Pacific coast, of which the Cincinnati, Washington and Baltimore Railroad Company was the initial line out of Marietta, where my oil refinery was located, and at my request the commission issued notices to 151 contiguous lines as parties thereto to appear and be heard if they so desired. The substance of these complaints was embodied in these notices, as follows:

"It appearing to the commission in the above cases that in addition to the question of reasonableness of rates, the following other questions are also raised, namely:

"1. The question of the like classification of barrel and tank oils, and of the right of the railroad companies to charge for the weight of the barrel package in addition to the weight of the contents.

"2. The question of discrimination arising from the returning of empty tank cars free of charge, and also of the paying a mileage rate on such empty tank cars.

"3. The question of whether railroad companies are not obliged to furnish tank cars as well as cars of other description for oil transportation.

"4. The question of the proper classification of cotton-seed oil and turpentine as compared with petroleum and its products.

"5. The question of discrimination in favor of petroleum and its products when carried in tank cars, resulting in giving a low rate on cotton-seed oil or turpentine, or either, when carried as back loading in such tank cars.

"6. The question of the duty of railroad companies to furnish shippers with tank cars in cases where the traffic of their lines can profitably or properly be carried in such tank cars and is large enough to justify the expenditure.

"7. Long and short haul."

"The four separate cases were tried together in December, 1889, and thoroughly done by that astute and experienced lawyer in railroad matters, Franklin B. Gowen, for many years the president of the Philadelphia and Reading Railroad Company. The cases were duly argued, and a partial but insignificant decision rendered, but not until 2 years had elapsed, when the commissioners decided that 'All the cases are held open for additional evidence,' which so thoroughly disgusted me after having spent so much time and money thereon, that I then determined to proceed no further, and abandoned the apparently hopeless pursuit of combined and confederated iniquity, and resolved to have nothing further to do with any future proceedings before the Interstate Commerce Commission. I fully and clearly proved the following facts:

"That the Trans-Continental Association, composed of 21 lines of road, had advanced freight rates in 1889 over 1887, when my first complaints were brought,

to the extent of 88 per cent, which was unreasonable. Also proved that these lines carried cotton-seed oil, worth 4 times as much as petroleum, at 26 cents less per 100 pounds. That the Trans-Missouri Freight Association charged 25 cents per 100 pounds more for carrying petroleum than cotton-seed oil.

"That the Southern Railway and Steamship Association, of which the Louisville and Nashville Railroad Company was a member, advanced freight rates in 1890 over 1887 from 10 to 121 per cent, which was clearly unreasonable. Also proved that the Chicago, Rock Island and Pacific Railroad charged 25 cents more per 100 pounds for carrying petroleum than cotton-seed oil.

'UP TO MARCH 15, 1890, THE STANDARD OIL TRUST GOT 1½ PER CENT OF ITS SHIPMENTS CARRIED FREE BY A REBATE REDUCTION OF 62 GALLONS ON EACH TANK CAR.

"I also proved that the Standard Oil Trust had an exclusive secret rebate reduction on quantity shipped, in place of a money rebate, of 62 gallons deduction on each and every tank car, or 1½ per cent of its shipments carried free."

No one else got that at all; no one else got that rebate or that reduction.¹

Q. Is that supposed to be on tank cars as compared with barrel shipments? Is that the reason that they themselves gave?—A. I think the only reason I heard for it was for wind in the dome of the car, or something of that kind. There was no good valid reason for it.

Q. The question is this, what reason did they pretend that there was for it?—A. I do not know. I never knew what their pretended reason was; there was no good reason.

Q. When this matter was brought to their attention, both the Standard Oil Company and the railroad company presumably assigned some reason for it?—A. I do not know what they did assign, probably leakage or something or other. There was no sense in it, anyhow.

(Reading:) "This continued until March 15, 1890, when it was changed to 42 gallons reduction, and continued to September 1, 1892.

"Also proved that shippers of oil in barrels should be charged only for the oil shipped, and not for the barrel, to offset the return of empty tank cars that can't bring back other freight (except in extreme cases), while a box car can. Besides a tank car weighs 3,500 pounds more than a box car of same capacity."

Why, up to 1888 the Pennsylvania Railroad carried oil in barrels, including the package, for the same rate as so many gallons in a tank car; and about a year after the interstate-commerce act took effect they changed it so that the independent shipper would have to pay for the weight of the package.¹

Q. (By Mr. RATCHFORD.) What reason do you assign for the change in the rate on shipments in tank cars as compared with the rate for barrels?—A. I think it was done at the instigation of the Standard Oil Trust.

Q. Did the Standard Oil Trust at the time of the change have control of all the tank cars?—A. Principally. Almost absolutely.

Q. Principally?—A. Of course there were more or less outside refiners that had a moderate amount of cars, but not very many.

Q. Then you believe that the reduced rate of shipment in tank cars is not due to the advantage that results to the company from the transportation of oil in tank cars, but rather is a favor for those who control the tank cars?—A. Yes.

TANK CARS NOT AN ADVANTAGE TO THE RAILROADS.²

Q. (By Mr. FARQUHAR.) But is not the tank car really an advantage in handling the oil?—A. To whom?

Q. To the railroad companies, an advantage to all that handle oil?—A. No, sir. I have got the very best evidence from the Pennsylvania Railroad, if you will let me read this.

(Reading:) "John S. Wilson, general freight agent of the Pennsylvania Railroad Company (the highest authority we have), testifies before the Interstate Commission on January 23, 1888, that he would rather carry powder than oil in tank cars, and that the shipment in barrels is preferable. Hear him:

"I think, altogether, it is the most undesirable business we do, the carriage of oil in tank cars. There is no stopping it when it once starts. We had a smash up at New Brunswick. We came in collision there with a line of tank cars, the oil got on fire, and I think it ran two squares, got into a sewer, ran burning a square or two more, ran on the canal, which was then frozen over, followed the

¹ See Mr. Page, p. 766.

² See Mr. Page, pp. 765, 767, 769.

ice a square or two beyond, and beside our own direct losses, we have already paid nearly \$500,000 for the destruction there. I regard it as worse than powder to carry. The bridge at New Brunswick was burned down, which cost us \$200,000 or \$300,000, besides nearly \$500,000 paid out for outside destruction.

"We might run for 10 years and by good luck have no serious accident. Whereas, on the other hand, we might strike another case like that at New Brunswick and lose more money than we would make on carrying oil for 10 years. I would rather carry anything else than oil in tanks.

"The movement in barrels I have always considered preferable for two reasons. First, we load barrels in a car that will carry a return cargo. There are no back loads for a tank car. For stock and box cars we can load back and get an increased earning for the round trip. Secondly, if there comes a collision or fire, the packages being separate we are enabled to save some of the tonnage. There is no hope of saving the contents of a tank car if it once gets on fire. Barrels you can sometimes scatter and roll off and break them up."

This gentleman did not stay long with this railroad company after that evidence was given.

Q. (By Mr. FARQUHAR.) Well, independent of the gentleman's opinion on that, the railroads have adopted the tank car instead of the barrel for their shippers.

A. Yes; and principally under the control of the Standard Oil Trust.

Q. And independent also of the barrel transportation and the tank transportation, the railroads put tanks in the sixth-class classification and barrels in the fifth class. How do you account for that as a practical business proposition?

A. I think that tariff was made by the Standard Oil Trust. I think they make up the petroleum tariffs in the United States. They make up the oil tariffs at 26 Broadway and give them out to the railroads to carry it as they say, or else they do not get any freight.²

Q. (By Mr. RATCHFORD.) Is not there an advantage in carrying and in loading and unloading tank cars as compared with the barrels?—A. Yes; if your cars arrived at a point where you could gravitate it out, or if you had a short hose attached to them—a short hose into a pipe to which you could put a pump, you could suck it out; and, of course, a tank car carries more oil and saves the weight of the barrel; they carry a larger weight.

Q. In every case it is either taken out by gravity or pumped out?—A. Yes.

Q. (By Mr. FARQUHAR.) In nearly all cases it is gravity, is it not?—A. I do not know about that, either. At the refinery at Bayonne, owned by the Columbia Oil Company, I think they take all the oil out by pump; I am quite sure they do; their works, I know, are right down on almost level ground and they could not take it out by gravity.

Q. (By Mr. RATCHFORD.) Do the railroad companies load the oil, or the producer?—A. The producer.

Q. And the railroad or shipping company unloads it?—A. The receiver of the oil unloads it, and the producer or owner of the oil loads it; so that the road has nothing to do with it. It is the same with barreled oil. The refinery loads its barrels into the car and the road has nothing to do with it; and so with unloading. There is no difference in that respect.³

(Reading:) "I proved that the intermediate rate on petroleum, via the transcontinental lines, in 1889 was \$1.90 per 100 pounds. The wooden-barrel shipper was required to pay on 85 pounds additional weight, which would amount to \$1.61 per barrel more, in gross violation of sections 3 and 4 of the act. The average market price of crude oil in 1889 was 94 cents.

"I proved that there was a charge of \$95 per tank car by the transcontinental lines, to return empties from Pacific coast to Missouri River."

This is all since the interstate-commerce act went into effect.

(Reading:) "Thomas M. Kimball, general traffic manager of the Union Pacific, testified, June 23, 1887, before the Pacific Railway Commission (p. 1134), that his road carried the empty tank cars of the Standard Oil Company free, same as the other roads.

"(Page 1132:) 'Q. What was the rate allowed to the Standard Oil Company?—

A. All sorts of rates, according to point of delivery, and the liveliness of competition at that point; 5 per cent, 10 per cent, 15 per cent, and up to 80 per cent.'

"So this great line, and a Government road, enters the arena to assist the Standard Oil Trust to throttle competition as against the rights of the people who have built the road.

¹ See Mr. Westgate, pp. 377, 378.

² See Mr. Page, p. 767; Mr. Westgate, pp. 373-379; Mr. Gall, pp. 375-377, 382-385.

³ See Mr. Page, p. 767.

"I proved that refined oils in bulk were being carried at 6 per cent less than actual weight, or 6 per cent of refined oil carried free for the Standard Oil Trust. Their various lubricants, residuum, etc., carried at 10 to 15 per cent less weight, according to gravity."¹

DISCRIMINATION BY EXCLUSIVE "STOP-OVER" PRIVILEGES.

"I also proved that the several associated lines of railway constituting the Southern Railway and Steamship Association pool, the Southwestern Traffic Association pool, and the Trans-Continental Association pool were grossly violating the third and fourth sections of the act, long and short haul, to the extent of 56 to 225 per cent, which inured to this extent, in favor of the Standard Oil Trust, by prepayment of its freight at the low car lot, terminal rate, with privilege to stop all such cars at high rate intermediate points.

"I paid out over \$1,200 in subpoenas in those cases by an imperative rule adopted by the commission, which was not required in my first cases.

"It is fair to assume, because of failure of the commission to properly decide these cases, that the same discriminations not only have continued, but they have even gotten worse, for on May 2, 1890 (B 161) the St. Louis, Arkansas and Texas Railway (applicable to all Southwestern lines) issued a special oil tariff sheet for exclusive benefit of the Standard Oil Trust"—

That I know, and I could not get it.

(Reading:) "By which this trust could stop off full loaded tank cars at high rate intermediate points and divide same up into less than car lots, to be distributed at several stations, by canning same, which should have paid 3 times the terminal rate. This was an exclusive tank car tariff sheet, not applicable to barreled oil in box cars, for the independent refiner who could not afford to purchase rolling stock tank cars.

"Per letter of the commission, July 12, 1897, these special and most extraordinary of freight discriminations yet continue, and are exclusively in favor of the Standard Oil Trust on petroleum shipments.

"As to what lines allow stop-over privileges, it is understood that all the lines named on the Southwestern Traffic Association tariffs as parties thereto participate in the stop-over privileges provided for therein."

That is a quotation from the Interstate Commerce Commission.

TANK-CAR DISCRIMINATIONS.

(Reading:) "The tank car has been the greatest medium for the Standard Oil Trust to receive rebates by carloads being carried at a lump sum rate regardless of weight, inconceivably low as compared to tariff rates by the 100 pounds.

"The railroads won't furnish tank cars, and if an independent refiner is able to buy a few, thus decreasing his working capital, he is confronted by these present special railroad instructions inserted in the tariff sheets."

To show you how the railroads put every possible obstacle in the way to freeze out and keep out competitors, this is what they put in. (Reading:) "The 'Southwestern Bureau,' of which the Missouri, Kansas and Texas Pacific is a member, owned by the Standard Oil Trust officials, has this to say at the present time: 'Oil tanks.—Carload, petroleum storage tanks for petroleum and its products, intended for permanent oil stations—'"

Intended for permanent oil stations, mind you, gentlemen.

(Reading:) "'Shall be transported at actual weight at the oil rate, when filled with oil that pays the bureau line's oil rate.'"²

That is as much as to say that the railroads have a right to say whether a station that I might put up is going to be a permanent one. But if I wanted to put up one it would be practically impossible to get the right of way or a place to put it up, for I was 2 years waiting and trying to get that; or if you did get it and you put your plant up, it was in the discretion of the railroad to say whether that was going to be a permanent thing. Anybody would know that it would not be permanent, because you can't live. The railroad would discriminate and you could not survive. It would not be any good whatever. I have another one right here.

(Reading:) "Central Freight Association.—Tank gauge handbook No. 4 says, applicable to all roads in the United States at present time: 'Petroleum and its products in tank cars will be delivered only when consigned to parties at points at which they have proper unloading and storage facilities, and when shipments

¹ See Mr. Page, pp. 731, 732.

² See *George Rice v. St. L. & S. R. Co.*, 5 Interstate Commerce Commission Reports, 660. The commission there states that Mr. Rice did not appear at the hearing, though duly notified thereof, nor offer any proof of discrimination between shippers. The stop-over privilege complained of seems to have been abolished on July 25, 1896, as to petroleum, though continued till December 5, 1896, on sundry other commodities.

³ See Mr. Page, p. 709.

in tank cars are sent to parties who have not such facilities the shipments will be returned to shippers at their risk and expense."¹

Just think of it. It is all left with the railroad to say whether you can have any show or not, and they do not give you any show and don't propose to do it either.

(Reading:) "On May 6, 1891, the Southern Pacific Company issued an exclusive special oil tariff"—

Here is something very important.

(Reading:) "With these exclusive advantages in favor of the Standard Oil Trust, being the exclusive owner of a peculiar box tank car combination, patented, of two upright iron tanks set inside a box car that thus avoids paying \$105 a tank car for return of empty cylinders from Pacific coast to Missouri River. This special oil tariff, governing all transcontinental lines, allowed this trust 27 cents per 100 pounds lower rates for petroleum transported in these special patent cars, as against the regular rates. This is discriminatory against the independent tank and barrel shipper by \$105 a tank car, and \$1.08 per barrel when shipped in barrels."

"The present highest intermediate rate on petroleum in less than car lots, Chicago to Pacific coast over transcontinental lines, is \$2.70 per 100 pounds, or \$10.80 per barrel of 400 pounds to the independent barrel shipper, while the Standard Oil Trust, by prepayment of its freight at the car lot terminal rate of 734 cents per 100 pounds on 320 pounds, or \$2.51 per barrel, gets an advantage of 330 per cent over its competitors in freight discrimination."

TEMPORARY REDUCTIONS FOR THE PROFIT OF THE STANDARD.

"Another method of freight discrimination in favor of the Standard Oil Trust on the transcontinental lines, per tariff of 1888, was to reduce rates temporarily one-half and then raise them again 50 per cent, so the trust, on exclusive secret information, could stock up on the low prices, while its competitors always had to pay the high tariff rates. (B 191.)"

Now, I will just read some telegrams that passed between Mr. Stubbs, of the Southern Pacific, in which he agrees to allow the Standard Oil Trust to stock up with petroleum products at low prices. This is here to show how it is done all at the pleasure of the Standard. This is from the Paint, Oil, and Drug Review of January 25, 1893, and I know all about it, because one of the men that is interested came to see me about it and showed me some of these telegrams.¹

[From the Paint, Oil, and Drug Review, January 25, 1893.]

HOW IT IS DONE—ALL AT THE PLEASURE OF THE STANDARD.

How completely the Standard Oil Company has its grip on the railroads is best evidenced by producing copies of telegrams that passed between the freight agents of the transcontinental lines, the Standard Oil Company at San Francisco, and the Standard Oil Trust at New York. Now, at the pleasure of the unscrupulous monopoly, it was enabled to stock up during low freight, and an interesting game of seesaw was played on weak competitors. In all cases freights were to be advanced and lowered upon notice from the Standard. A baser trade conspiracy never went into print. It follows:

[Copy of telegram.]

SAN FRANCISCO, November 14, 1888.

J. C. STUBBS,

General Traffic Manager Southern Pacific Company, St. Louis:

Tilford says regarding raising and lowering oil rates during the year, as talked before leaving, he thinks it better if you could, without giving particulars to Transcontinental Association lines, get consent to leave oil rates in hands of committee without explaining exactly why, but if your judgment approves you might give full particulars to 2 or 3 longest lines.

W. SPROULE,

Asst. Genl. Frt. Agt. Southern Pac. Co.

[Copy of telegram.]

SAN FRANCISCO, November 14, 1888.

W. SPROULE, *San Francisco:*

Say to Tilford that association will probably consent to following agreement: Oil rate from Cleveland to be \$1; at this rate he can stock up; after doing so he to

¹ See Mr. Page, p. 709.

notify Chairman Leeds, who, after giving necessary notice, will advance rate to \$1.25, and continue that rate until such time as Tilford notifies him of reduced stock, when he will again reduce it to \$1 to enable him to stock up.

J. C. STUBBS.

[Copy of telegram.]

SAN FRANCISCO, November 15, 1888.

J. C. STUBBS, *St. Louis*:

Tilford received your message, and in reply says he can not afford to pay \$1—that is too much, owing to water competition—but will agree to pay for petroleum and its products 85 cents from Cleveland, and if roads hard up might possibly raise the rate to 87½ cents. Tilford says this offer of his is provided association will agree to advance rate to \$1.25, and reduce it from time to time as he may desire, as outlined in your message of yesterday. Please answer. Tilford says please do not advance present linseed or lead rates, as it would interfere with negotiations that he has now under way with Whittier, Fuller & Co.

W. SPROULE.

[Translation of message to W. A. Bissell, general freight agent Atlantic and Pacific Railroad.]

SAN FRANCISCO, November 15, 1888.

W. A. BISSELL, *St. Louis*:

Tilford's proposition to the association through Stubbs is that he will pay 85 cents on petroleum and its products from Cleveland; possibly, if roads hard up, he might increase this to 87½, provided association will advance freight to \$1.25 when he gives it notice. He would stock up at the low rate, then notify the association when to advance, the advance or decline to be made at certain seasons of the year in accordance with his supply on hand. Do not let Stubbs know of this telegram.

W. SPROULE.

[Copy of telegram.]

ST. LOUIS, November 16, 1888.

W. SPROULE, *San Francisco*:

All rates will be advanced. Would advise that he accept proposition, otherwise sure rate will be made \$1 without any conditions; clipper competition will be cared for.

J. C. STUBBS.

[Copy of telegram.]

SAN FRANCISCO, November 19, 1888.

W. H. TILFORD,

Trustee Standard Oil Trust, 26 Broadway, New York:

J. C. Stubbs telegraphs as follows under date of 14th instant: "Transcontinental Association will probably consent following arrangement: Oil rate from Cleveland to be \$1; at that rate Standard Oil Company, San Francisco, can stock up. After doing so Standard Oil Company can notify Chairman Leeds, who, after giving necessary notice, will advance freight rate \$1.25 and continue that rate until such time as Standard Oil Company notifies him of reduced stocks, when he will again reduce it to \$1 to enable Standard Oil Company to stock up." I telegraphed J. C. Stubbs as follows: "Can not afford to pay \$1; that is too much, owing to water competition, but will agree to pay for petroleum and its products 87½ cents, provided Transcontinental Association will agree to advance rate to \$1.25 and reduce it from time to time as outlined in Stubbs's message; adding request Transcontinental Association not to advance linseed or lead rates." Under date of 16th instant, J. C. Stubbs telegraphs as follows: "All rates will be advanced. Would advise that Standard Oil Company accept proposition; otherwise sure rate will be made \$1 without any conditions. Clipper competition will be taken care of." What do you advise me to say to him? Advise me by wire at once.

E. A. TILFORD,
President Standard Oil Company of Iowa.

[Copy.]

SAN FRANCISCO, November 20, 1888.

J. C. STUBBS,

Care Southern Hotel, St. Louis:

Your telegram, 16th, through Sproule, received. I will raise my offer to 90 cents for petroleum and its products from Cleveland, association agreeing to conditions stated in your telegram to Sproule, 14th. This is the highest rate we have ever paid. This rate I believe would be a permanent thing and not stimulate clipper shipments or private clipper charters; therefore in long run would prove mutually more beneficial than \$1. Will you advocate 90 cents? I think with your vote for this rate, and you personally putting it before association, it would go through. We will have to ship quite a number of cars during high rate owing to special orders coming in. This should be taken into consideration when I ask that 90 cents be adopted. Please answer.

E. A. TILFORD.

[Copy of telegram.]

SAN FRANCISCO, November 21, 1888.

W. H. TILFORD,

26 Broadway, New York:

Dispatches received. Since telegraphing you yesterday, I received telegram from A. T. and S. F. R. R., St. Louis, intimating that Transcontinental Association would accept something less than \$1 from us. Therefore, I will telegraph J. C. Stubbs, care of Southern Hotel, St. Louis, as follows: "I will raise my offer to 90 cents on petroleum and its products from Cleveland, Transcontinental Association agreeing on conditions stated in his telegram, 14th. This is highest rate we ever paid. This rate, I believe, would be permanent thing and would not encourage heavy clipper shipments; therefore in long run would prove mutually more beneficial than \$1. Will you advocate 90 cents? I think with your vote for this rate and you personally putting it before association it would go through. We will have to ship quite a number of cars during high rate, owing to special orders coming in for points where we have no warehouses. This should be taken into consideration when I ask that 90 cents be adopted." I request J. C. Stubbs please answer. I do not know whether my telegram reached J. C. Stubbs, owing to his being in New York City. When you see J. C. Stubbs, say I telegraphed him as above, care Southern Hotel, St. Louis. In your talk advocate 90 cents as outlined above. Do not intimate to Stubbs that I have received any communication from A. T. and S. F. R. R. people, St. Louis. Telegraph me the result of your interview with Stubbs. Pay charges on Union Tank Line patent car referred to and send expense bill to me.

E. A. TILFORD.

[Copy—Subject: New T. C. A. rates.]

STANDARD OIL COMPANY,
San Francisco, November 21, 1888.

W. H. TILFORD, Esq., 26 Broadway, New York:

After telegraphing you yesterday afternoon saying that I would telegraph J. C. Stubbs as outlined in your message of yesterday, I received word, through A. T. & S. F. office here, from W. A. Bissell, general freight agent of the Atlantic and Pacific Railroad, who is now in St. Louis, that he thought the association would accept something less than \$1 from us if our offer was properly put before them, consequently I telegraphed J. C. Stubbs, as per my translated copy of message to you herewith attached. I was not aware that Mr. Stubbs was in New York and sent my message to the Southern Hotel, St. Louis; therefore I requested in my message to you that when you meet Mr. Stubbs you say that I telegraphed him, care Southern Hotel, St. Louis; and also outline to him the substance of my message, incorporating further along in my telegram that in your interview with Mr. S., please advocate the 90-cent rate.

I will advise you as soon as I hear definitely when the new rates of freight that the Transcontinental Association are agreeing on now will take effect. I heard to-day, through the A. T. & S. F. office here, that Mr. Bissell had telegraphed from St. Louis that he thought the new traffic would go into effect on or about the 15th or 20th of next month. Please treat this confidentially, but, as I state before, as soon as I find out definitely regarding the new rates I will duly advise you.

Yours, truly,

E. A. TILFORD.

[Copy.]

NEW YORK, November 28, 1888.

E. A. TILFORD, *San Francisco*:

General meeting adjourned to meet at Chicago, Monday morning. Will take up matter then. Will do best I can. Probably can make it 95, which your brother Hunt says you can stand. If you have to address me, care Pacific Hotel, Chicago.

J. C. STUBBS.

[Copy.—Subject: Rates on oil from Cleveland to the Pacific coast.]

STANDARD OIL COMPANY,
San Francisco, November 28, 1888.

W. H. TILFORD, Esq., 26 Broadway, New York.

DEAR SIR: I beg herewith to hand you copy of my translated dispatch to you of even date, which explains itself.

From Mr. Stubbs's dispatch you will see that he seems to think that you have already agreed that I will stand 95 cents on oil from Cleveland to the Pacific coast. In your dispatch to me of a few days ago you stated you talked with Mr. Stubbs about 90-cent rate, suggesting, however, further along in your message that Mr. Stubbs should telegraph that he could get the 95-cent rate adopted, that I had better accept the same. From your message I would imagine that you simply talked the 90-cent rate, without committing yourself to Mr. Stubbs about a 95; hence my reason for asking you the question as to whether you had agreed to the 95, in my message of to-day.

Yours truly,

E. A. TILFORD.

[Copy.—Subject: Error in translation of message.]

STANDARD OIL COMPANY,
San Francisco, November 24, 1888.

W. H. TILFORD, Esq.,

Vice-President Standard Oil Company, 26 Broadway, New York.

DEAR SIR: I am just in receipt of your message of even date saying that you translated my message wrong, reading the rate that I had offered the transcontinental lines 95 cents, instead of 90-cents.

I think whoever translated my message in your office should be disciplined, for the error will prove, I am afraid, quite expensive to us here. I am afraid now the damage is done and I will be unable to secure a lower rate than 95 with the Transcontinental Association lines. I am fully convinced, however, if you had talked 90 cents to Mr. Stubbs when you saw him I could have had this rate put in effect. I will, however, as you suggest, telegraph Mr. Stubbs to-night, care Grand Pacific Hotel, stating that when you mentioned 95 cents to him, that the same was based on an error in translating my cipher message, and that I still hope he will advocate the 90-cent rate.

Yours truly,

E. A. TILFORD.

[Copy of telegram.]

CHICAGO, November 26, 1888.

E. A. TILFORD, *San Francisco*:

I told Hunt your dispatch to me read 90, and he must be in error. He afterwards confirmed my view, and at the same time expressed himself as willing to compromise on 95.

J. C. STUBBS.

[Copy...Subject: Oil rate.]

[Personal.]

SAN FRANCISCO, November 26, 1888.

W. H. TILFORD, Esq.,

Vice-President Standard Oil Company, 26 Broadway, New York.

DEAR SIR: I am just in receipt of the following message from Mr. Stubbs:

"CHICAGO, November 26, 1888.

"E. A. TILFORD, *San Francisco*:

"I told Hunt your dispatch to me read 90, and he must be in error. He afterwards confirmed my view; at the same time expressed himself as willing to compromise on 95."

I telegraphed Mr. Stubbs as I wrote you I would on the 24th instant, and the above message from him is in reply to my telegram. Mr. Stubbs's statement as to you agreeing to compromise on 95 cents does not exactly tally with what you wired me under date of the 24th instant. (Please see your telegram of that date.) Will you please write me (for curiosity sake) what are the facts as to your interview with J. C. S. Of course I understand before my letter can reach you, and you can reply, the 90 or 95 cents rate will be selected; but as I would like to know for my own satisfaction, hence my requesting you to write me. I will make up some sort of a message to-night to send Mr. Stubbs in reply to his of above date, but, as I state in my letter of the 24th instant, I believe now that nothing will be accepted but 95 cents.

Yours, truly,

E. A. TILFORD.

[Copy of telegram.]

SAN FRANCISCO, *November 26, 1888.*

J. C. STUBBS,

Care Grand Pacific Hotel, Chicago.

To quote Pinafore, Hunt evidently got those babies or rates mixed up. Lines had better give 90 a trial. If later on there's possibility advancing, you know I am always willing. Whittier has large lot clipper oil now arriving and it will be hard for us to meet this competition even if our rate made 90.

E. A. TILFORD.

[Copy.—Subject; Freight rates.]

[Personal.]

STANDARD OIL COMPANY,
San Francisco, November 28, 1888.

W. H. TILFORD, Esq., *26 Broadway, New York.*

DEAR SIR: I am just in receipt of your day message of even date, saying that Standard Oil Company, Cleveland, and Standard Oil Company, Pittsburg, would probably fill all of my orders by Saturday night, December 22, and that the new rate of \$1.25 per 100 should go into effect 24th proximo, etc.; contents of the same carefully noted.

I have not heard anything this week from the transcontinental roads which are now holding forth at Chicago, as to when they will be ready with their new tariffs. I wrote you some few days ago that the Atchison, Topeka and Santa Fé people telegraphed me from St. Louis that they did not believe the new tariff would go into effect before the 15th proximo. It looks to me now as though this tariff would not be put into effect before December 20 to January 1, 1889. I am, however, in communication with the agents of the different lines, who are now at Chicago, and just as soon as I learn definitely as to the date when the new tariffs will go into effect, I will promptly telegraph you. If I find out definitely that they will be ready with their tariffs before December 22, I will arrange to have the present oil rates remain in effect until the 24th proximo, as you suggest. I wish, however, you would impress upon Standard Oil Company, Cleveland, and Standard Oil Company, Pittsburg, the necessity of filling out all our orders at an early date as possible.

Yours truly,

E. A. TILFORD.

[Copy.]

[Personal.]

OFFICE GENERAL FREIGHT AGENT,
SOUTHERN PACIFIC COMPANY,
San Francisco, December 3, 1888.

E. A. TILFORD,

President, Standard Oil Company, City.

DEAR SIR: I have advices from Chicago that arrangements for coal-oil rates have been closed, and the new rates thereunder will probably go into effect January 1. From Cleveland and Pittsburg 90 cents per 100 pounds, and from New York \$1 per 100 pounds. The basis of operation of these rates, looking to the conserving of your interests, is intended to be communicated in recent advices from Chicago, of which you are informed.

Yours, truly,

WM. SPROULE.

[Copy of telegram.]

SAN FRANCISCO, *December 4, 1888.*W. H. TILFORD, *26 Broadway, New York:*

J. C. Stubbs telegraphs as follows from Chicago: "Oil freight rates have been closed. New freight rates thereunder probably effective January 1. From Cleveland and Pittsburg 90, from New York \$1." This message from J. C. Stubbs means 90 for us to stock up with, with \$1.25 in effect whenever we want. See my letter of this date.

E. A. TILFORD.

[Copy—Subject: Freight rates.]

[Personal.]

STANDARD OIL COMPANY,
San Francisco, December 4, 1888.

W. H. TILFORD, Esq.,

Vice-President, Standard Oil Company, 26 Broadway, New York.

DEAR SIR: I will telegraph you this afternoon as per translated copy of message herewith attached, which is self-explanatory.

I herewith hand you a copy of a letter I have just received from Mr. Sproule, assistant general freight agent of the Southern Pacific Company, this city. This letter I interpret to mean the 90-cent rate is for us to stock up from time to time, and that the \$1.25 per 100 rate will be in effect whenever we may desire. This \$1.25 rate is what Mr. Sproule refers to in the latter portion of his letter, as my offer of 90 cents to Mr. Stubbs was on condition that he has the rate of \$1.25 put in effect when we might ask him. This letter also reads as if the 90-cent rate and \$1 rate was to be put in effect January 1. No doubt Mr. Stubbs was unaware that we were stocked up at the present rate of 82½.

The Transcontinental Association adjourned at Chicago yesterday, and I understand that Mr. Stubbs is now on his way home. I will see him on his arrival here, and if Chairman Leeds, of the Transcontinental Association, has been notified to put the 90-cent rate in effect January 1, I will have the same corrected by wire and the \$1.25 rate put in. As soon as Mr. Stubbs reaches home I will telegraph you whether it is intended that the 90-cent rate should be put in effect January 1 or the \$1.25.

Yours, truly,

E. A. TILFORD.

(Inclosed 2.)

[Copy—Subject: Transcontinental Association freight rates from Chicago. U. P. cut to Denver.]

[Personal.]

STANDARD OIL COMPANY,
San Francisco, December 5, 1888.

W. H. TILFORD, Esq.,

Vice-President Standard Oil Company, 26 Broadway, New York.

DEAR SIR: I am just in receipt of your 2 dispatches of yesterday bearing on the subject at the head of this letter—contents of the same carefully noted. I herewith hand you translated copy of my reply, which is self-explanatory. I hardly think the newspaper reports that the Transcontinental Association will allow differentials in favor of Chicago to such an extent that the local rate from Lima and the oil regions to Chicago, added to the rate from that point, would be less than the through rate from Cleveland to the Pacific coast on petroleum and its products.

My telegram and letters to you of yesterday in which I inclose you a copy of the letter from Mr. William Sproule, assistant general freight agent of the Southern Pacific Company, of this city, giving the substance of the telegram that he had received from Mr. Stubbs at Chicago, names the rates on petroleum from Cleveland, Pittsburg, and New York.

I expect (without knowing) that the rates from the oil regions and Lima will be the same as from Cleveland and Pittsburg to the Pacific coast. Just as soon as I see Mr. Stubbs I will advise you what other points—other than Cleveland and Pittsburg—the 90-cent rate will apply. If there is any truth in the newspaper report which you refer to, about the local rate added to the Chicago making a less rate than the through, I will have the same duly corrected without delay and promptly notify you.

I will not telegraph the Union Pacific people regarding the cut rate into Denver, as your second dispatch states the rates will be restored on Saturday night next.

Yours, truly,

E. A. TILFORD.

[Copy of telegram sent to J. C. Stubbs through William Sproule.]

SAN FRANCISCO, December 6, 1888.

J. C. STUBBS, *Chicago*:

If it is not already agreed upon that the \$1.25 rate is to go into effect January 1, on petroleum and its products from Cleveland and Pittsburg to the Pacific coast, will you kindly telegraph Chairman Leeds to put this rate in effect on the day mentioned. Please answer.

E. A. TILFORD.

[Copy of telegram.]

SAN FRANCISCO, December 6, 1888.

W. H. TILFORD, *26 Broadway, New York*:

J. C. Stubbs reaches Windsor Hotel, New York, to-morrow morning. I have telegraphed him, if it is not already agreed upon, to arrange to have \$1.25 rate put in effect January 1, requesting answer. I telegraphed this to J. C. Stubbs fearing might be some misunderstanding and 90 rate put in. Dispatch received. I have telegraphed Union Pacific Railway.

E. A. TILFORD.

[Copy—Subject: Freight rate.]

[Personal.]

STANDARD OIL COMPANY,
San Francisco, December 6, 1888.

W. H. TILFORD, Esq.,

Vice-President Standard Oil Company, 26 Broadway, New York.

DEAR SIR: I will telegraph you this afternoon as per translated copy of my message herewith attached. I telegraphed Mr. Stubbs to-day through his office here (Southern Pacific Company) as follows: "If it is not already agreed upon that the \$1.25 rate is to go into effect January 1 on petroleum and its products from Cleveland and Pittsburg to Pacific coast, will you kindly telegraph Chairman Leeds to put this rate into effect on the date mentioned. Please answer." I wrote you on the 4th instant, subject, "Freight rates," giving particulars as to the freight situation up to that date. Kindly see my letter of above date. I was a little bit fearful there might be some misunderstanding and the 90-cent rate put into effect January 1 instead of the \$1.25; hence my reason for telegraphing Mr. Stubbs to-day, as outlined above. When I wrote you on the 4th instant I was under the impression that Mr. Stubbs was on his way to San Francisco, but to-day I learn that he will reach New York to-morrow. I will duly advise you of the reply that I receive from Mr. Stubbs in answer to my to-day's telegram. My reason for telegraphing you Mr. Stubbs is in New York was thinking possibly that you might wish to see him and discuss our freight situation, and in order to have you do so intelligently I desire to keep you posted as to what was passed between Mr. Stubbs and myself by telegraph. Up to date I have repeated to you in substance everything that has passed between Mr. Stubbs and myself since the Transcontinental Association has had their last meeting East.

Yours, truly,

E. A. TILFORD.

[Copy.]

[Personal.]

SOUTHERN PACIFIC COMPANY,
OFFICE OF GENERAL FREIGHT AGENT,
San Francisco, December 8, 1888.

Mr. E. A. TILFORD,

President Standard Oil Company, City.

DEAR SIR: I beg to inform you that I am in receipt of advice that on January 1 the rate on petroleum oil and its products will be to \$1.25 per 100 pounds on car-load shipments from agreed Eastern points.

Yours, truly,

WM. SPROULE.

[Copy of telegram.]

W. H. TILFORD, *26 Broadway, New York.*

J. C. Stubbs telegraphs me that oil rate will be \$1.25 January 1.

E. A. TILFORD.

[Copy.]

[Personal.]

STANDARD OIL COMPANY,
San Francisco, December 8, 1888.W. H. TILFORD, Esq.,
Vice-President Standard Oil Company, 26 Broadway, New York.

DEAR SIR: I will telegraph you this afternoon as per translated copy of my message herewith attached, which is self-explanatory.

I wrote you on the 6th instant, subject, "Freight rate." In my letter of above date I give you verbatim my telegram that I sent to Mr. Stubbs in New York. I herewith hand you copy of a letter that I have received from Mr. William Sproule, assistant general freight agent Southern Pacific Company, this city. This letter of Mr. Sproule's is quoting in substance a telegram from Mr. Stubbs in answer to my message to him of the 6th instant.

I think we have managed this freight business pretty well from this long distance, especially when you think that we have secured the 90 cents rate with which to stock upon from time to time, and after some misunderstanding as to a compromise.

Yours, truly,

E. A. TILFORD.

[Copy—Subject: Correspondence with Mr. Stubbs.]

[Personal.]

STANDARD OIL COMPANY,
San Francisco, December 8, 1888.W. H. TILFORD, Esq.,
Vice-President Standard Oil Company, 26 Broadway, New York.

DEAR SIR: In looking over my telegrams and letters to Mr. Stubbs, regarding the petroleum and its products rate, also my correspondence to you on this subject, I find on the 27th ultimo I wrote you, subject, "oil rate" (please refer to this letter), wherein I quoted a dispatch that I had received from Mr. Stubbs. I also stated in this letter that I would make up some sort of message to send to Mr. Stubbs in answer to his from Chicago, November 26. I do not think that I sent you a copy of the message referred to, which telegram was as follows:

"NOVEMBER 26, 1888.

"J. C. STUBBS,

"Care Grand Pacific Hotel, Chicago:

"To quote Pinafore, Hunt evidently got those babies, or rates, mixed up. Lines had better give 90 a trial. If later on there's possibility advancing, you know I am always willing. Whittier has large lot Clipper oil and it will be hard for us to meet this competition even if our rate made 90."

As this freight-rate question is now settled, and I want you to know just exactly what has passed between Mr. Stubbs and myself, I believe with the above dispatch you now have the full data up to date on this subject.

Yours, truly,

E. A. TILFORD.

[Copy of telegram.]

SAN FRANCISCO, December 11, 1888.

W. H. TILFORD, 26 Broadway, New York:

Assistant general freight agent Union Pacific Railway just arrived here. He says practically rates from Chicago 99 per cent of New York rate. This answers your telegram, 4th. Lead rate will be January 1, \$1.06 from St. Louis; linseed 90 from Missouri River. We have stocks both sufficient to last next 4 months.

E. A. TILFORD.

This is since the interstate-commerce act and shows that the roads allow the Standard Oil Trust to stock up on low rates without the general public knowing anything about it.

Q. (By Mr. PHILLIPS.) How do you explain that, in view of the letters that were read by Mr. Archbold before this commission stating that there had not been discriminating rates given since the interstate-commerce law went into effect?—A. I do not believe those letters at all. My experience with railroad men has been such that I have a very low opinion of them.

HOW WERE THESE TELEGRAMS OBTAINED?

Q. (By Mr. JENKS.) Do you know where this paper secured copies of these telegrams?—A. This Mr. Bissell came to the Interstate Commerce Commission and also corresponded with me. Mr. Bissell wanted me to go in with him to prose-

cute this matter before the Interstate Commission, and I would not be surprised if the Interstate Commerce Commission had got copies of all these.

Q. But you do not know where the paper itself secured the copies?—A. At Chicago; that is a Chicago paper.

Q. Where did they get copies of these telegrams?—A. I think they got them from Bissell himself.

Q. Who is Mr. Bissell, and how did he get them?—A. He is one of the officers of this railroad; W. A. Bissell, St. Louis. He was general freight agent of the Atlantic and Pacific Railroad, one of the through lines. I think Bissell was discharged, and it strikes me he became an employee of the Standard Oil Company afterwards; that is my impression. I am not positive about that, but he was the man that exposed all this.

Q. Of course these telegrams are of a private character between officials of the Standard Oil Company, and it is quite singular that they should fall into the hands of Mr. Bissell.—A. Mr. Bissell was discharged, either discharged from the railroad or the Standard Oil Company, or he left them; that is the way they got out.

Q. So you think there is no question at all as to the trustworthiness of these?—A. No question, not at all; and I would not be surprised if the copies of these were with the Interstate Commerce Commission, because I know he corresponded with them.

“COMMISSIONS” ON FREIGHT.

Now, they have got up a new phrase; that is, comparatively new; within 5 or 10 years maybe, but since the general rebate exposures came out. They have adopted the new phrase “commission,” a per cent off. The railroads say they can pay whatever commission they please; that is, they can pay 10, 25, or 50 per cent on a shipment, you know, and then go on the stand and say they are not paying rebates. They have adopted that name “commission” instead of rebate; a new order of things, that is all, to whip the devil around the stump.

Q. (By Senator KYLE.) Paying commissions for freight?—A. Yes; for instance, if you are shipping \$50,000 or \$100,000 worth of goods in a certain length of time they will take off 50 or 75 per cent instead of making a rebate.

Q. Paid as a bonus to get trade?—A. Yes. Here is the point: These large shippers send an agent to a railroad and say to them, “Now, I think I can get that man’s business, amounting to so much, provided you can pay him a certain commission.” Well, “How much do you want?” That is finally arranged about the per cent; it is done through this intermediary, may be, although I do not know that the Standard Oil Trust has to do anything of that kind. I think they go direct to the headquarters of the road and make their own commission. Their own men are officers and trustees and fix all that easy enough.¹

Q. (By Mr. CLARKE.) Have you any correspondence or documents of any kind to prove that use of the word “commission”?—A. No; I do not know that I have. I have not any at hand here.

Q. How do you know, then, that is their present method?—A. I know that from general information that I have had on the subject.

Q. (By Mr. SMYTH.) Have you ever asked for a commission?—A. No, sir.

Q. It has never been refused you?—A. I have never asked for it, and of course it has never been refused.

Q. Do you suppose it would be refused?—A. Why, certainly. They would say at once, we are not giving rebates, are not giving any discriminations or giving commissions to anybody.

Q. Do you think that is done in other lines of business than the oil business?—A. Oh, yes; only I think the discriminations in the oil business are much greater. I think that almost all these trusts and combinations are formed upon these lines; and then they go to a railroad and say, “We have got so much freight to carry. What will you take it for? and if you do not want it we will give it to some other railroad.” They will fix up a rate and say, “We will give you so much freight within a certain length of time.” These large shippers figure all these things out. They know just what a road can take freight for and make a small margin.

Q. You have no proof of that?—A. No; I have no proof of that.

Q. But you think it is so?—A. I do. I should say with all these gross freight discriminations that I have exposed here they would do almost anything to accomplish their end, when it is right against the law. It is \$5,000 fine and 2 years in the penitentiary for each and every offense of freight discrimination, but what

¹ See Mr. Page, pp. 768-770.

does it amount to? It does not amount to anything. It doesn't deter any of these men from freight discrimination, not a bit.

Q. Do you mean us to understand that it is owing to the hostility of the Standard Oil Company to you personally that these commissions are not granted to you? Do you think they are granted in other lines of business?—A. Oh, yes; certainly they are; and the letters of Receivers Cowen and Murray are the best evidence I know of. They themselves say and admit in that letter to the Interstate Commission that they themselves are criminally violating the interstate-commerce law, and after January, 1899, "we are going to observe tariff rates;" and they say further, "If we find any of our neighbors violating the law we will complain to you and we hope you will use your best efforts to compel them to come to time." They write a letter and admit that they are criminally violating the law, and they are the receivers of a railroad under protection of the United States court. My idea of it is that they thought that the other roads were giving a bigger commission and better rebates than they, and they were not getting their share, and they just thought they would come out and expose them.

Q. Your complaint is that they would not give you any?—A. My complaint is against freight discrimination; that the small shipper can not do any business to-day because of rebates and freight discriminations. It is the greatest evil of the day, and it is in gross violation of the law. We have plenty of laws but they are not executed; one man stops the whole business. The Federal antitrust act has all the elements in it to protect the people, but it is not enforced. It is not worth that [snapping his fingers].

THE ATTORNEY-GENERAL SAID NOT TO ENFORCE THE LAW.

Q. (By Representative LIVINGSTON.) Please explain why the antitrust act is not executed.—A. Because the Attorney-General does not enforce it as he ought to enforce it.

Q. Can it not be enforced in the States independent of the Attorney-General?—A. No. The act says that it must be done through the Attorney-General of the United States and his deputies. You know he has about 75 deputies under him. I will just read section 4:

"SEC. 4. The several circuit courts of the United States are hereby invested with jurisdiction to prevent and restrain violations of this act; and it shall be the duty of the several district attorneys of the United States, in their respective districts, under the direction of the Attorney-General, to institute proceedings in equity to prevent and restrain such violations. Such proceedings may be by way of petition setting forth the case and praying that such violation shall be enjoined or otherwise prohibited. When the parties complained of shall have been duly notified of such petition the court shall proceed, as soon as may be, to the hearing and determination of the case; and pending such petition and before final decree, the court may at any time make such temporary restraining order or prohibition as shall be deemed just in the premises."

Q. Has there been any effort made in your State to enforce that by any one of those solicitors?—A. I do not know. I have had correspondence with the Attorney-General of the United States myself in regard to proceedings against the Standard Oil Trust, but he doesn't act. I wrote him a year ago.

Q. Have you that correspondence?—A. No, I haven't it with me; but that is the great trouble with the whole business. If this antitrust act which was passed had been immediately enforced, I do not think there would have been this epidemic of trusts we have to-day, because they can enjoin and prohibit and confiscate their goods. I will just read that part of it:

"SEC. 6. Any property owned under any contract or by any combination or pursuant to any conspiracy (and being the subject thereof) mentioned in section 1 of this act, and being in the course of transportation from one State to another or to a foreign country, shall be forfeited to the United States and may be seized and condemned by like proceedings as those provided by law for the forfeiture, seizure, and condemnation of property imported into the United States contrary to law."

They can enjoin. Suppose all these 75 attorneys were under orders from the Attorney-General of the United States to proceed against everyone, it would make a great difference. But of course it would not amount to anything unless you get some of them in state prison—fines with them don't amount to anything.

Q. (By Mr. JENKS.) Do I understand you to say that in your correspondence with the Attorney-General the Attorney-General declined to enforce the law?—A. He made excuses from one thing to another; that he hadn't the time to look into it, and the Assistant Attorney-General had gone to Europe and hadn't got back.

¹ For the letter referred to, see p. 637. See also Mr. Page, p. 770.

Senator KYLE. I think it would be better to have a copy of the correspondence furnished, if you can furnish it, inasmuch as an implication has been made that he in a sense has put you off.

Q. (By Mr. JENKS.) Will you be kind enough to furnish the commission a copy of the correspondence with the Attorney-General?—A. Yes, I can.

Mr. JENKS. If you please.¹

THE INTERSTATE COMMERCE COMMISSION DOES NOT DECIDE.

Q. (By Representative LIVINGSTON.) You said awhile ago that discriminations on this transcontinental line were prevalent and constant. Have you made any effort with the Interstate Commerce Commission to have that stopped?—A. I have in a few of my own cases here. Eight or 10 years ago I made complaint—and the cases have all been held up and have been decided, partially decided—and they do not amount to anything. I have brought suits against the transcontinental lines, with notifications to 150 lines that they should appear and answer; and I proved all these gross freight discriminations, and I believe they are going on just as much to-day as ever.²

Q. What does the Interstate Commission say about it?—A. They do not decide my cases; they do not decide this gross freight discrimination.

Q. Do they give you any reason why they do not decide them? Have you any correspondence here that will show that?—A. Yes, here is the decision of this case.

Q. (By Mr. PHILLIPS.) When was that decision rendered?—A. April 9, 1892. They were brought in March, 1889, and April 26, 1889. They did not decide them until April 9, 1892, and then they only partially decided them, and left them all open for additional evidence.

Q. (By Representative LIVINGSTON.) Additional evidence on which side?—A. And of course it so disgusted me that I would not have anything more to do with it; I would not take any more evidence. I had spent a lot of money, and I had a first-class lawyer, one of the finest in the United States, and a railroad man, to see to the cases, and proved all that I charged, and then they hung them up.

CONDITION OF INDEPENDENT REFINERS.

Q. (By Mr. SMYTH.) You are a producer of oil as well as a refiner?—A. No, I have not refined any oil since May, 1896.

Q. Does this persecution on the part of the Standard Oil Company apply to your business as a producer of oil?—A. No, I do not suppose it does, because I get the same price per barrel as anybody else.

Q. They buy your crude oil?—A. Yes.

Q. It is only your business as a refiner?—A. Yes.

Q. Have you been forced to discontinue your business of refining?—A. Yes, I have been forced to discontinue refining owing to freight discrimination.

Q. And your refinery is idle?—A. Yes, idle and rotting down. I have not run it since 1896. It is useless for anybody to try to build a new refinery against these odds. That would be suicidal. Even if I had \$1,000,000 or \$5,000,000 I would not "buck" against them.

Q. (By Representative LIVINGSTON.) Did they offer to buy your refinery?—A. At one time we had some negotiations, but not latterly.

Q. Why did not you sell to them?—A. Well, they did not want to pay me what I thought it was worth, and I did not sell to them.

Q. You either had to take what they offered or quit?—A. Yes; and since that time they have been charging me as a blackmailer because I did not take what they thought it was worth.

Q. (By Mr. SMYTH.) But there is no obstacle in your way as a producer of oil?—A. No.

Q. (By Mr. KENNEDY.) Are there any refineries in Ohio independent of the Standard Oil Company?—A. Yes; Scofield, Shurmer & Teagle have one at Cleveland.

Q. Do they refine the Lima oil?—A. I do not know that; I am not sure about that.

Q. Do you know whether they are doing business at a profit or not?—A. No; I do not.

Q. How long have they been in business?—A. They have been in business a good many years; I do not know whether they were doing it at a profit, but on general principles I think there is hardly any refinery making money.

Q. They have a large refinery?—A. Yes; pretty good size.

¹ Filed with the Commission.

² See p. 715.

GOVERNMENT OWNERSHIP OF RAILROADS THE ONLY REMEDY FOR FREIGHT DISCRIMINATION.

Q. (By Representative LIVINGSTON.) What is your opinion and the opinion of others similarly situated with yourself as to the real reason why these things are not attended to? You seem to think the authority is broad enough.—A. Yes; I do. The whole trouble is because the officials whose duty it is to execute the law don't do it.

Q. Why do they not do it?—A. That is what is the matter—why don't they do it? That I can not answer.

Q. Is it political, pecuniary, or what is the trouble?—A. I think the trusts and combinations have their powerful influences.

Q. Do you mean in a pecuniary or political way, or both?—A. I think they have it politically.

Q. (By Mr. FARQUHAR.) Do you not think there is a remedy in the Sherman antitrust act for all of these troubles that have come upon you?—A. Yes; certainly I do.

Q. You think the law is sufficient?—A. Certainly. All the trusts and combinations could have been destroyed if the Sherman Act had been executed in its earlier days.

Q. (By Mr. A. L. HARRIS.) You know the Knight case was decided many years ago?—A. That was before the Sherman Act.

Q. (By Representative LIVINGSTON.) Do you mean to say that you have no new suggestions or recommendations to give to the commission by which we can amend that law or bring into life a new law by which these trusts and combinations can be controlled?—A. I do not think any amendment to any law that you have got will do any good; I believe in Government ownership of railroads. I do not believe there is any other way that you can get out of that trouble. We have had 12 years' trial of the interstate-commerce act and 9 years of the Federal anti-trust act, and have not reached it.

Q. (By Mr. PHILLIPS.) Provided the Government did own the railroads and there was absolutely no discrimination in freights, could you refine and market oil in this country?—A. I think I could, but I can not do it now. Of course I could not do it so well as I could before this epidemic of combinations came on several years ago, before these mammoth combinations got up. Now they come in and cut prices right where you sell and freeze you out.

Q. If I understand you, any large combination can follow up the small operator and get the markets?—A. Yes.

Q. And absolutely destroy him?—A. Yes.

Q. If there was absolutely no discrimination?—A. Yes, they could do even that without any discrimination and do it by these ill-gotten gains that they have secured in the past.

ONLY DIRECT LEGAL ACTION CAN DESTROY THE COMBINATIONS.

Q. (By Representative LIVINGSTON.) Then ownership of railroads would do no good unless the other remedy came with it?—A. What?

Q. The destruction of the combinations?—A. Yes, that would help, you know, to destroy them. Of course, I do not see any other way of destroying these combinations, excepting that the attorneys-general of the various States forfeit their charters.

Q. (By Mr. CLARKE.) Do we have any power against combinations of foreign countries?—A. I do not know why we have not.

Q. Would you repeal the protective tariff?—A. I would repeal the protective tariff wherever it affects any trust or combination.

Q. Well, suppose a trust or combination was formed in a foreign country upon some article or line of merchandise that gives them an opportunity to operate against similar productions in this country as strongly as any combination does here. Wouldn't you need a protective tariff to protect you against that?—A. I believe in a protective tariff to a certain extent, to the protection of home industries.

Q. (By Representative LIVINGSTON.) Provided it is an individual industry?—A. Yes, I say to protect the individual more than the trust. The trouble is that the trusts and combinations are getting all the protection, and the people and smaller fellows do not seem to get it.

(Reading:) "The Chicago, Rock Island and Pacific Railway, in which two trustees of the Standard Oil Trust, Henry M. Flagler and Benjamin Brewster, were directors, issued on June 13, 1891, a 'special tariff,' including all connecting lines,

in which petroleum and its products from Whiting, Ind., are made at Chicago rates as follows:

"Current Chicago rates as published in various issues of this company."

(No doubt practically in effect to-day without a published tariff.)

"The Standard Oil Trust have at Whiting, Ind., suburb of Chicago, on the Lake Shore, the largest petroleum refining plant in the world.

"FREIGHT DISCRIMINATION OF 110 PER CENT IN 1897, IN FAVOR OF THE STANDARD OIL TRUST."

Now, here is something in 1897; that is pretty late discrimination. Mr. Archbold says you have not had any since 1887. This is up to 1897.

(Reading:) "In 1897 the New York, New Haven and Hartford Railroad Company, in which William Rockefeller is a director, discriminated in freight rates in favor of the Standard Oil Trust to the extent of 110 per cent, by which 2 cars of naphtha, containing 100,986 pounds, was carried at 48,000 pounds, or 2 carloads for one, applicable to all Standard shipments, this being accidentally discovered."¹

Q. (By Mr. JENKS.) Where was that proved?—A. Why, it was before the Interstate Commerce Commission, and I have got here letters from Mr. Coburn in regard to it, the Liberty Oil Company.

Q. What did the Interstate Commerce Commission decide?—A. They have not made any decision yet. I have extracts of the testimony—I do not know but I had better read them—published in the Springfield Republican of March 13, 1898, of different officers of the railroad in regard to it.

Q. Perhaps you had better file this with us so that we will have it on file here?—A. I will read a letter here.

Q. You might read the letter and we will take references to the Interstate Commerce hearing?—A. This is a letter from the Liberty Oil Company, which refers to some of the matters.

(Reading:)

"CHELSEA, MASS., December 15, 1897.

"Mr. GEORGE RICE, Astor House, New York, N. Y.

"DEAR SIR: Your esteemed favor of the 14th instant at hand, and your kind feeling toward us in our fight with the Standard Oil Company we certainly appreciate. We are still having a very hard fight with the Standard Oil people here in our tank wagon business, but up to the present time we 'hold the fort.'"

But I was going to say right here that I have seen the original waybills of these; Mr. Marchand of the Interstate Commerce Commission showed me the original waybills showing this.

Q. (By Senator KYLE.) The ones referred to in this case?—A. Yes.

(Reading:)

"In regard to the underbilling of Standard Oil Company freight, the paid freight bill of which we hold, will say for your personal use that the whole matter with all papers is now in the hands of Mr. Marchand, agent of the Interstate Commerce Commission, who leaves here to-day for Washington, and everything looks fair now that we shall be able to procure a criminal indictment against the Standard Oil Company in this case. Both Mr. Prouty and Mr. Marchand of the commission feel confident that they have a sure case, and we shall push it for all it is worth.

"When anything new occurs in this matter I will, both at your own request and at the request of Mr. H. D. Lloyd, keep you posted.

"Thanking you for the interest you have manifested in our welfare, we are,
Most respectfully, yours,

"LIBERTY OIL COMPANY,
C. M. COBURN, Manager."

(Reading:) "This is a fine exposé of what legalized pooling would mean, for this road was a member of the Joint Tariff Association, which comprised all railroad lines east of Chicago—strongest railroad pool ever organized—by which they dictated the rate terms to all the lines west of Chicago on which they would be permitted to get their traffic to the seaboard.

"Another fine feature about this pool was that they excluded petroleum from the regular classified rate-making power, and made it subject to special contract.

"On December 14, 1882, the Produce Exchange of New York established, by resolution, and not changed, a gravity weight in the sale of refined oils of 44

¹ See Mr. Page, pp. 770-775; Mr. Westgate, p. 373; Mr. Archbold, p. 550.

degrees, which actually weighs 6.7 pounds per gallon. The railroads to-day have an established weight of 6.4 pounds per gallon, by which the refined oils of the Standard Oil Trust are now carried free, to the extent of 4.68 per cent, through underweight."¹

Q. That applies also to the oil of all their competitors?—A. Why, certainly; of course it does; but their having a large amount more makes it greatly to their advantage, and on their lubricating oils, that are carried at 64, it is 15 per cent.

Q. (By Mr. SMYTH.) That statement that you make at the top of the page about the 2 cars of naphtha—was it proved that that was the custom? Was there more than 1 case or was only 1 case proved?—A. They would not be apt to prove more than 1 case; that was the only case that came up. There was not, as I understand, any further proof of any other cases. There would not be; this only got out accidentally, you know. You never can find out anything of this kind except it comes out accidentally. It is fair to presume that all their shipments over this line were on this same basis. No question about that whatever.

Q. (By Mr. JENKS.) Do you know what defense they put in?—A. Mr. Howard Page, the agent of the Standard Oil Company, went over to Boston and said that it was a clerical error, and it was corrected. They would do that. Of course they are very nice men and they would probably do that every time. They probably carried a thousand cars there that same way.

(Reading:) "This also applies to paraffin and lubricating oils, fuel oil, and residuum, which are carried at 17 per cent less than actual weight. The Standard Oil Trust own over 8,000 tank cars, which are paid for every 3 years,² through the allowed mileage rate of three-quarters of a cent a mile each way, another form of freight discrimination, for the railroads pay to them three-quarters of a cent a mile to haul back a dead weight empty tank car that is not applicable to general freight like a box car."

Just think of that.

Q. (By Mr. FARQUHAR.) That applies to all owners of tank cars?—A. Yes; but they have got most of the tank cars.

Q. Does it not also apply to the private cars of meat companies?—A. Why, yes, of course; it applies to all. But a box car can bring back other freight.

(Reading:) "Receivers Cowen and Murray, of the Baltimore and Ohio Railroad Company, on December 20, 1898, admit that within the territory north of the Ohio River and east of the Mississippi secret rates, drawbacks, rebates, and other devices were then in vogue."³

If you would like to have it read I will read it.

Q. (By Mr. FARQUHAR.) We have had this fully in the testimony by Mr. Cowen himself. He explains his own letter in the transportation part of it.—A. I would like to call your attention to a very important thing.

(Reading:) "Section 6 of the interstate-commerce act provides that all original tariff sheets 'shall also state separately the terminal charges and any rules or regulations which in anywise change, affect, or determine any part or the aggregate of such aforesaid rates and fares and charges.'"

Now, let us see about that.

(Reading:) "The railroads in gross violation of this section issue and file with the commission general rate tariff sheets for public use, and then side track these by the issuance of innumerable supplements, special oil tariffs, special circulars, commodity rates, etc., that are often and indiscriminately filed as a substitute to change, cancel, and amend the original tariffs, and to such an extent is this done that in reality there is no head or tail left of it—very little of the body—but it stands inviolate for public use."

Now, that is one of the grossest misuses, you know, of the Interstate Commerce Commission by the railroads. Here they come and file a general tariff, and the act says here that the general tariff shall state everything that affects the rates, and they do not pay any attention to that and the Interstate Commerce Commission do not enforce it. And why do they not enforce it I should like to know?

Q. (By Mr. KENNEDY.) Do they not say themselves that they have no power to enforce it?—A. No power to do that? It is very queer. They can enforce that, I think. I think it is a very flimsy excuse about this no power.

Q. Have not the Interstate Commerce Commission year after year asked to have their power enlarged so that they could enforce their findings?—A. Oh, yes; I have understood that, but they have plenty of power to do a good deal more than they do, and they don't do it. I say that is one thing. I say here (reading):

"The query is, Why is it that for 12 years the Interstate Commerce Commission have neglected their duty and not corrected this gross evasion of the law, and

¹ See Mr. Page, p. 766.

² See Mr. Page, p. 778.

³ See copy of their letter, p. 687. See also Mr. Page, p. 770.

allowed such special tariffs to be filed, and why is it that all general tariffs omit this wise provision of the law, and why is it that railroads do not comply with the law in any of its essentials, nor are forced thereto?"

What is the reason they don't do it? Because we have not got any kind of a country here that enforces its laws.

(Reading:) "Charles Francis Adams, president of the Union Pacific Railroad, had this to say, December 15, 1888, before the Commercial Club of Boston:

"The dishonest methods of rate cutting, the secret systems of rebates, the indirect and hidden payments made to influence the course of traffic resorted to or devised during the last 2 years I do not hesitate to say are unprecedented in the whole bad record of the past."

"The above charges included 8 months' experience of the interstate-commerce act, which was, and is to-day, utterly ignored with no effect on lawless railroad freebooters.

"In 1894 an expert accountant discovered that \$7,000,000 in rebates had been paid by the Atchison, Topeka and Santa Fe Railroad Company, of which no doubt the Standard Oil Trust got the lion's share."

"These discriminations are not now confined to oil, but extend to and cover nine-tenths of the commerce of the country, meat and manufactured products, as well as the products of the soil and mines, which articles to-day are controlled by the great trusts and combines, and this control has been secured only through unlawful rebates. These combinations having thus obtained the absolute control of the railroads, turn about and dictate the rates of freight these railroads shall charge, and thus dictate what their competitors shall pay.

"I am reliably informed that there is not a railroad leading out of Chicago but has a representative buyer that purchases all the grain shipped over its lines. On this grain 10 to 15 cents a bushel rebate is paid to the buyer, who divides the same with the railroad officials, all of which comes out of the farmer.

"The State exercises its rights of eminent domain to give the right of way to the railroads; the people thus part with their property to these corporations on the faith that they shall exercise the franchises thus granted honestly and with an equal hand.

"It is a burning shame that these rights and franchises, the gifts of the State, should be administered by railroad magnates to the impoverishment and slavery of the people.

"Free and open transportation and untrammelled opportunities of doing business are virtually closed and sealed.

"The farmer complains of extortion, but is blinded by the secrecy in which it is planned.

"The amount of these fraudulent rebates would pay the interest on his home-
stead mortgage, earn him a living, and make his life contented and happy.

"These discriminations in rates and fraudulent rebates of freight to favored combinations and officials are the crying evil of the day.

"Our laws are overridden, our courts are condemned, and our whole social structure is debauched."

Q. (By Mr. JENKS.) You have already explained to us the rest?—A. I will put in the following as an exhibit:

"THE INTERSTATE COMMERCE ACT PROVIDES A PENALTY ON CARRIERS AND SHIPPERS, OF \$5,000 FINE AND 2 YEARS IN THE PENITENTIARY, FOR EACH AND EVERY OFFENSE, BUT IT HAS NO DETERRENT EFFECT TO STOP REBATES.

"The interstate commerce act provided a penalty on carrier officials, and by amendment, on the shippers, of \$5,000 fine and 2 years in the penitentiary for each and every offense, and with such stringent measures no deterrent effect is had on rail or trust officials. The same old unbroken line of freight discriminations for 27 years in the form of 'secret rates, drawbacks, rebates, and other devices,' have continued to exist up to date without a break, and for the reason that not a violator of the act has yet been sent to the penitentiary to atone for his misdeeds.

"IT IS QUITE EVIDENT FROM THE FOLLOWING FACTS THAT THE STANDARD OIL TRUST HAS ONLY MADE CRUDE PETROLEUM CHEAP TO THE PRODUCER WHILE IT MAKES THE PRODUCTS THEREOF IN COMPARISON HIGH PRICED TO THE CONSUMER.

"It is ridiculously absurd to say that the Standard Oil Trust has made oil cheap, and all that is necessary to refute such false assertions is to refer to a pamphlet issued by Solicitor Dodd in 1888, in which he broadly asserts that overpro-

duction was the cause of making crude petroleum cheap, but in subsequent speeches he couples the products thereof with it.

"Petroleum products are as much higher than they should be as the overcharges or freight discriminations this monopoly receives; for all freights are purposely advanced and made that much higher in order that greater discriminations may follow, which the consumer is forced to pay in higher-priced oil. To-day, and for many years back, this monopoly has charged producers of oil in the oil-producing regions 20 cents a barrel for local pipage not costing 5 cents, or 4 times more than it costs, and when crude oil sells at 50 cents a barrel this charge is 40 per cent of its market value. This is the how of it that this monopoly makes crude oil so cheap to the producer. The Standard Oil Trust admits cost of local pipage of 5 cents a barrel. (B, 102.)"

"To-day, and for many years back, in conspiracy with the railroads, it has charged the same pipage rates to the seaboard as the railroads charge, and to-day this conspiracy charge is 10 times more than the pipage cost—that is to say, the present rail rate from the oil regions to the seaboard is 16½ cents per 100 pounds, and on 320 pounds in bulk to the barrel equals 52.8 cents per barrel, while the pipage does not cost to exceed 5 cents a barrel¹—and this is another way this monopoly has of making crude oil cheap to the producer and high to the consumer.

"Mr. F. B. Thurber seems to be an outside champion for this monopoly, and says it has made oil cheap, because in 1871 the average price of refined oil for export was 25.7 cents per gallon, while in 1898 it only averaged 5.7 cents per gallon, and gives the following reasons therefor:

"This great decline in the price of oil is attributed partly to the increase in production, but more largely to improvements in manufacture and transportation, which were only attainable through the aggregation of capital in this industry."

This man has no experience whatever in the oil business, but he is the champion of the Standard Oil Trust. They put him forward here as an outside man.

Q. (By Mr. CLARKE.) Do you dispute his statement that it was only attainable through the aggregation of capital in this industry?—A. Yes; I do dispute it.

(Reading:) "Why is it that Mr. Thurber does not enlighten us and give the reason why refined oil for export was reduced 35 cents a gallon, or \$17.50 per barrel, from 61½ cents, average price in 1861, to 26½ cents, average in 1870? I presume his reasoning would be that the Almighty did that, while the Standard Oil monopoly engineered all the balance without His aid or assistance.

"Why is it that Eastern home dealers and consumers of refined oil, just previous to the entering of home competition at the seaboard, April, 1896, had to pay more than twice as much for their oil as foreign consumers for export? The price per gallon, in bulk, to retail dealers was 9½ cents a gallon, and for export 4½ cents a gallon, with crude oil \$1.20 per barrel, and this is how Standard oil is made so cheap.

"Why is it that Mr. Thurber does not enlighten this committee and give the reason why in 1892 refined oils were selling in several of the States, like Texas, Utah, and Idaho, at 4 times the price of export oil for foreign consumption? In Wyoming and Nebraska it was 3 times as much, and in Arkansas, Alabama, Florida, Georgia, Mississippi, Missouri, North Dakota, South Carolina, South Dakota, Tennessee, and Washington double the export price."²

This is all fully explained, gentlemen, in my exhibits here, B 171, etc.: and my own experience in finding out all over the United States, by sending out special circulars in 1892, shows those facts to be absolute, and the details are in my exhibits full and complete.

(Reading:) "The Pennsylvania Railroad Company up to August 28, 1898, carried same number of gallons of refined oil in a barrel (including the package) at same price as bulk oil in tank cars to offset the return dead weight of the return tank car, when by the power of the Standard Oil Trust and under the interstate-commerce act, 25 per cent more freight has been charged since that time. The rate of freight in 1887 was 52 cents a barrel, or 13 cents per 100 pounds. To-day it is 16½ cents, or 27 per cent higher.

¹ Mr. Rice's reference is to a paragraph of the contract of October 9, 1883 (see p. 738), for division of business between the National Transit Company and the United Pipe Lines, parties of the first part, and the Tidewater Pipe Company, party of the second part. The paragraph in question, as given by Mr. Rice, is as follows: "If in any calendar month either party shall gather more than its said percentage of said aggregate of crude petroleum gathered, as gathering is herein defined, it shall pay to the other party on the quantity gathered in excess of its said percentage an amount per barrel equal to three-fourths of the then current full rate per barrel charged for collecting and delivering crude petroleum in the oil-producing regions, commonly called local pipage." The local pipage is 20 cents a barrel, and the sum to be retained by the gathering company, as payment for the service, on the excess over its agreed proportion, is, therefore, 5 cents a barrel.

² See Mr. Phillips, p. 594; Mr. Emery, pp. 666, 667; Mr. Rogers, pp. 561, 568.

³ See Mr. Page, p. 791.

"To-day it costs 35 per cent more to ship the same number of gallons of oil in a barrel than it does by bulk in a tank car, because the railroads will not furnish the tank cars in which to ship it. The competitive independent refiner who can not afford to purchase tank cars is subject to this very important discrimination and can not compete, and he can not help himself. This is the how of it, that the Standard Oil monopoly makes oil so cheap to the consumer. In the case of export it had to sell its oils at a fair living price, owing to Russian competition, while to general consumers in America, for want of competition, it charges fabulous prices, double, treble, and four times as much, owing wholly to the power of this monopoly to dictate to the railroads the high tariff rates their competitors must pay, while their own goods are carried at nominal figures through the grossest of the gross rebates or freight discriminations. The absurdity of Thurber's reasoning may be further illustrated when I state that the cost of refining petroleum from 1871 to 1880 did not exceed 1 cent a gallon, and from 1880 to 1890 not over half a cent, and from 1890 to the present time it has not cost this monopoly to exceed one-quarter of a cent a gallon, and to the average independent refiner about one-eighth more,¹ so that improvements in manufacture cut no figure, while the monopolistic and most extraordinary charges for pipe transportation could only be maintained through the power of the railroads. Mr. Thurber would manifestly have been more correct if he had stated that the price of petroleum products had been greatly advanced by the Standard Oil monopoly through the methods stated by me, and that its unlawful aggregation of capital, so necessary to the business, was thus acquired. Mr. Thurber on November 24, 1882, testified before a legislative committee of New York State as follows:

"The Standard Oil Company is an example. Here is a corporation which, according to testimony recently given in Pennsylvania, began in 1872 with \$1,000,000 capital, which was subsequently increased to \$3,500,000, and on this latter capitalization it paid dividends in 1880 amounting to \$10,321,812, and it practically controls and fixes the value to the consumer on a staple ranking third in the list of our nation's exports."

This is only on one corporation.

[Reading:] "Through its speculative manipulation it has within a few weeks more than doubled the price of crude oil; and its profits thereby are variously estimated at from \$20,000,000 to \$40,000,000."

COST OF REFINED OIL, FREIGHT PAID, 2½ CENTS.

"The market price of crude oil for the past 10 years—1889 to 1898, inclusive—has only averaged 1½ cents a gallon, while the local pipeage does not cost to exceed 5 cents a barrel, or one-eighth of a cent a gallon. It does not cost to exceed this amount to pipe same to the seaboard, or an eighth of a cent a gallon more. It can be refined for one-quarter of a cent a gallon, making a total average cost of 2½ cents per gallon for the past 10 years of refined oil at the seaboard, which is also applicable to interior refineries, to which, if we add one-half cent a gallon as a fair average freight paid by the Standard Oil Trust, makes the cost 2½ cents a gallon delivered to all interior cities and towns; so that one can form some conception when he buys oil of the immense percentage of profits thus to accrue, which can be turned over every 60 days, and conclusively shows how philanthropic this trust is in comparison with the prices the consumer is forced to pay. The process of refining oil is very simple, easy as making steam, similar distillation.

"Another method the Standard Oil Trust has of making illuminating oils cheap to the consumer is that where they have no regular established agency they give a secret rebate to certain private dealers who have been selling competitive oils, ranging from 25 cents to \$1.50 per barrel, according to the opposing strength of the opponent, to thereafter maintain the regular established card-list price made by the trust.

"THE STANDARD OIL TRUST RECEIVES 72 PER CENT ADDITIONAL PROFITS IN THE SALE OF PETROLEUM PRODUCTS MANUFACTURED FROM LIMA CRUDE THAN FROM THOSE OF THE BEST GRADE CRUDE.

"On September 15, 1895, the Produce Exchange of New York, through the power of the Standard Oil Trust, passed a resolution making the manufactured products from inferior Lima crude petroleum, known as sulphur oil, a good delivery, on a parity with the manufactured products from best grade crude. The average annual market price of this inferior grade crude for past five years—1894 to 1898, inclusive—was 59 cents per barrel as against \$1.01½ for the best grade, or the latter 72 per cent higher. Thus it is that the Standard Oil Trust received 72 per cent

¹ See Mr. Lee, p. 276; Mr. Westgate, p. 371.

more profit in the sale of manufactured Lima crude products than from those of the higher-priced crude, which could not be done except through the power of this monopoly to enforce and exact equal price for both classes of goods, and this is another instance of this great trust making petroleum products from inferior grade crude so cheap to the consumer. For the past 5 years—1894 to 1898, inclusive—the total production of petroleum was 279,129,467 barrels, of which Ohio produced 85,306,684 barrels and Indiana 20,608,798 of this inferior grade of crude petroleum, or 88 per cent.

"The last Government report for 1898 has this to say about this inferior grade of crude:

"The product is characterized by the presence of sulphur compounds, which make it of less value for refining purposes than the eastern Pennsylvania product."

"The refined product from this poor grade crude is adulterated with the products made from the best grade crude, and the results are easily seen by a white film on the lamp chimney that obstructs the light, requires constant attention to turn up the wick to get more light, smokes the lamp, and has an offensive smell. In view of Archbold's laudatory remarks on this particular oil¹ it will be quite refreshing to refer to a caution circular, issued in 1890 by one of the trust corporations, denouncing said oil. (B, 166)."

This is a very interesting circular, giving what they think about that oil (B 166). It tells what the Standard thought of these oils.

Q. (By Mr. FARQUHAR.) Have they not, under 2 new processes, eliminated the sulphur and a great many other various ingredients from the Lima oil?—A. Partially; but the product from the Lima oil is not near as good as the other oil.

Q. But there has been a great improvement since 1890, since they issued this circular?—A. Oh, yes, there has been a great improvement. They have improved the manufacture of it to some extent. I will put in as an exhibit to show violations of the interstate-commerce law.

(Reading:)

"NONCOMPLIANCE AND NONENFORCEMENT OF THE INTERSTATE-COMMERCE ACT PRODUCES EXISTING GROSS DISCRIMINATING FREIGHT RATES, AS TO PERSONS AND PLACES, AND TO THE EXTENT OF 211 PER CENT IN VIOLATION OF SECTIONS 3 AND 4 OF THE ACT.

"The commission constantly receives and places on file without protest thousands of rate tariff sheets that plainly and unequivocally show upon their face gross violations of that all-important section of the act, the fourth section, which says that it shall be unlawful for any common carrier to charge or receive more for a short than for a long haul over the same line in the same direction." To-day there exists 211 per cent more traffic rate charge on the short intermediate haul over the long haul, as the following figures show, from statements made to me by the secretary of the commission, July, September, and October, 1899.

"On the shipment of petroleum and its products in car lots over the transcontinental lines, comprising 21 lines of railroad, as merged into that unlawful and changed combination now known as the 'Transcontinental Freight Bureau,' the following 2 railroads in the pool are cited as samples of the gross violations of the interstate-commerce act as they exist to-day by this association of railways: Chicago to San Francisco, 2,357 miles, via Union Pacific, present tariff rate is 78½ cents per hundredweight, while the highest intermediate rate to Humboldt, Nev., 1,962 miles, is \$1.75 per hundredweight, or 122 per cent overcharge for 325 miles less haul, with a proportionate overcharge on 84 per cent of the total shipments. Ten years ago the intermediate rate overcharge was 56 per cent, now double. From Chicago to San Francisco, via Atchison, Topeka and Santa Fe, 2,662 miles, present tariff rate is 78½ cents per hundredweight, while the highest intermediate rate to Bagdad, 2,017 miles, is also \$1.75 per hundredweight, or 122 per cent overcharge for 635 miles less haul, with a proportionate overcharge on 76 per cent of total shipments. Ten years ago the intermediate overcharge was 116 per cent. Present fifth-class commodity rates, via transcontinental lines, Chicago to San Francisco, is \$1.65 per hundredweight, while the highest intermediate rate is \$1.85, or only 12 per cent overcharge. Petroleum products belong to fifth class, but made special. The Standard Oil Trust has at Whiting, Ind., on the lake shore, suburb of Chicago, the largest refining plant in the world, which is connected

¹ See Mr. Archbold, p. 532. See also Mr. Lee, pp. 275, 278; Mr. Emery, pp. 624, 625; Mr. Gall, pp. 672, 681.

² The reference is to a circular, signed with the name of the Waters-Pierce Oil Company, in which the following occurs among other statements of like tenor: "Illuminating oil produced from Ohio crude is so inferior in burning qualities, and offensive in odor, that it can not readily be sold where known."

³ See Eleventh Annual Report of Interstate Commerce Commission, pp. 37-48.

by Chicago's belt line with railways to all points in the United States. The southwestern lines, comprising the 'Southwestern Bureau,' composed of 10 prominent lines of railway, combined with 2 prominent steamship lines—the New York and Texas Steamship Company and Cromwell Steamship Company—are engaged in an unlawful combination to fix rail and water rates, in violation of the Federal antitrust act, while they grossly violate the interstate-commerce act as to persons and places, and to this extent as samples: From St. Louis to Galveston, Tex., 870 miles, via St. Louis, Iron Mountain and Southern Railway, present tariff rate is 83½ cents per hundredweight, while the highest intermediate rate to Aldine, Tex., 807 miles, is 55 cents per hundredweight, or 64 per cent overcharge for 63 miles less haul, with a proportionate overcharge on 92 per cent of total shipments. From St. Louis to Fort Scott, 388 miles, via the Missouri, Kansas and Texas, owned by Standard officials, of which John D. and William Rockefeller and Joel F. Freeman, former treasurer of the Standard Oil Trust, are directors, present tariff rate is 22½ cents per hundredweight, while to Parsons, 49 miles farther, it is raised to 30, or 36 per cent higher; continues same to Wagoner, 101 miles farther. At South McAllester, 78 miles from Wagoner, the rate is raised to 55, or 80 per cent more. This rate continues to Atoka, 44 miles from South McAllester, while at Coalgate, 48 miles from Atoka, the rate is again raised to 60, or 9 per cent more, while to Denison, 8 miles from Atoka, it is reduced 8 per cent, or to 55, which rate is maintained to Letitia, 1,088 miles, while the rate to Houston, 1,105 miles, is 33½ cents, or 64 per cent overcharge for 17 miles less haul, with a proportionate overcharge on 98 per cent of total shipments.

"THE LONG AND SHORT HAUL CLAUSE OF THE ACT NOT VIOLATED IN THE SHIPMENT OF GENERAL COMMODITIES IN 5 DIFFERENT CLASSES.

"It is a very significant fact to note that in the transportation of general commodity goods in 5 different classes, St. Louis to Galveston, as promulgated by the pooled 'Southwestern Bureau' of 10 prominent rail lines and two ocean steamship lines, there is no difference between terminal and intermediate rates. This is in compliance with the law, while in the case of petroleum shipments the railroads adopt the flimsy excuse of water competition and grossly violate the act to the extent of 64 per cent.

"St. Louis to Mobile, by the Mobile and Ohio Railroad, distance 644 miles, present tariff rate is 35 cents per hundredweight, while the highest intermediate rate to Eight Mile Station, 636 miles, is 57 cents, or 63 per cent overcharge for 8 miles less haul, with a proportionate overcharge on 98 per cent of total shipments. From Memphis to New Orleans, via the Yazoo and Mississippi Valley Railroad, 445 miles, present tariff rate is 17 cents per hundredweight, while the highest intermediate rate to Norwood, La., 339 miles, is 38, or 94 per cent overcharge for 126 miles less haul, with a proportionate overcharge on 73 per cent of total shipments. From Cincinnati to New Orleans, by the Queen and Crescent route, 836 miles, present tariff rate is 22½ cents per hundredweight, while the highest intermediate rate to Poplarville, Miss., 756 miles, is 44½, or 97 per cent overcharge for 70 miles less haul, with a proportionate overcharge on 91 per cent of total shipments. These same rates have been continuous for the past 10 years.

"From Cincinnati to Vicksburg, same line, 770 miles, present tariff rate is 22½ cents per hundredweight, as against an intermediate rate of 45½ to Brandon, Miss., 711 miles, or double—100 per cent more for 59 miles less haul, with a proportionate overcharge on 92 per cent of total shipments.

"From Louisville to Mobile, 670 miles, via Louisville and Nashville Railroad Company, present tariff rate is 18 cents per hundredweight, as against an intermediate class rate of 56 to Flomaton, 609 miles, or 211 per cent overcharge for 61 miles less haul, with a proportionate overcharge on 90 per cent of total shipments, with no change in rates since the partial decision of April, 1892, except in one instance, although directed by the commission to revise and correct these general overcharges. In 1889 the highest intermediate overcharge was 146 per cent, now 211, or 65 per cent higher.

"From Cairo to New Orleans, 550 miles, via Illinois Central, present tariff rate is 29 cents per 100 pounds, as against an intermediate rate of 41 to Mauchac, Miss., 518 miles, or 49 per cent overcharge for 37 miles less haul, with a proportionate overcharge on 93 per cent of total shipments.

"From Louisville to New Orleans, same line, 847 miles, present tariff rate is 18 cents per 100 pounds, as against an intermediate rate of 35 to Sauve, La., 843 miles, or 94 per cent overcharge on 5 miles less haul, with a proportionate overcharge on 99 per cent of total shipments.

"Louisville to Memphis, same line, 392 miles, present tariff rate is 12 cents per hundredweight, as against an intermediate rate of 34 to Lucy, 379 miles, or an

overcharge of 188 per cent for 18 miles less haul, with a proportionate overcharge on 96 per cent of total shipments.

"It must be conceded that the lesser terminal rates must be paying ones or there would be no object in the roads allowing such shipments. The Interstate Commerce Commission hold that established tariff rates must be remunerative. Thus it is that the inhabitants of the regions through which these lines of railway run are forced by railway tariff exactions to pay 42 to 211 per cent more for the products they buy than they should pay.

"By prepayment of freight at the low-car terminal rate the Standard Oil Trust is allowed to stop off its cars at high-rate intermediate points and thus receive an advantage of 43 to 211 per cent over their competitors. It also has the extra privilege to divide up full-loaded tank cars into less than car lots that should have paid 3 times the terminal rate, although, as an owner of tank cars, I was denied this privilege.

"Common carriers, under section 4 of the act, are not allowed to violate the long and short haul clause of the act without permission from the commission. From December 17, 1895, to August 4, 1896, I made complaint to the commission that it was their duty, under section 12 of the act, to proceed against violators of section 4 of the act (long and short haul). They would not act, but said that I might. Knowing from the answer that my action would be futile, I did not act any further in the matter.

"The State exercises its right of eminent domain to give the right of way to the railroads. The people thus part with their property to these corporations on the faith that they shall exercise the franchises thus granted honestly and with an equal hand.

"It is a burning shame that these rights and franchises, the gifts of the State, should be administered by railroad magnates to the impoverishment and slavery of the people.

"The United States Supreme Court, on March 30, 1896, Social Circle Case, fully upheld the statutes and decided that in this case railroads could not charge more for a short than for a long haul over the same line in the same direction. This decision has had no deterrent effect whatever on present railroad violators, as the evidence here plainly shows."

I will also put in here as an exhibit. (Reading:)

"CLEMENT A. GRISCOM, PRESIDENT OF THE NATIONAL TRANSIT COMPANY (STANDARD OIL TRUST), AND AS A DIRECTOR IN THE PENNSYLVANIA RAILROAD COMPANY, MAKES CONSPIRACY AGREEMENT FOR AND ON BEHALF OF ALL TRUNK LINES TO THE SEABOARD AND OF THE TIDE WATER PIPE COMPANY, SUPPOSED COMPETING PIPE LINE, FOR MAINTENANCE OF PIPE WITH RAIL RATES, 10 TIMES ABOVE PIPEAGE COST EXISTING TO-DAY.

"On October 9, 1883, to take effect October 1, the National Transit Company, for and on behalf of the Standard Oil Trust, made an agreement with The Tide Water Pipe Company by which it allowed them 11½ per cent of the total pipe-line transportation of petroleum to the seaboard. It also guaranteed them \$500,000 per annum profits for 15 years, or \$7,500,000. Within 3 months after contract was made refined oils advanced 87½ cents per barrel, crude oil 1½ cents. This contract gave these pipe lines 74 cents a barrel advantage over rail rates (B 97), but what followed? On August 23, 1884, the Pennsylvania Railroad Company, for and on behalf of the National Transit Company and as representing the Tide Water Pipe Company, entered into a conspiracy agreement with all existing pipe lines to the seaboard for the maintenance of equal pipe-line rates with rail rates in the transportation of petroleum and its products from the oil regions to the seaboard, which agreement is in practical effect to-day, with or without a contract, as rail and pipeage rates are the same. The Standard Oil Trust ostensibly guaranteed 26 per cent of all such traffic to the sea, or, in the language of the agreement, 'all petroleum

* Mr. Rice's estimate, here referred to, runs as follows:

"The competitive shipper of oil is compelled to pay freight, from the oil regions to the seaboard..... 86c. per bbl.
"He is also compelled to pay the 'Trust' for local pipeage..... 26c. per bbl.

Total..... 86c. per bbl.
"It will be seen that clause A of pipeage contract admits the cost of local pipeage to be 50c. per bbl.
"The 'Trust' admits the cost of pipeage to the seaboard to be..... 7c. per bbl.
"In this way the 'Trust' secures an advantage over its competitors in the transportation of oil to the seaboard, through the aid and connivance of the trunk lines of railroad, of..... 74c. per bbl."

For explanation of the freight rate, 86 cents, see Mr. Emery, p. 637. For the agreement of the National Transit Company (Standard) to transport oil to New York for 7 cents and to Philadelphia for 4, see p. 638. For the same company's contract implying that the cost of local pipeage is about 5 cents, see p. 724, footnote. See also Mr. Lee, p. 284; Mr. Phillips, p. 594; Mr. Emery, p. 638; Mr. Rogers, pp. 551, 552.

brought to the Atlantic seaboard by all existing carriers, railroads and pipe lines combined, establishing much higher joint pipe and rail tariff rates than should be, a complete and perfect monopoly 'in restraint of trade' of all petroleum transportation to the seacoast, for eastern home consumption and for export, at 10 times pipage cost, in violation of the Federal antitrust act and of the interstate commerce act. (D 154.)

"This guaranty in reality guarantied but little. It, however, blinded the eyes of the innocent dupes—unsuspecting railroad directors and stockholders. This 26 per cent was largely covered in the transportation of the by-products of petroleum that could not be piped, such as benzine, naphtha, and gasoline, lubricating paraffin oils, residuum, etc., besides accounting for and including in the guaranty competitive shipments. This kind of an agreement is easily accounted for when made by joint interested parties in the trust certificates of the Standard Oil Trust. This is another peculiar method that this joint conspiracy combine has of making crude oil cheap to the producer and the products thereof high to the consumer.

"Franklin B. Gowen says in regard to this contract as follows:

"By which it will be proved that the rate on oil prior to the making of that contract was one-half of what it was before the recent advance, of which we complain, was made.

"Our allegation about that contract, gone into in this testimony, although it was not admitted, is this:

"The National Transit Company secured a pipe line to tide water. They then became a transporter of oil.

"It was important for them to maintain a high rate on the transportation of that oil, because they made a great deal of profit out of it.

"They could not maintain a high rate on the transportation of oil if that rate was cut under by the railroad company, and we allege, and will endeavor to prove in this case,

"That within 2 years prior to the making of this contract the rate on the Pennsylvania Railroad Company for oil was one-third of what it now is.

"If that had been continued the pipe line could not have made one-third as much money as they do now—could not have made one-fifth as much money as they do now—because the cost would have been the same.

"They then entered into a contract with the Pennsylvania Railroad Company for a division of the rate, and agreed to make equal rates. It became to the interest of both parties to get high rates.

"The consequence of which is that this contract provides that the National Transit Company shall pay practically several hundred thousand dollars a year as a bonus, over and above fair earnings of the railroad, in consideration of the railroad's maintaining a high price on oil.

"Of course, if the National Transit Company could make people using their pipes, or using the railroads, pay 52 cents a barrel for having the crude oil transported, when it only cost them about 5 cents, as we say, to do the business, they would have an advantage of 47 cents per barrel over any competitor at tide water, and, with a view of maintaining such advantage, they entered into this contract with the Pennsylvania Railroad, which contract, as we allege, guarantied to the Pennsylvania Railroad Company 26 per cent of the entire oil business transacted by the railroads and the 2 pipe lines.

"They then both agreed to maintain equal rates." (B, 146.)

I will read the heading on page 61. (Reading:)

"Railroads allow Standard Oil Trust to lay its pipes in the road's right of way, in consideration of the road having only the pipe to transport, thereby losing all its former oil freight."

The following was offered by the witness as an exhibit:

"Dan O'Day, general manager of the pipe-line system of the Standard Oil Trust, testified before a Congressional committee, 1888 (p. 282), that the Chicago and Atlantic Railroad allowed this trust to lay its pipes from the Lima oil fields to Chicago in the roadbed's right of way, for the profit it received in the transportation of the pipe, its material, and construction.

"After the road granted these most extraordinary of privileges (1888) and after the pipe line was constructed and the trust's mammoth refining plant at Whiting, Ind., suburb of Chicago, was finished, freight rates from the Lima oil fields to several points of delivery in the various States were raised from 20 to 87 per cent." (Philet B, pp. 167, 168 G. B.)

The present freight rate, Lima to Chicago, is 10 cents per 100 pounds, or 40 cents a barrel, 8 times its pipage cost.

¹ See the contract, pp. 668-686.

² See Mr. Monnett, p. 306; Mr. Westgate, p. 576; Mr. Page, pp. 777, 778.

"THE UNITED STATES PIPE LINE COMPANY HAS _____ [G FOR 7 YEARS TO GET ITS TWO PIPE LINES, CRUDE AND REFINED, FROM _____ REGIONS TO NEW YORK BAY, THROUGH THE STATE OF NEW JERSEY, AND NOW MUST ABANDON IT, BECAUSE OF JOINT OPPOSITION OF THE RAILROADS AND OF THE STANDARD OIL TRUST.

"For 7 years the United States Pipe Line Company has endeavored to get its 2 pipe lines, crude and refined oil, through the State of New Jersey to the seaboard at New York, but has been obstinately opposed by the rail lines and the Standard Oil Trust from crossing under railroad tracks, although the owner of the fee right, while the roads have an easement only. New Jersey courts have finally decided that this can not be done. Resulting consequence is that this company's pipe lines are being taken up, Philadelphia made the terminus, and the oil will be barged to New York.¹ But the Standard Oil Trust have had no trouble, and even her pipe lines lie in the road beds of many railroads.

"Lewis Emery, jr., of Bradford, Pa., producer, refiner, and transporter of petroleum, has this to say, October 5, 1899, to a correspondent:

"We are very large manufacturers of oil and oil products, and feel the discrimination in rates over the railroads very severely indeed, so much so that we are obliged to market 70 per cent of our products in Europe."

An exhibit will show the favor of railroads to exporters. (Reading:)

"ON AUGUST 1, 1899, 50 PER CENT MORE IS CHARGED BY THE RAILROADS TO CARRY GRAIN FROM CHICAGO TO NEW YORK FOR DOMESTIC USE THAN EXPORT FOR FOREIGN CONSUMPTION. WITHIN 3 MONTHS, BY NOVEMBER 1, 1899, DOMESTIC RATES HAVE BEEN RAISED 80 PER CENT AND EXPORT 80, WITH REBATE ON EXPORT QUANTITY SHIPPED."

"The tariff sheets on file with the Interstate Commission to take effect August 1, 1899, show that in shipments of grain, Chicago to New York, the export rate was 11 cents per 100 pounds, while the domestic rate was 17 cents, or 50 per cent higher to eastern home manufacturers and consumers. The present rate on export, November 1, 1899, is 20 cents per 100, as against 22 domestic, or only 10 per cent of a difference. Within 3 months, August 1 to November 1, 1899, domestic rates have been raised 80 per cent, while export rates have advanced 80 per cent, and the difference between domestic and export rates has been reduced 40 per cent within this 3 months. But this apparent advance in export rates will easily be wiped out in a rebate on quantity shipped, as a substitute for a moneyed rebate, as follows:

"Hon. Franklin B. Gowen, president of the Philadelphia and Reading Railroad Company, stated this before the Interstate Commerce Commission, January 17, 1888:

"Mr. Colston. What kind of a train is that?

"Mr. Gowen. It is a long train of loaded cars which, though visible to the sight and susceptible of identification by all the other senses, makes no impression upon the manifests of the corporation, and leaves no trace upon the treasury of the company. This gentleman to whom I allude, in search of statistics, was struck with the fact that in one certain year the amount of grain which left Boston, New York, Philadelphia, Baltimore, and Portland in vessels for Europe, was much greater than the aggregate amount transported over the railways from the West to those points in the same period, and yet he knew that a large amount of grain transported from the West to the East is used for home consumption and does not enter into foreign commerce at all; and the only reason that he could give for this anomaly in statistical information was supplied by the report of ghost trains as a favored method of transportation by some celebrated shippers who were then supplying the European demand for our cereals."

"Also said:

"What is a railway? A public highway—nothing else. Just like the rivers. The rivers are public highways. Nobody in this country, the Standard Oil Trust or other inferior character, attempts to put a tourniquet upon them. When the first public roads were made in this country they were turnpike or wagon roads; but they were public highways. No company attempted to make a different charge for toll to one man as against another for the like vehicle. When the railroad companies were organized they took the private property of the citizen, under the right of eminent domain, because the property was taken for a public highway in trust for the uses of the public; and the first railway companies in this country were organized simply with the right to maintain a public highway and to charge a toll for its use. It was expected that the transporters should furnish their own cars and their own locomotives or horses, because originally the service

¹ See Mr. Lee, p. 287; Mr. Phillips, p. 593; Mr. Emery, pp. 650-655, 662; Mr. Archbold, p. 539; Mr. Boyle, p. 433.

on railways was done by horses. Railroads are simply advanced and improved avenues of transportation; but, with reference to the rights of the community to equality of rates, they preserve throughout the same features as the rivers and turnpikes. Now, why should there be any difference now existing? God made the rivers, and man laid the rails, I suppose our friends will say, and hence the Standard Oil Company deserves to have the monopoly of low rates.

"The gross receipts of the railroads of this country, in round numbers, are \$300,000,000 per annum, and I verily and honestly believe that \$100,000,000 annually are taken out of the pockets of the people of this country by unjust railway discriminations and turned over to this privileged class—and this is equal to a tax of \$2 per head paid by the people for the sake of building up the new aristocracy of wealth that in this free country arrogate to themselves the position of the nobility of the older countries. And who compose this privileged class and constitute this new order of nobility? Not men of intellect, or genius, or learning, or even of honest thrift, or patient industry. By no means. Cold, calculating men, who, by open bribery and naked rascality, secure the favor of railroad officials, until they wring \$100,000,000 annually from the mass of the people and the overburdened industry of the country. These are our privileged classes; these are the men whose patents of nobility are inscribed upon the records of a railway company—attested by the broad seal of the corporation and countersigned by a general freight agent—and when people from other lands visit this country and ask to see our great men we do not say, 'This is a man of great intellect and genius and learning, or of long descent, of kindly character, and great charity; but we say, Behold the new gods, whom we now worship! Behold him whom the railroads delight to honor, and the limits of whose wealth we are only permitted to conjecture!'

"It is utterly impossible that there can be any success attending a monopoly of natural products without the aid of unjust discrimination of railroad companies. And only when such unjust discrimination ceases will all people be placed on terms of equality.

"Let us suppose that in France but one corporation handled 80 per cent of the wine grown in the country. The grape grows all over the country. You see train loads of wine in France as frequently as you see train loads of oil in America. The price of wine enters largely into and affects the social and financial condition of the French people, just as the price of oil affects the interests of the people of this country who produce it. I venture to say that if any such thing existed in France as one corporation controlling 80 per cent of the wine manufacture and traffic of the country there would be a French revolution within 24 hours of the discovery of the existence of such a monopoly.

"The system of illegal and unjust railroad rebates or freight discriminations, more than any other social evil, has been the source of that unequal distribution of wealth which to-day confronts the country with a menace greater than threatened by any other social wrong or inequality. That the Standard Oil Trust owes its control of the oil trade of the country entirely through unjust and illegal discrimination in charges of railroad freights. That nearly all of its great wealth and power have been thus dishonestly and illegally obtained. That it is far the most conspicuous example among the many instances of the great fortunes made by the favoritism of railway officials."

The Standard Oil monopoly is the originator of the system of devices for rebates in the form of commissions, arbitraries, billing underweight, blind billing, dockage, lighterage, terminal charges, special-style tank cars, overloading, billing to intermediate points at the low terminal rate, stopping cars in transit and delivering small lots at carload rates, 'ghost trains' on which no freight is paid, commissions or rebates on all competitors' shipments, shipping out from its agencies to surrounding territory and paying no freight thereon, that to-day permeates all the arteries of commerce exclusively in favor of the trusts, effectually wiping out and closing up all competitive industries.

Q. (By Mr. KENNEDY.) Will you tell us something about these ghost trains—what they are? That is something new to me.—A. That is what Mr. Gowen explains at the beginning of the quotation that I have just put in.¹

(Reading.) "These freight discriminations in favor of one great trust, the Standard Oil trust, have enabled that concern to build, free of cost, thousands of miles of gathering pipe lines in the oil-producing regions, thousands of huge iron storage tanks, several trunk lines of pipe from the oil regions to the seaboard, thousands of tank cars, and tens of thousands of stationary plants (represented by local agencies located in all parts of the Union), which stand as a menace and

¹ See p. 740. See also Mr. Page, p. 735.

a threat to all competitors who dare enter their sacred domain in competition with them.

"Whoever interferes with the natural laws which govern or ought to govern commerce is a public enemy. No other nation under the sun would tolerate for an instant such a destructive element within its borders. In monarchical Germany Baron H., in one short month, was tried, convicted, and sentenced to imprisonment for receiving a rebate from a railroad. In England the owner of the Bass breweries was found to be receiving a rebate, and in 24 hours it was stopped by the railroad commission. What a contrast, my countrymen, does our land present.

"The time to guard against corruption and tyranny,' says Thomas Jefferson, 'is before they have got hold of us.'

"That the Germans appreciate this wisdom is shown by the attitude of the German Government toward the Standard Oil Company. When some member of the Reichstag, alarmed by the apparition of the original and greatest 'octopus,' asked what the Government proposed to do, Count Posadowsky, minister of the interior, showed that the most vigorous and effective campaign possible had already been opened. 'And,' he added 'the Government will oppose abuses on the part of the Standard Oil Company immediately and ruthlessly.'

"The American, Philadelphia, February 12, 1898, has the following:

"It is often remarked that it is impossible to make something out of nothing. This is indeed regarded as a truism. But when we look at the growth of the Standard Oil trust we are inclined to doubt our senses. Self-evident it is, indeed, that we can not create something out of nothing, but something very akin to this have the men behind the Standard Oil trust succeeded in doing. They have not, indeed, accomplished the impossible, but they have found something better than the alchemist's equation, something more important in the accumulation of wealth without labor than the possession of the philosopher's stone. The alchemists sought to turn base metal into gold and failed; the unscrupulous men who organized the Standard Oil Company sought to turn dishonesty into gold and they succeeded. They have not, indeed, discovered the undiscoverable art of making something out of nothing, but they have succeeded in getting property without creating it, in enjoying wealth without earning it.'

"The New York Sun, in its financial article of September 4, 1899, has this to say:

"The Standard Oil monopoly has sustained itself by getting possession of all the available crude petroleum wells in the country, and by not raising the price of the refined oil so high as to make other illuminants more desirable it has shut out competition from that quarter."

I thought it well enough to read that because it comes from a strong monopoly paper.

(Reading:) "Benjamin F. Butler says this: 'The Parliament of Great Britain undertook to put a tax of a penny a box on friction matches, which would have increased the revenue about \$500,000. The people of England revolted to such an extent that the government dare not press it. The match was needed to light the petroleum lamp. What would be said in Great Britain if their government would allow a corporation to put a tax of 500 per cent on the means of lighting the poor man's house and the rich man's palace in England?

"Under that government it would not be borne, not an hour after it was known. Shall it be said that under a republican form of government, where the people are represented in making the laws, such a monopoly shall obtain, by which men can make fortunes such as were never dreamed of since the days of the plundering of the world by the proconsuls of Rome?'

"To the great credit of the United States Supreme Court, they have taken a broad and liberal view of the Sherman antitrust act, and decided that it 'applies to and covers common carriers by railroad,' which adds vital importance to the act, and, in brief, decided as follows: While the statute prohibits all combinations in the form of trusts or otherwise, the limitation is not confined to that form alone. All combinations which are in restraint of trade or commerce are prohibited, whether in the form of trusts or in any form whatever.

"SINCE THE FEDERAL ANTITRUST ACT TOOK EFFECT, 1890, THERE HAVE BEEN CONSOLIDATED 946 RAILROADS, AGGREGATING 69,000 MILES, OR ONE-THIRD OF TOTAL.

"On October 7, President M. H. Vreeland, of the Metropolitan Railway Company, had this to say:

"Probably in no industry in the world has consolidation been more active in the last 10 years than in railroads. In fact, railroad history of that period is one continuous record of combinations, amalgamations, mergings, leaseings, or what-

ever terms lawyers please to give to one and the same thing. In the 9 years since 1890, 946 railroads, aggregating 68,000 miles, have been consolidated.'

"Just think of it; 946 different railroads consolidated into a mammoth railroad trust, one-third of total railway mileage, within 9 years (passage of the antitrust act), forming part and parcel of 44 separate and distinct unlawful associations of rail and water lines combined, acting in entire unison with the other lines for the maintenance of railroad rates, which puts into the hands of a few leading men an unlimited and mighty power of control over transportation rates, which power they have extended to the creation of many industrial manufacturing trusts, by which the price of the products thereof will be entirely regulated by these men through high tariff transportation rates, that greater rebates shall accrue to them from off their own and competitive shipments, which completely annihilates competition, destroys competitive industries, and the incentive to embark in new enterprises. In other words, the conspiracy combine of rail and trust officials now dictates to the former competitor the amount of salary he will receive to help them conduct and carry out their unlawful designs.

"THE RAILROADS AND INDUSTRIAL TRUSTS ARE CAPITALIZED AT \$18,818,554,081.

"The aggregate capitalization of the railroads per last official report of the Interstate Commerce Commission is \$10,818,554,081. The single State of New Jersey has given life to 15,000 concerns with a capitalization of \$8,000,000,000. For the fiscal year ending October 1, 2,000 corporations were chartered in this State, capitalized at \$3,500,000,000. Here is a joint railroad and industrial trust company, capitalized at \$18,818,554,081, working exclusively in the interest of each other. Conservative authorities estimate that one-half of this amount is fictitious, or 'watered,' on which rail and trust officials have enforced, and will continue to enforce, from off the producer of the soil and mine and from off the consumer and user of general products, through railway tariff exactions, sufficient revenue to pay liberal dividends upon fraudulent issues, representative waste paper, merely vignettes and nothing else. Ruinous freight charges will be levied upon all competitive goods outside the combinations in order to freeze them out, while Armour will receive rebates on his beef, Havemeyer on his sugar, Morgan on his coal, and Rockefeller on oil and iron, while the dealer outside the trusts must ship at higher prices, without rebates and without favor. Under the liberal laws of New Jersey alone these 15,000 trusts and corporations are operating in every section of America, and this State has richly earned the sobriquet of 'The cradle of monopolies.' With all this vast wealth centered in one State, how easy it is to elect and manage all the necessary political power for the control of all needed legislation.

"How easy for this combination of railroad and trust officials to so increase and temporarily reduce transportation rates, and thus materially affect net earnings of the railways and of the trusts, by which they get a clutch on their adversaries in stock gambling operations, and without risk, in the purchase or selling of stocks short, according to their well-matured plans and conspiracies."

(Reading:)

"THERE ARE TO-DAY AT LEAST 44 UNLAWFUL RAILROAD TRAFFIC ASSOCIATIONS AND WATER LINES COMBINED, ACTING IN ENTIRE UNISON TO INCREASE AND MAINTAIN FREIGHT CHARGES AND DISCRIMINATE IN FAVOR OF THE TRUSTS ON ALL RAIL AND WATER TRANSPORTATION RATES, IN VIOLATION OF THE INTERSTATE-COMMERCE ACT AND OF THE FEDERAL ANTITRUST ACT."

I will put in as exhibits the following:

"By the Official Railway Guide of September, 1899, there exist to-day 44 separate and distinct illegal combinations, composed of joint railroad, lake, and ocean steamship lines, thus precluding excuse for water competition.

"These several pooled traffic associations and freight committees (latter new term) represent all the principal railroads and water lines in the United States, and some of the Canadian railways, working unitedly and in unison for the unlawful maintenance of joint freight rates, both rail and water, which is in the 'restraint of trade' as forbidden by the Federal antitrust act and confirmed by the Supreme Court.

"Section 5 of the interstate-commerce act reads as follows:

"That it shall be unlawful for any common carrier subject to the provisions of this act to enter into any contract, agreement, or combination with any other common carrier or carriers for the pooling of freights of different and competing railroads, or to divide between them the aggregate or net proceeds of the earnings of such railroads, or any portion thereof; and in any case of an agreement for the pooling of freights as aforesaid, each day of its continuance shall be deemed a separate offense."

"The names of these combinations are changed as often as the Supreme Court renders a decision against any one of them applicable to all, but the roads will not submit to the act nor to court decisions.

"The following steamship lines represent the Association of Lake Lines:

"Western Transit Company, owned by New York Central and Hudson River Railroad Company, transports freight to and from Buffalo and Chicago, touching at Erie, Cleveland, Detroit, and Milwaukee.

"Union Steamboat Company, owned by Erie Railway Company, carries freight to and from Buffalo and Chicago, touching at Detroit and Milwaukee.

"Erie and Western Transportation Company (Anchor Line), owned by Pennsylvania Railroad Company, carries freight to and from Buffalo, Erie, Chicago, Milwaukee, and Lake Superior ports, and delivers freight to all railroads.

"Northern Steamship Company, owned by Great Northern Railway, carries passengers and freight to and from Buffalo, Cleveland, Detroit, Duluth, and Lake Superior ports, and delivers freight to all railroads.

"Lake Erie Transportation Company, owned by Wabash Railroad. Its steamers run between Buffalo and Toledo and deliver freight to all railroad lines.

"Lehigh Valley Transportation Company, owned by the Lehigh Valley Railroad, and its steamers run between Buffalo and Chicago.

"Minneapolis, St. Paul and Buffalo Steamship Company, owned by the Minneapolis, St. Paul and Sault Ste. Marie Railroad Company, which is controlled by the Canadian Pacific Railway Company, carries freight between Gladstone and Buffalo and delivers same to all railroad lines.

"Cleveland and Buffalo Transit Company; Detroit and Cleveland Navigation Company; Lackawanna Transportation Company; Port Huron and Washburn Line; Lackawanna Green Bay Line; Wilson Transit Company; Union Transit Company; Fleming Line.

"In addition, the following water lines are combined with railroad associations and freight committees:

"Plant System of steamers, operating 1,283 miles of water lines; New York and Baltimore Transportation Line; Baltimore, Chesapeake and Richmond Steamboat Company; Merchants and Miners' Importation Company; Detroit and Cleveland Navigation Company; New York and Texas Steamship Company; Old Dominion Steamship Company; Cromwell Steamship Company; Atlantic Coast Line; Ocean Steamship Company; Red River Line.

"This Official Railway Guide also contains the Canadian Freight Association, composed of all the railways and principal water lines of Canada, which are in collusive alliance with our unlawful pooling railway combinations, as represented in said association by the following American lines, such as the New York Central and Hudson River, Michigan Central, Delaware and Hudson, Boston and Maine, Central Vermont, Maine Central, Great Northern, Northern Pacific and Manitoba, which roads are linked with Canada's water ways, such as the St. Lawrence Steamboat Company, Lake Ontario Steamship Company, Merchants' Line of Steamers, Northwest Transportation Company, Bay of Quinte Line of Steamers, Bay of Quinte Railway and Navigation Company, forming a gigantic trust and pool of rail and water lines of America and Canada to increase and maintain, without competition, unlawful transportation rates in the United States, which is in 'restraint of trade,' in violation of the Federal antitrust act, and also in violation of the interstate-commerce act.

"The following are the water lines in the above association:

"The Clyde, New England and Southern lines, Portland Steamship Company, Goodrich Transportation Company, Lake Michigan and Lake Superior Transportation Company, Northern Michigan Transportation Company.

"October 1, 1889, the Transcontinental Association, composed of 21 lines of railroad, including the Canadian Pacific Railway, made an agreement with the Pacific Mail Company to pay them \$900,000 per annum for the privilege to fix all freight and passenger rates, both steamship and rail, both ways, between New York and San Francisco, 'and that no through freight or passengers shall be taken except at prices fixed by the party of the first part (Transcontinental Association), or by its consent.' (B 194.) No question of doubt, a similar arrangement is in practical effect to-day.

"November 28, 1890, this same association agreed with the Canadian Pacific Railway Company to pay them \$500,000 per annum 'to maintain the rates and rules of the Transcontinental Association as in force on the direct United States lines.' Benjamin Brewster and Henry M. Flagler, then trustees of the Standard Oil Trust, were also directors in the Chicago, Rock Island and Pacific Railroad, one of the roads in the combine, while Oliver H. Payne, former treasurer of the Standard Oil Trust, was a director in the Pacific Mail Company. (B 196.)

"Judge Willis, of St. Paul, Minn., in addressing the new grand jury on January 9, 1897, has this to say:

"The government of this State is divided into 3 departments—the legislative, executive, and judicial. All of these departments are proximately connected with the common people. To the legislature any qualified elector may be chosen. In the executive department the same rule of eligibility exists. In the judicial department none but men learned in the law can be selected for the judiciary itself; but in order to link that department closely to the people it has been provided that grand juries should be summoned from time to time, and that to them should be committed the duty and prerogative of scanning the conduct of all members of society and making such accusations as would correct the evils in society which amount in their enormity to crimes. Consequently you have the whole field of society before you.

"You must bear in mind that when criminality rears its head and becomes dangerous to society it does so because the people themselves, represented in the grand juries, fail to execute with vigor the judicial department of the government. As grand jurors you are officials of the judicial department of the State government. A weighty responsibility rests upon you.

"The literature of our day, both transitory and permanent, is filled with denunciations of those enormous aggregations of capital which threaten to destroy not only the symmetry of our social conditions, but the essential nature of those social conditions. We hear much of trusts and of combinations, of railway pools, and of associations which are detrimental to the public benefit. Now, if the grand jury retains the vigor and essential patriotism which constituted the fathers of the Republic, all these abuses will be annihilated.

"It is a mere idle performance for the people to claim patriotism when they themselves countenance and tolerate the most flagrant abuses.

"It is indeed a performance of questionable propriety to stand in the market place or upon the public rostrum and bewail the existence of abuses and the oppressions of financial and commercial tyrants instead of setting the judicial machinery known as the grand jury in operation for the correction of these abuses and for the dethronement of the tyrants. A grand jury should realize its power; should comprehend its functions; should, like Siegfried in Wagner's great drama, take up the sword and proceed to fight the dragon."

"Section 5370, Revised Statutes of the United States, reads as follows:

"Every person who, upon the high seas, or in any open roadstead, or in any haven or basin, or bay, or in any river where the sea ebbs and flows, commits the crime of robbery in or upon any vessel, or upon any ship's company of any vessel, or the lading thereof, is a pirate, and shall suffer death."

"THE ONLY EFFECTUAL REMEDY TO CURE EXISTING COMMERCIAL EVILS IS GOVERNMENT OWNERSHIP OF RAILROADS, PURCHASED ON THE CREDIT OF THE PEOPLE, BOND ISSUES.

"With 12 years' patient trial of the interstate-commerce act and 9 years of the Federal antitrust act this seems to be the only effectual remedy left, for gross freight discriminations and rebates continue to date, and we have not only an epidemic, but a plethora of trusts.

"Why should not the people own the railroads instead of being owned and controlled by an autocratic, arbitrary few, and get from these bandit chiefs and robber barons their properties back, their several rights of eminent domain, the basis of the railways, which were parted with only in trust for the public use for guaranteed equality in transportation rates and privileges, and now so ignored and ruthlessly disregarded, and by which these men dictate the terms and levy their tributary exactions as they see fit on the entire commerce of this country through these high-rate, ironclad tariff sheets, which must be complied with or no one can ship?

"If the railroads were purchased at their actual appraised worth, for value received, with all the barnacles scraped off—all fictitious and watered stocks—with the created Government bonds of the people, or consols with no time limit of payment, same as Great Britain, bearing 3 or 2½ per cent interest, present railroad freights could be reduced at least one-half and passenger rates not to exceed 1 cent a mile, and easily pay interest and all expenses, and set aside the necessary surplus for bond liquidation, if so desired, so that the greatest good shall accrue to the greatest number."

And you can get rid of this political bngbear, centralization, and all that. Just disfranchise the railroad employees. There are only about 800,000 of them, and there are 1,000,000 men to-day that do not vote. Then you would get rid of all the political end of it.

Q. (By Mr. KENNEDY.) Are you in favor of disfranchising the 800,000 employees of the railroads of this country?—A. Yes; in order to take the question out of political power or influence.

Q. You would be in favor of disfranchising those 800,000 workmen?—A. Certainly I would; yes, of course. There would be plenty of voters left.

Q. (By Senator KYLE.) Do you not think that this proposed remedy would be absolutely impracticable?—A. Why, if that is the best remedy, I think it is practicable. You can get plenty of men to take the position, and that will take it out of politics.

Q. (By Mr. KENNEDY.) Do you think that they could get plenty of men to-day who would be willing to be disfranchised?—A. Why certainly; why not?

Q. Do you know any man in the United States that would be in favor of it?—A. I should say there would; why not? The greatest good for the greatest number, you know. What harm is there in it?

Q. They are citizens of this country?—A. How are the citizens of this District right here? They can't vote; the residents of this town can't vote.

(Reading:) "If the money already spent and to be spent in our more than useless foreign war had been expended in the purchase of the railways for the relief of 70,000,000 of our own oppressed home subjects instead of foreigners, how much better it would have been. Under such a condition every citizen would be put on perfect footing as to equal transportation rates and privileges, with much higher prices to the producer, without increase in price to the consumer, for all the necessities of life, because rebates and freight discriminations would be eliminated. The value of personal and realty holdings would also thus be greatly enhanced, and then there would actually come an era of that real, genuine prosperity so much desired by the American people, and not be exclusively monopolized in the interest of the selfish minor few. It is a deplorable and dangerous situation.

"IF THE PEOPLE CAN NOT GET JUSTICE AND ARE NOT SOON RELIEVED OF THE BURDENS AND CONSPIRACY OPPRESSIONS IMPOSED BY THE RAILROADS AND THE TRUSTS, IN GROSS VIOLATION OF THE LAWS OF THE LAND, MATTERS MAY ASSUME AN UGLY SHAPE.

"A century ago the American colonies, goaded to despair by long-continued injuries, insults, and exactions, broke the fetters that had bound them for many years, and, appealing to the Supreme Judge of the world for the rectitude of their intentions, 'assumed amongst the powers of the earth the separate and equal station to which the laws of nature and of nature's God entitled them.' In that renowned Declaration of Independence our forefathers asserted 'that when a long train of abuses and usurpations, pursuing invariably the same object, evinces a design to reduce them under absolute despotism, it is their right, it is their duty, to throw off their oppressors and to provide new guards for future security.'

"The last resort is for the people to retake into their own hands the power that has been delegated and abused. Vigilance committees have more than once had a purifying influence. There may be conditions which will again render them a necessity. There is a limit to human forbearance. Has that limit yet been reached?

"I am free to assert that unless some drastic measures are soon taken to do justice for the people the end will come in an ugly shape. The colossal fortunes that have been piled up as a result of the advantages enjoyed by the few and denied to the many represent just that much money coined from the blood sweat of the masses. I do not believe any system will be permitted to exist which allows one man to accumulate a fortune of \$400,000,000 to \$500,000,000, while millions of his fellow-creatures are suffering for the bare necessities of life.

"Every great wrong upon the people can be traced back to the greed and selfishness of the men who have cornered the resources of the earth, who keep the 'corner' intact by reason of an illicit power bestowed upon them by corrupt officials, who for the time being constituted the state. These criminal monopolies would be impossible if officials who administer the laws performed their sworn duty to the people. But they persistently refuse to do this. Men may impoverish themselves in an effort to secure rights which the constitution gives to them, but for want of an official execution those rights are denied them. This is a condition wholly incompatible with the principles upon which our Government is founded, and should not continue. The people will soon throw off the yoke if relief does not soon come. They have a right to life and some of its enjoyments. They have the former, but only because it is necessary to the furtherance of the ends of the selfish rich. As to the enjoyments of life, look for them in the pov-

erty of the common people and find them not. The people of this country are its sovereigns, and it is not only a crime, but a monstrous crime, to rob them so flagrantly and with so much persistence.

"The voice of genius has sent a trumpet blast in response to the cry of the oppressed. The dawn of emancipation should be near at hand. There is a rebellious spirit stirring within the people which may burst into a whirlwind of wrath.

"The man with the hoe," whose terrible aspect Professor Markham has so powerfully portrayed, may yet hoe his row, throw off his burden, and deliver his fellow-man from the toils of the downtrodden and oppressed."

Q. (By Mr. KENNEDY.) Do you expect or hope for any deliverance from "The man with the hoe?"—A. Their vote is just as good as anybody else's, and it is the vote that is going to regulate it.

Q. Do you expect intelligent deliverance from any evils from such a source as that?—A. Do you not think that there are a great many men with a hoe that have as good intelligence as anybody?

Q. Not the one that is pictured by Professor Markham.—A. Well, I do not know about that.

Q. (By Senator KYLE.) Have you any further statement that you desire to make?—A. Mr. Archbold reads a letter from J. M. Culp, traffic manager of the Southern Railway Company, in which he emphatically denies that the Southern Railway Company has at any time given to the Standard Oil Company or any of its representatives "any lower rates of freight in the carriage of shipments made by that company over our rails, either by direct tariff, refund, or otherwise, than to any other shippers of similar commodities." I am unable to give a specific case of freight discrimination over this line in favor of the Standard Oil Trust, but will answer Culp's specific denial in a more general and comprehensive form by reference to the letter of Receivers Cowen and Murray, in which they say that "within the territory north of the Ohio River and east of the Mississippi" the railroad carriers are making "illegal concessions through secret rates, drawbacks, rebates, and other devices."

The Southern Railway Company is connected with and is a member of the following unlawful freight associations: The Louisville Freight Committee, the Southeastern Freight Association, the Southeastern Mississippi Valley Association, the Virginia Freight Traffic Association; the Southern Iron Committee, and the Baltimore Freight Committee.

Through the Louisville Freight Committee and the Baltimore Freight Committee the Southern Railway Company is pooled with rail lines that cover the territory north of the Ohio and east of the Mississippi, such as the Pennsylvania Railroad Company, the Baltimore and Ohio Railroad Company, the Chesapeake and Ohio, the Big Four, the Illinois Central, and others. Cowen and Murray say that these lines of road were, in December last, granting secret rates, drawbacks, rebates, etc. Then it stands to reason that the Southern Railway Company followed suit. If any kind of rebates in any shape or form are given, you can rest assured that the Standard Oil Trust gets the lion's share, as fully exposed by me.

"PLEASE TURN ANOTHER SCREW."

This seems to me an opportune time to show this commission the original letter written by the Chess Carley Company—but I recall I have already shown you that.

Q. (By Mr. FARQUHAR.) In the investigation by the Bacon committee of Congress, in 1888, when that question was put, and you were present and gave testimony at the same time, Mr. Gowen presented this letter of the Chess Carley Company to Mr. Culp, and Mr. Culp, under oath, gave testimony, as found in this volume here; and they also furnished, at the same time, the tariff that was published and in effect at that time, showing that there was no discrimination against you in any way whatever, and that there were equal rates all around the board.—A. At that time; at that particular time?

Q. At that particular time; at the time you gave testimony here in respect to this letter written by Hathaway?—A. He testified that there were no discriminations?

Q. There was not any discrimination at all; the testimony showed the published sheet of the regular rate, and the road made an explanation of what was called "putting the screw on."—A. Very lame; very lame explanation.

Q. But still it is sworn evidence; it is here?—A. Why, here are lots of letters.

Q. Well, here is the letter here in evidence, too.—A. Oh, yes; that is all right; that is all right.

¹Fiftieth Congress, first session, House Reports, vol. 9, p. 534. See an extract in the present volume, p. 764.

Q. And there was the man subjected to cross-examination at that time, and that stands out in entire antagonism to your evidence here to-day?—A. Well, the people can believe Mr. Culp against me if they want to; that is all.

Q. Well, what is the commission to do? That is the question. Here is the Congressional evidence before us; what are we to do? There ought to be a reference to this testimony here in the records in some way. I want to ask you another question, too; and that is in respect to the testimony that you heard at the same time offered by Mr. Carley himself, in his vindication of this thing, that he had never got a rate at that time discriminating in any way whatever, which is also sworn testimony of a reputable witness outside.—A. Who is a reputable witness? Do you call Carley a reputable witness?

Q. Well, you can not call him otherwise; the Congressional committee took it.—A. They can if they want to. I do not believe it.

Q. It is given in the Bacon report.—A. I would not believe either one of those men; that is my experience with them, you know; I would not believe either one of them.

Q. I merely desired to call your attention to it.—A. That is all right.

Q. Because many of the exhibits are in sworn testimony.—A. The people can take what they believe of that, and believe what they are a mind to. I am telling the truth absolutely, without the shadow of a doubt, by solid experience. There is not any question in regard to it whatever. There is not any question that they raised the rates on me 50 per cent within 5 days. I have had men tell me that they would shoot such a man as that. There is not language strong enough to express a man's disgust at the execution of our laws. How any man can excuse such men or have any belief in them I can't understand, that will do such outrageous things.

Q. (By Mr. CLARKE.) Do you recommend shooting as a remedy?—A. I think it will come to something of that kind if you can not get relief. What did our colonists do over in Boston? They threw the tea overboard, did they not, because of oppression? We are just as much oppressed to-day as they were, and more so.

UNLAWFUL ASSOCIATIONS.

The Baltimore and Ohio Railroad Company are members of the following unlawful associations. I want to say this because the Cowen and Murray letter has been put in here, and Mr. Cowen has been here on the witness stand and explained it; and I want to show that they are members of what I call unlawful associations in keeping up rates. The Baltimore and Ohio Railroad Company, by the official railway guide which I put in here, the best evidence in the world, are members of the Chicago Freight Committee, the Chicago Railroad Association, Eastern Railroad Association, Middle States Freight Association, Trunk Line Association, Western Pennsylvania and Eastern Ohio Railway Traffic Association, Wheeling Freight Committee, Baltimore Freight Committee, General Managers' Association of Chicago, Mansfield Freight Committee, Middle States Lumber Association, Ohio Coal Traffic Association, Sandusky Freight Committee.

I want to say right here that about every time a decision is rendered by the Supreme Court of the United States against any one of these associations, the others change their names immediately; they are not incorporated, and they can change them very easy, so they can get rid of all their past unlawful acts.

RELATIONS BETWEEN RAILROADS AND THE STANDARD.

In the late reorganization of the Baltimore and Ohio Railroad Company within the last few months, Henry Clay Pierce, of St. Louis, president of the Waters-Pierce Oil Company, Standard Oil Trust, is made a director.

Q. (By Mr. FARQUHAR.) Do you think that it is well enough for these persons that are large owners of stock, I mean Standard Oil stock and all that, to make investments in all these other things; is it not natural for business men to do that?—A. It looks rather suspicious, you know, when you come to see all these men going into railroads, these big shippers; it looks very suspicious. Mr. Archbold falsely asserts when he states that pipage rates were included in the rail rates on the Cleveland and Marietta Railroad.¹ The absolute truth is that this railroad charged me 35 cents a barrel on my petroleum shipments, while it only charged the Standard Oil Trust 10 cents a barrel; confirmed by the receivers of the railroad, its counselor, Ex-Judge Rapallo, and by the decision of Judge Baxter. This difference or overcharge on my shipments was taken from the treasury of the railroad and paid over to the Standard Oil Trust.

¹ See pp. 704, 705.

² See Mr. Archbold, pp. 556-559; Mr. Rice, pp. 706-711.

Phineas Pease, the receiver of this railroad, allowed the Standard Oil Trust to lay its pipe lines, not only in the roadbed's right of way, but also across passenger bridges, to assist it to convey crude oil from the Macksburg oil fields to Parkersburg, W. Va., 35 miles, where the trust had a large refining plant, and by this means deprived the road of Standard Oil transportation. In 1885 when I wanted to simply cross once with my pipe line under the tracks of this same road, which I had the legal right to do, in order to reach the Muskingum River and thence barge my oil to Marietta, I was confronted by a telegram from Pease to desist from laying my pipe thereunder. I did not obey. A competing pipe line from Parkersburg tried to reach the Macksburg oil fields, and was prevented from so doing by this same railroad. But the Standard Oil Trust could get everything they wanted; no objection at all.

In November, 1887, 7 or 8 months after the interstate commerce act took effect, I proved before the Interstate Commerce Commission that I was then paying more than 4 times as much freight as the Standard Oil Trust on shipments of oil to Birmingham, Ala., where I had an agency. I paid 59 cents per 100 pounds on 400 pounds to the barrel, which was \$2.36; the Standard Oil Company only paid 16½ cents per 100 on 315 pounds of bulk oil, which amounted to 52 cents and 9 mills, as against my \$2.36. The discrimination was 346 per cent.

ACCUSATIONS AGAINST THE WITNESS.

I want to say just a little in reply to what Mr. Archbold said about me here: (Reading from a paper:) "In reply to Mr. Lockwood, Mr. Archbold dealt at length with the Matthews and Rice cases, which Mr. Lockwood had instanced to show, as he claimed, that the Standard Oil Company controlled the courts. Mr. Archbold claimed in effect that these suits had been brought to compel purchase. He asserted that in the Rice case Rice had tried to induce him to buy his plant at Marietta, Ohio, for \$500,000, when it was not worth \$25,000, and had agreed to see that prosecution in certain cases was stopped in case the deal was made, claiming that he had sufficient influence to accomplish this result. He expressed the opinion that Rice was employed as an agitator by the enemies of the Standard Company.¹ Mr. Rice was present in the room, and it is understood will reply later."

I want to say right here that no man in this country has ever put up a dollar to aid me in any fight I have had with the Standard Oil Trust or railroads of this country. The statement is false.

Q. (By Mr. A. L. HARRIS.) Did you ever offer to sell out for \$500,000? A.—I did. I will explain that. They offered me \$350,000 in 1882; and negotiations were started again, in 1886 or 1887, about the time I was trying to get some Standard Oil Trust certificates, which I owned, transferred to my name. They refused to make the transfer. I want to read these extracts just a little bit before I do anything else. This is another account of Mr. Archbold's testimony.

"He dwelt particularly on the claim that Mr. Rice had been discriminated against by the railroads in the matter of rates, and that the Standard Oil Company had made the railroads divide with them the charge they had collected from Mr. Rice. Mr. Archbold admitted that their agent had received something like \$350 in this way, but said the money had been refunded to the railroad on the advice of their lawyer.

"Mr. Archbold charged Mr. Rice with running his business not for the legitimate profits in it, but for the purpose of selling out to the Standard people at an immense profit."

Mr. Archbold also read to this commission certain extracts from the testimony I gave last February at the Ohio investigation, with the avowed purpose of showing that I am a blackmailer.² The ground of this accusation is that I asked less for my refining plant at an early date than subsequently, when I had increased the capacity of my plant to 5 times what it was at the time the lesser prices were given, and I had not included my producing properties. Now, just think of it, gentlemen; and Mr. Boyle reiterates it in his testimony.

In March last at the Ohio investigation they engineered a scheme to put Archbold forward to denounce me with great vehemence as a blackmailer, in order to divert public attention from the real questions at issue, and commenced at once their vicious attack on me at the fourth question. This charge of blackmail is only a continuation of their oft-recited and only stock in trade against me for 18 years. In 1881, in their red-lettered pamphlet entitled "Black death," issued by the Standard Oil monopoly, a facsimile of mine, they charged me on the upper marginal part, page 2, with blackmail, and have kept up this tirade of abuse ever

¹ See p. 550.

² See pp. 551, 552.

since, for the avowed purpose of prejudicing the public mind against me. Why is it that they still keep it up, not only through trust officials direct, but through their special mouth organ, the Oil City Derrick, although my refinery has not been running for 8½ years to interfere with their high-priced oil? On page 3 they admit my oil refinery alone to be worth \$50,000 in 1881. It is fair to presume that they would have paid me double this price at that early date, when so willing to state its worth publicly. How silly and ridiculous it is for these hundred-million millionaires to charge me with blackmail, when they have robbed the stockholders of the railroads by dishonest and unlawful means, through freight discriminations, out of hundreds of millions of dollars, which has been paid by the public in higher-priced oils, and of a poorer quality. I will read from my evidence given at New York on March 21 last:

"Before J. Edgar Mills, New York.—The Buckeye Pipe Line Company.

"MARCH 21, 1899, 10 a. m.

"Hearing resumed.

"Redirect examination by the ATTORNEY-GENERAL:

"Q. Mr. Rice, there is another branch of the case, of the Buckeye Pipe-Line case, that I will call your attention to briefly. There is a cause of action charging that the defendant company assisted the Standard Oil Company of Ohio in evading the decree, known as the decree of March 2, 1892, and, perhaps, anticipating your evidence now rather as rebuttal evidence from what has taken place in the contempt proceedings, I will call your attention to that part of the testimony, and will introduce it here at this time, in which it is said the charge of contempt was a case of blackmail on your part, if I understand the import of Mr. Archbold's testimony, and to that most particularly where he says that your plant was only worth \$25,000. Will you now state for the court the history of that attempted settlement and the amount that was offered for your plant actually, and what it is worth? I refer to the proposition that was made. Give the history of that entire proposition.

"Mr. KLINE. I note an objection to the question not only as leading and suggestive, but as irrelevant and incompetent.

"A. The charge that Mr. Archbold has made against me as being a blackmailer because of any interest that I may have taken in the proceedings against the Standard Oil Company of Ohio, or in these proceedings, is a malicious statement and false; there is not a word of truth in it whatsoever in that regard, in that respect. In 1882 Mr. F. B. Squire, the present secretary of the Standard Oil Company of Ohio, came to me at Asbury Park, where I was stopping with my wife, and offered me \$250,000 for my oil properties, including the producing properties and the refining plant.¹ This I testified to before Judge O'Brien, of this city, in 1888, in proceedings that I brought against the trustees of the Standard Oil Trust to get transferred an original trust certificate standing in another man's name into my name. Mr. Archbold was present at the proceedings and heard what I testified to and made no objections, nor was it denied. He at the same time went onto the stand and testified that my plant was not worth to exceed \$25,000 or \$30,000. He also produced an expert to say that it was not worth over \$25,000. At this same time that I testified and at which Mr. Archbold was present—in the early spring of 1887, some 4 or 5 months previous to the proposition to which he alluded and which I will subsequently allude to—I offered my plant to him through Mr. Orris, to Mr. Archbold, for the sum of \$125,000, and \$25,000 a year for 5 years. In 1886 it is true that I did submit a proposition to him to take for my producing properties and refining plant—the whole oil business that I had—the sum of \$250,000, and \$50,000 a year for 5 years. He considered the proposition and wrote me two letters, of which I would like to submit here the copies of them, because they are very short.

"Mr. KLINE. I note an objection to the copies.

"Q. Have you the means of getting the originals?—A. I have not the originals in my possession, but I will swear that these are copies.

"Q. Will you read the copies into the records?

"Mr. KLINE. I note an objection.

"A. (Reading from paper): '26 Broadway, New York, November 17, 1896. George Rice, Marietta, Ohio. Dear Sir: I write to advise you that I have not lost sight of our recent interview, but there has been unavoidable delay in

¹ See Mr. Page, pp. 735, 736; Mr. Rice's affidavit, p. 738.

gathering information which we desire on the subject. We now expect to have this information in a week or so, and will then again communicate with you. Believe me, very truly, yours, John D. Archbold." The second letter: Dated, 'Standard Oil Trust, 26 Broadway, New York, December 13, 1886. George Rice, Marietta, Ohio. Dear Sir: We have given further consideration to the subject of our recent interview and are prepared, if you so desire, to discuss it further with you. Awaiting your advice as to your wish in the matter, and, if favorable, the designation of a time when you will meet with us here, I remain, truly yours, John D. Archbold."

I never replied to the letter or never called upon them.

Q. (By Mr. PHILLIPS.) What was the price fixed or talked of at that time?—A. \$250,000 and \$50,000 a year for 5 years. Now, here is another. (Reading:)

"Q. There is another term that you use that I don't quite understand. I wish you would be kind enough to elucidate it more clearly. What do you mean by a refinery and a producing plant? What is the difference? What does your property include that you say you were offered \$250,000 for?—A. The proposition I made to Mr. Archbold and to Mr. Squires both, was to include all the producing properties that I had, which was some 200 acres of fee-simple oil land and from 150 to 200 barrels per day production, and also to include all the machinery and everything attached thereto used in the production, and also to include my refining plant and everything connected therewith, tank cars and pipe lines and so on, and the good will of the business.

"Q. Where was that 200 acres of oil-producing land that you say you owned in fee simple located? In the oil district?—A. Yes, sir.

"Q. Already developed?—A. Yes, sir.

"Q. And has it been oil territory ever since?—A. Yes, sir."

That is the end of the quotation. Now, I will make some of my own remarks. My property was fully worth the amount I asked. The mercantile agency of R. G. Dun & Co. for several years made a rating of \$1,000,000 on this same property. It seems ridiculous to answer all these statements, but as the charges have been made, under all the circumstances, I have done it. In 1884-85, and part of 1886, my business had largely increased by my persistent efforts, which was not agreeable to the Standard Oil Trust; so they invoked the aid of Orland Smith, president, and R. M. Fraser, freight agent, of the Cincinnati, Washington and Baltimore Railroad Company, the initial line out of Marietta, so to advance my petroleum freights as to ruin my business, so that this noble and philanthropic trust could easily buy it up for old junk. To the disgrace of these 2 men they readily assented to the nefarious demand, and on July 15, 1886, they did advance my freight rates from 43 to 162 per cent, and did not advance rates at all to the Standard Oil Trust. This had the effect to close up 19 out of 24 of my agencies, and shut me out of 89 towns in 73, within the brief space of 5 months. From that time on my profits were very much lessened by these unlawful freight discriminations, and by the constant attacks and savage cuts made by the Standard Oil Trust upon my customers' goods I was forced to yield and quit the oil-refining business in May, 1896, and my refinery has been idle since—rotting down. I will also read some extracts from the Ohio investigation, but, before doing so, will state that my testimony in said case has been very materially changed by two very important alterations, and of the same particular figure twice repeated, by which it now appears in the official printed evidence that the negotiation for the sale of my properties was conducted in 1897, the very month that the Ohio contempt proceedings were brought, instead of the year 1887, as I testified. I also testified that the capacity of my refinery was 100,000 barrels per annum, which has been changed to 10,000.

I am reading now from the record of the Ohio investigation of the Standard Oil Trust.

Q. (By Mr. FARQUHAR.) Is it not strange, don't you think, that Attorney-General Monnett would have those changes made? Could it have been on purpose?—A. I am saying that they have been changed; I am not charging any one. "I will go back to 1897," cross-examination of me by Mr. Elliott, counsel for the Standard Oil Company, page 885. "I will go back to 1897"—it should be '87. If I said '97 it was a mistake. (Reading:)

"Q. I will go back to 1897. Did you say to Mr. Archbold in an interview, 'I believe it is better for the Standard Oil people to make a deal with me, and that by so doing parties will be deterred from encouraging a line of action against the Standard Oil Company, which I understand that others are about to do?'

"A. No, sir; I do not recall anything of the kind. I wish to explain right here when those suits were enforced in regard to the transfer of my 5 shares" —

This is very important. (Witness resuming reading:)

"Of trust certificates; they tried to produce evidence, the Standard Oil people did, and it came forth in the trial of the transfer of these 5 shares of trust certificates in my own name. They brought forward 2 men for that purpose that proposed to swear that I had demanded from the Standard Oil Trust people a large amount of money, and they were the only ones that could settle this matter, and Mr. Bartlett, my counsel—this was indicated to him that such kind of evidence was coming out—and he particularly questioned me before I went on the stand, before the matter came up, to know whether this could be true what he had heard. And I said, if they brought up any matter of that character it certainly would be a lie; it would not be true; could not see how they could back it up. He was considerably nervous over it, and I was myself. I did not know but what they had adopted some kind of a plan to smirch my character, and when it came up Mr. Bartlett objected to any of this testimony going in, and the judge said: 'Mr. Bartlett, we will allow this to go in, and if they do not connect Mr. Rice with this matter it will all be thrown out.' They went on and brought up 2 agents, one I have known in the oil business, Hill was his name, and I forget the other man's name; and they went on the stand and testified that they had letters that were written pro and con with the Standard officials in which they said to them they could arrange a settlement between Mr. Rice and themselves; that they had the whole thing in their hand. I never knew a thing about it. I never heard a word about it, and they admitted that they had no conversation with me. They had taken up their report and it was written on Standard Oil paper, making those threats, and those letters were used against me before the chairman of the committee in Congress to poison his mind against me. There was nothing in them. They were gotten up by these men themselves, and to show the truth of it the judge threw out that testimony and would not allow it to go in. It was all a concocted story to smirch my character; that is what is the matter."

Now, I want to read you the letter and correspondence that passed. I want to say right here, I think this correspondence was engineered for the purpose of being used afterwards, as Solicitor Dodd did use it. Here are letters—without my knowledge parties wrote letters under the head of the Standard Oil Trust, and I never knew a thing about it. It was let in temporarily while the case was on with the understanding that if they did not connect me with it it would be thrown out. It was thrown out, but Mr. Dodd used it against me before the Congressional committee of 1898. Now, this is a letter which was written, that I did not know anything about, and I think it was concocted for the purpose by this man Hill.

Q. (By Senator KYLE.) Who is Hill?—A. Edgar P. Hill, Nassau street, New York.

Q. A man whom you knew?—A. I knew him once in the oil business. He directs this letter to Mr. Cuthbert, an official of the Standard Oil Company. He says:

"EDGAR P. HILL,

"ATTORNEY AND COUNSELOR AT LAW,

"93 Nassau street, New York, March 20, 1888.

"MY DEAR CUTHBERT: I am going to write you a very plain letter in regard to the matter of Rice and the Standard Oil Company. In my judgment the company is making a great mistake in not getting Rice out of their way. I know what I am writing about, and the necessity of Mr. Brewster's being put in possession of such facts as I shall give you some account is urgent. Can you consistently and properly, through Mr. Bushnell, have them reach Mr. Brewster? If you can without prejudice to your interest, I hope you will do so. If you can not, say so plainly, and reply to this letter as soon as you possibly can. I shall not call on Mr. Dodd again unless he sends for me. I don't think he appreciates the situation. But to the facts, of which you will see something in the papers before you are many days older.

"First. Mr. Rice owns certain shares of the Standard Oil Company stock. An alternative mandamus has or will be soon issued commanding the company to transfer that stock to George Rice, or show cause why it is not done. If the company transfers the stock, Mr. Rice will prove to be a more troublesome customer than he is now, unless he is settled with at once. If the company refuse to transfer the stock, they will be compelled to, and then its trouble will be greater. The company can not resist the court if it refuses.

"Second. Rice has been summoned before the Interstate Commerce Commission, and will be before that commission to-morrow, or very soon, to answer interrogatories already framed, the answers to which will be troublesome to the company, to speak within bounds. Those interrogatories had best remain unanswered.

"Third. Legal proceedings are about to be commenced against 2 of the railroads having large contracts in the past, and at present, with the Standard Oil Company in violation of the interstate-commerce law for a forfeiture of their charters.

"Fourth. A law has been framed and will soon be introduced in Congress giving Mr. Rice the authority to bring suits in any State against railroads that have made contracts with the Standard Oil Company discriminating against Rice and to his prejudice.

"Fifth. It is useless for the company to try to make a settlement with Rice through other parties. It must be done with me or not at all. There are other matters I could call attention to, but this is sufficient for the present. I write as I have to you for the sole purpose of having these facts brought to the notice of Mr. Brewster and for no other purpose. Could I have an interview with him I am sure it would be to the advantage of the company. Again, let me say that I do not want you to be prejudiced in the least in this matter, and unless you can see your way clearly to do this don't do it, but return this letter to me and that will be the end of it, so far as you are concerned. Please do not delay your answer.

"Sincerely, yours,

EDGAR P. HILL."

"EDGAR P. HILL,
ATTORNEY AND COUNSELOR AT LAW,
"93 Nassau st., New York, March 29, 1888.

"MY DEAR CUTHBERT: I have your letter of the 26th instant, for which you have my thanks. I am very glad indeed that you sent my letter to Mr. B. and I infer that he or Mr. Brewster has it now, as you do not mention its having been returned to you. I shall be fully engaged to-day and to-morrow in another matter, and as soon as that is off my hands I shall ask Mr. Brewster for an interview, and I am confident that good will come to the company from it. I desire to have you understand that I am not acting and will not act in this matter in any spirit of hostility to the company, but, on the contrary, I desire to bring about a settlement between the company and Rice, and nothing else. I am the only person who has the handling of this matter, and the Standard Oil Company is simply wasting valuable time in trying to reach Rice through someone else. That this has been done I am sure, but it has had and will not have the least encouragement. I shall endeavor to make myself understood by Mr. Brewster, and am not without hope of causing him to see matters as they are, and not as they are represented to be by others in whom he places confidence. Mr. Dodd hinted at blackmail on the part of Rice, but that is absurd on its face, as I only ask to be heard fairly in an endeavor to settle a matter between these parties now, and which will be more difficult the longer it is delayed. I can settle the matter in less than a week if a fair and accommodating spirit is shown on the other side. I am well pleased with the situation, and again thank you for the kind assistance you have rendered me.

"Sincerely, yours,

EDGAR P. HILL."

Now, then, Mr. Dodd a few months later writes a letter to the Hon. Henry Bacon, chairman of the Committee on Manufactures, giving him the substance of these letters. He says:

"To Hon. HENRY BACON,

"Committee on Manufactures:

"We offer the correspondence on behalf of George Rice with persons connected with Standard Oil Company, to show that he threatened to give troublesome evidence before this committee, unless settlement was made with him, and parol evidence to show that the price demanded for settlement was \$550,000.

"Yours,

"S. C. T. DODD,
"Solicitor Standard Oil Trust.

"JULY 12, 1888."

These letters and all the evidence pertaining thereto had been thrown out by the court, and he used it afterwards.

Q. (By Mr. PHILLIPS.) Did Mr. Dodd know that it had been thrown out?—A. Certainly he knew; no question about it. You know it is ridiculous and outrageous to have to answer all that, but the charges have been made against me, and I think I ought to answer them here.

Q. (By Mr. JENKS.) You never yourself had any communication with Mr. Hill at all?—A. No, sir, not a particle.

Q. (By Mr. FARQUHAR.) Was Hill a broker in New York?—A. No, sir; a lawyer. Now, gentlemen, here is a pamphlet that is issued by the great Standard Oil Trust. I issued a pamphlet called "Black Death."¹ It was in the papers a good deal at the time. That is my original pamphlet, and the Standard Oil Trust issued that kind of a pamphlet with all the vacant places filled up with that scurrilous stuff against me. It is in exact size, same print, same paper, and everything, with the margins filled with a lot of scurrilous matter printed in red ink, and I think it might be well to read it, which will not take long, to show what kind of people they are.

Q. (By Senator KYLE.) Did you attack them in your pamphlet?—A. Yes, certainly.

Q. This is in the shape of a rebuttal?—A. Yes; I suppose so. Now, they have admitted this, you know, in a suit I had. They have admitted this pamphlet with all this stuff. They say: "If the Standard Oil Company pay George Rice \$250,000 for his refinery, worth \$50,000, can they sell oil any cheaper, or serve the public any better than they do now?" But on the front part they say: "Common sense pricks this hullabaloo." "Such missionaries as George Rice work mostly for George Rice." "Buy the best and cheapest goods of the agents of the Standard Oil Company." "The black border on the first page means blackmail by George Rice." This is issued by the great Standard Oil Trust, a great philanthropic institution, which is worth several hundred million dollars, you know, and they say at the bottom of the second page: "Buy the 'Standard' goods." "If George Rice's goods are no better than his pamphlet, you don't want them." "His pamphlet boiled down simply means 'sour grapes.'"

[Other similar quotations in pamphlet.]

They acknowledged this as their property; that they published it.

It is generally known in the oil region that the Oil City Derrick is the organ of the Standard Oil Trust, because they do not publish anything against them. It is all against anybody that attacks the Standard Oil Trust.

Q. (By Mr. PHILLIPS.) Is it the habit of the Oil City Derrick to attack independent producers?—A. Yes.

Q. Producers engaged in opposition refineries?—A. Yes; that is what it does. It attacks everybody that is in opposition to the Standard Oil Trust.

Q. Did you ever know of its attacking any member of the Standard Trust?—A. I never did. I never knew of its attacking anybody in the Standard Oil Trust or that has anything to do with the Standard Oil Trust. It is known as an organ under the Standard Oil Trust throughout the oil region.

Q. You have made sufficient reply to all these matters?—A. I suppose I have. I wanted to reply to these things. I don't like this business, but these things have to be answered.

Q. Do you know what the dividends of the Standard Oil Company have been since its organization?—A. Why, say \$170,000,000 since 1892, and the 10 years previous would be \$100,000,000—about \$270,000,000.

Q. What is the capital stock sold at?—A. It sold in May at 500 on a par of 100.

Q. What would that make the total?—A. Half a billion of dollars.

Q. Do you know anything about the surplus?—A. No; I do not. They do not make a statement to anybody.

GOVERNMENT OWNERSHIP OF RAILROADS.

Q. (By Mr. CLARKE.) I would like to ask Mr. Rice if he has any further remedy to recommend to this commission than Government ownership of railroads?—A. I do not believe I have, Mr. Clarke. The experience of the past 12 years of the interstate-commerce law shows that the penalty clause of \$5,000 and 2 years in the penitentiary for each and every offense is absolutely without effect. I think more drastic measures must be used; and I do not see how freight discrimination can be remedied except by Government ownership of railroads.

Q. In your pamphlet you make some allusions to the ease with which certain people can control legislation, especially in the State of New Jersey?—A. Yes; I think that by the centralizing of trusts and combinations in one State, it is much easier to control that State in the way of legislation.

Q. Do you not recognize that there would be great danger that if railroads were owned and controlled by the Government there would be great abuses, political abuses incident to it?—A. No; I do not; for this reason, that I do not

¹ Pamphlet entitled "Black Death," by George Rice.

know of any instances now of any particular account that any department of the Government is run dishonestly. That is to say, every man is getting his equal just deserts. That is the way I understand it. You do not hear of any complaints that the Government is being robbed, excepting, of course, occasionally; now and then. In a general way the departments of the Government are run honestly, fairly, and squarely.

Q. We have heard from you several times to-day that you do not think the Government officials are performing their duty?—A. I do not.

Q. Would they be any more likely to do it if they had control of the railroads?—A. Yes; they would. If they did not do their duty quite so well, they would have no freight discrimination, which I can tell you would be of great advantage to the people of the country; but as I understand it all Government employees do their duty generally.

Q. Do you not think that discriminations can be provided against effectively without Government ownership of railroads?—A. No; I do not know how it can be. They pay no attention to this severe penalty clause, and as everything shows, discriminations are about as bad to-day as ever; but of course they are more covered up, and you do not get on to the worst of it. There was an expert that was employed on the books of the Atchison, Topeka and Santa Fe when that \$7,000,000 of rebates was discovered 5 years ago. This railroad expert told a friend of mine—this expert who was put on the books—that he was just getting into the “meat” of it, and discovering this discrimination, and he had got on to it through a certain key, of a pencil mark on the books, which turned out to be the secret. He was just getting into it, when he was shut off, after he had discovered rebates to the extent of \$7,000,000; and he said he thought more could have been discovered if he had had time to work it out. That was told to me by friends on whom I can rely—that the expert told him, and I have no doubt that it is so.

Have I said enough in regard to the existence of the Standard Oil Trust? I pretend to say that the Standard Oil Trust is growing stronger all the time, and that said trust is not dissolved by any means; simply passing resolutions to dissolve it does not dissolve it by any means. I did not know whether I made that plain enough.

Mr. A. L. HARRIS. I think so.

WASHINGTON, D. C., Wednesday, December 13, 1899.

TESTIMONY OF MR. HOWARD PAGE,

Vice-president of the Union Tank Line Company.

The commission met at 10.45 a. m., Chairman Kyle presiding.

Mr. Howard Page, of New York City, vice-president of the Union Tank Line Company, was introduced and, being duly sworn, testified as follows:

Q. (By Senator KYLE.) State your full name, address, and business.—A. Howard Page, New York City. I am vice-president of the Union Tank Line Company, which is a company that owns the cars in which the Standard Oil Company makes its shipments over the various railroads of the United States. I began in the business with Chess, Carley & Co. in 1878, and continued with that firm until it became the corporation of the Chess-Carley Company, which was in 1881. The Chess-Carley Company was succeeded by the Standard Oil Company of Kentucky, about 1886. Chess, Carley & Co. and the Chess-Carley Company were under the direct control and management of Mr. F. D. Carley, who was the resident partner and manager at Louisville.

Q. (By Mr. JENKS.) At what time did you go into the employ of the Standard Oil Company?—A. The Standard Oil Company of Kentucky was formed about 1886. I was with that company until I came to New York, in 1889, to take a position with the Standard Oil Company of New York. I have been with that company and the Union Tank Line Company since that time.

Q. Have you been immediately connected with the transportation business ever since coming to New York?—A. I have, and prior to that time I was in charge of the traffic matters of the Standard Oil Company of Kentucky, and also of the Chess-Carley Company, when I was in Louisville, and was also familiar with that part of the business when I was with Chess, Carley & Co.

Q. And in New York with the Standard Oil Company, you were especially in charge of their transportation business?—A. As vice-president of the Union Tank Line

Company, which, as I have stated, is the company that owns all the tank cars in which the Standard Oil Company makes its shipments throughout the United States, I was familiar and am familiar with the transportation business of the company throughout the United States.

Q. How long have you held your present position as vice-president of the Union Tank Line Company?—A. Since the formation of the company in 1891.

Q. I understand that you have a general statement that you wish to make?—A. I have a memorandum or answer that I wish to offer to the allegations and charges made by Mr. Rice before the commission in regard to transportation and freight arrangements, which he alleges that we have as against himself and other shippers. I have gone in detail into his testimony and will now answer the points which I have picked out.

Mr. A. L. HARRIS. Mr. Chairman, I do not know but there is a possibility of saving time. As I understand it, there is nothing that the commission desires before the time of the interstate commerce law. I think it is conceded that there were rebates and discriminations previous to that time. Mr. Archbold, when he was on the stand, said that there had been nothing since that time; Mr. Rice claims there has. Will it not be enough if Mr. Page answers the charges made by Mr. Rice regarding discriminations since 1887?

The WITNESS. I would say, in answer to that, that there are some charges relating to the time before the interstate commerce law, which Mr. Rice has made and reiterated and advertised so frequently that they have come to be believed, and which I think I can answer very satisfactorily, and which we should like to have the opportunity of answering.

Mr. A. L. HARRIS. There is one particularly that you have in mind, I think, that we have no objection to, and that is "putting another screw on." You may make any answer in regard to that.

The WITNESS. That is the principal one, and it will not take as much time to answer it, Mr. Harris, as we have taken now.

Mr. A. L. HARRIS. I wanted to prevent covering the entire ground previous to 1887, when there is no dispute particularly between the Standard Oil Company and Mr. Rice. It is conceded that there were a number of favors granted. But since that time, as I understand, the Standard Oil Company claims to have lived strictly up to the law.

The WITNESS. Absolutely.

Mr. PHILLIPS. I think, in opposition to my friend Mr. Harris, that it is entirely competent for the witness to go over the whole ground covered by Mr. Rice. Mr. Rice stated facts; and he has a right, it seems to me, and it is proper, that he should cover the ground covered by Mr. Rice without regard to dates. Of course, what has transpired since the interstate commerce law was enacted is more important to this commission; but if Mr. Rice has made any statements in regard to discriminations before that time, I think the witness should have the privilege and the unlimited privilege of replying to such statements.

Senator KYLE. It strikes me, gentlemen, that inasmuch as Mr. Archbold admits discriminations prior to 1887—

The WITNESS (interrupting). Admits that we got as low rates as we could prior to 1887.

Q. That there were rebates given prior to that time?—A. Yes.

Senator KYLE. That there is no issue except as to some special discriminations against Mr. Rice that he complained about, and as to this Chess-Carley business in Kentucky.

The WITNESS. That is all; and as I was there at the time and was familiar with it, I think it is only fair to the company that I should be allowed to make a statement.

NO PAYMENT FOR A COPY OF TRUST AGREEMENT.

Mr. Rice charges that the cotton-seed oil trust paid the Standard Oil Company \$250,000 for a copy of its trust agreement.¹ We deny this absolutely as to any amount; in other words, we did not receive a dollar.

ALLEGED FAVORITISM IN THE PURCHASE OF LUBRICATING OILS.

Mr. Rice claims that the railroads paid the Galena Oil Company very high prices for its oils, and this forms a kind of freight discrimination in favor of the Standard Oil Company.² Mr. Archbold denied it,³ and I deny it again. The facts are that the

¹ See p. 688.

² See pp. 689, 700; see also Mr. Lee, p. 268; Mr. Davis, p. 359; Mr. Monnett, p. 309.

³ See p. 516.

trade secured by the Galena Oil Company is because of the superior and uniform quality of its oils as compared with the ordinary oils on the market. As to the prices paid for the Galena oils as compared with others, the Galena Oil Company sells its oils to railroads under an agreement by which the Galena Oil Company always guarantees that the cost shall not exceed the cost of oils that the railroad has used before, and generally guarantees a reduction. This guarantee is in the form of a certain cost per train mile for the different equipments which the railroad runs over its rails. That is, the cost per train mile of engines, freight cars, and passenger cars is found from the railroad's own books, and then the Galena Oil Company guarantees that railroad, after finding the cost of the use of the other oils, that the cost of using Galena oils will be less, and never more, than by using the other oils.

Q. (By Mr. CLARKE.) You refer to lubricating oils entirely?—A. Lubricating oils entirely, and signal oils.

Q. Signal oils.—A. The result of this has been that there has been a great saving in the cost of the lubrication of railroads, and a growing trade to the Galena Oil Company. This saving is produced by the fact that the Galena oil will do more work for the same money than any other oils, and experience has shown that that result has been obtained, and the guarantee is made good. And as regards the amount of money that the railroads pay to the Galena Oil Company for the use of its oils as compared with the cost of the ordinary oils on the market, it is shown to be less.

Q. (By Mr. FARQUHAR.) Has it not been customary for the last thirty years to demand these tests of all persons that present oils for railroad use? Has it not been the custom of the oil trade for thirty years to do as the Galena does?—A. I do not think any other company has gone into it as a science as the Galena Company has done.

Q. Not as to uniformity?—A. Nor do I know that they have ever guaranteed the cost of a train mile for a year or a series of years, as the Galena company does. It is immaterial to a railroad whether a gallon of oil costs 10 cents or 5 cents, if the 10-cent oil will do work for 3 miles that the 5-cent oil will only do for 1 mile. That is simply the result of the use of the Galena oils. The Galena oils, although they have but one price, and a uniform price, and a higher price than the cheaper grades of oil, will do more work, and the railroad will pay less money in a year by the use of those oils than they pay by the use of the cheaper oils; and they are so guaranteed.

Q. (By Mr. SMYTH.) Has that fact ever been demonstrated?—A. Absolutely. The demonstration is proved just by what Mr. Rice claims—that the result has been that 95 per cent—I do not say it is 95 per cent, but I do say the Galena Oil Company has secured the large and growing trade with the railroads; and it could not have done so had not the oils been superior and the results been obtained that they have shown.

Q. You say this large trade with the railroads is due to the superiority of that oil and not to influence brought to bear by the Standard Oil Company?—A. Absolutely; the superiority of the oils and the economy that they have given to the lines themselves.

Q. (By Mr. JENKS.) You make the general statement, then, that in no case does the Standard Oil Company receive a higher cost of lubrication from any of the railroads than would be paid to other companies for bad oils?—A. Per mile?

Q. Per mile.—A. Absolutely.

Q. You do not deny that the Galena Oil Company does receive more per gallon than might be given to some of the other companies?—A. For the cheaper grades of oil.

Q. But in no case do they receive more for the same grade of oil than would be given to the other companies?—A. I have tried to make myself clear on that. The guaranty of the Galena Oil Company is to the effect that by using their oils the cost per train mile of the various equipments of the railroads is guaranteed to be no more, and is generally guaranteed to be less, than with the use of other oils.

Q. That applies generally to all the railroads to which it is sold?—A. Yes; absolutely to all the railroads.

GALENA COMPANY'S PRICES UNIFORM—ITS BUSINESS MULTIPLIED BY 10 IN ELEVEN YEARS.

Q. (By Mr. SMYTH.) Do I understand you to say that there is a uniform price for this oil?—A. The price is the same to every railroad in the United States.

Q. Regardless of quantity?—A. Regardless of quantity. Of course one railroad may use very much more oil than another, but the price per gallon is the same to all railroads all over the United States. The guaranty is not the same, because in running over one railroad, for instance, like the Northern Pacific, or the transcontinental

line, the cost is necessarily greater than in running over a railroad like the Pennsylvania or the New York Central; but the guaranty is that the cost, whatever it has been, over the road with which they make the contract, shall not be greater, and generally that it shall be less, than the former cost in the use of the particular oils.

Q. (By Mr. PHILLIPS.) Do you claim that there is no refiner or person engaged in the manufacture of lubricating oil that can make oil equal to the Galena oil?—A. I can not answer that; I can only say what the result of the Galena Company's oil and its business has been.

Q. Yes; but you spoke of their guaranteeing a superior quality of oil?—A. I did not say guaranteeing a superior quality; I said they guaranteed their cost.

Q. And above the cheaper oils?—A. Yes.

Q. The inference would be probably that all others made inferior or cheaper oils than the Galena.—A. I did not say.

Q. You did not say it in so many words.—A. I said that the result of the use of the Galena oils had been a saving to the railroads in the cost, and that they were justified in guaranteeing that cost by the fact that the Galena oils did better work for the same money than the cheaper grades of oil that were offered on the market.

Q. Did or did not the monopoly of the lubricating-oil business, so far as the railroads are concerned, grow up during the time when the rebate system was in vogue everywhere?—A. Absolutely not. For 10 years back, during which time the Standard Oil Company has not received a dollar in rebates, the trade of the Galena Oil Company has grown tremendously, and I would say is probably ten times to-day what it was at the date of the passage of the interstate-commerce law.

Q. Did they not get this monopoly of the lubricating business of the country prior to the interstate-commerce act, though it has grown largely since? The railroads have increased by thousands and tens of thousands of miles since that day.—A. I should think I had already answered that by saying that to-day the trade of the Galena Oil Company is ten times what it was 10 years ago, and in the last 10 years we have not received a dollar of rebates; therefore, prior to the interstate-commerce law, when we did receive lower rates of freight than the tariff, as all other shippers did, the trade of the Galena Oil Company was only one-tenth of what it is to-day.

Q. But still it was practically a monopoly of that business at that date?—A. It was not. If they only had one-tenth of the business they have to-day, they can not have had a monopoly at that time.

Q. Did they not use your oil and other oils? Has not the use of lubricating oil been growing all the time? Was there or was there not any considerable amount of oil furnished by independent or outside people to railroads prior to the interstate-commerce act?—A. They sold the railroads then and they sell them now.

Q. No considerable amount to the railroads prior to that?—A. Oh, yes; as far as my knowledge goes, they did, and they try to now and they do now.

Q. (By Mr. FARQUHAR.) Is it not a fact that the Galena Company, before it ever came into the Standard, established a lubricating business?—A. Yes.

Q. Is it not generally known and understood that the Galena is the best lubricant ever made in this country? Is it not the general reputation among railroad men and all others?—A. Its success has certainly proved that.

GALENA COMPANY HAS NOT SOUGHT MANUFACTURING TRADE.

Q. (By Senator KYLE.) How does it commend itself to enterprises outside of railroad companies?—A. The Galena Oil Company has made a specialty of the railroad and steamship trade; it does not try to sell the manufacturing and machine trade.

Q. It does not refuse to sell?—A. No; it does sell, and has also a large and growing trade abroad.

Q. Do not these other private corporations discover the merits of the Galena oil, and if it is cheaper, would they not find this merit out?—A. They use those oils, but as I say, the Galena Company has made a specialty of the railroad and steamship business, and while that does still hold, and it is only too glad to sell the mills, it has not made a special branch of the business in that direction.

Q. I want to get the comparative merits of the Galena oil. If private enterprises are still using other brands outside of the Galena, there must be some merit in those, because all those institutions are determined to get and use the very best oil in their business. Economy dictates that.—A. But the Galena oil is an oil that is compounded and made especially for the requirements of the railroads. The oil that is required for an engine and for the axles of a freight train is not necessarily the kind of oil that is required in machinery.

The other companies, then, are not catering for that sort of trade; they are not doing that kind of oil?—(No answer.)

OIL SOLD ON LONG CONTRACTS—PRICES ABSOLUTELY UNIFORM.

Q. (By Mr. JENKS.) Where you do sell this Galena oil to mills, how do the prices quoted to the mills compare with the prices quoted to the railroads?—A. Absolutely the same.

Q. Not lower?—A. Absolutely the same; not lower.

Q. At what time did the Galena Oil Company go into the Standard Oil Company?—A. I do not know.

Q. Does this fact that the Galena oils are sold to the railroads mostly on contract for a year explain the statement that has been made here at different times, that when independent dealers attempted to sell oil to local railroad officials, they were referred invariably to the higher officers of the railroad company? Your own officials also have testified that they had no knowledge of the price of oils to railroads because they themselves, the local managers, did not deal with the local officers.¹—A. That is generally true, I believe, of the supplies used on railroads. The purchasing agent or local division agent of a railroad is not the man that buys for a large system of roads any article that is used to any large extent, and naturally the local man would not know the price of a contract, that would probably be made by the general manager for a series of years, covering the entire lubrication of a railroad.

Q. (By Mr. FARQUHAR.) All those articles are generally bought by contract by the year?—A. The contracts are generally for from three to five years, simply because the results and the economies can not always be demonstrated in one year.

Q. (By Senator KYLE.) They have no schedule prices on those?—A. They have an absolute schedule price per gallon.

Q. For from three to five years?—A. From three to five years; and they guarantee the cost per train mile of the various equipments run, based on the cost that has been shown before by that same railroad in the use of the ordinary oil.

Q. And that price is quoted to all consumers?—A. Yes.

Q. Whether railroads or not?—A. Yes.

Q. And yet nobody knows it because it is referred to the head officers of the road or of the company?—A. I do not think that is a fair inference. What Mr. Jenks said was that the local man of the railroad does not always know what the prices are that the railroad is paying to the Galena Oil Company for the oils. That is not saying that the Galena Company does not quote these prices to the customer that wants the oil.

Q. They make the same prices to a railroad for a 5-year contract that they would for a barrel of oil to a private consumer?—A. I know that the price is the same for a barrel of oil on every railroad as outside.

Q. (By Mr. SMYTH.) Can you give the price of the oil per barrel?—A. I do not know, Mr. Smyth. I know it has a large trade and a growing trade.

DESPEAUX V. PENNSYLVANIA RAILROAD COMPANY.

In regard to Mr. Newlin's letter to George Rice, alleging freight discriminations by the Pennsylvania Railroad in favor of the Standard Oil Company, as compared with other shippers.² I beg to hand you a letter from Solicitor Dodd, addressed to the commission, attached to which are some letters from the attorneys of the railroad in reference to that matter. I will say briefly that Mr. Newlin's deductions, as presented in his letter to Mr. Rice, were the same as argued by him before the United States court at Philadelphia, and the court dismissed the case. The facts in the case, boiled down, are simply that the Standard Oil Company paid exactly the same rate of freight as all other shippers over the Pennsylvania Railroad from and to the various points named in Mr. Newlin's letter, but on such oil as was carried partly by pipe line and partly by railroad, the pipe line was allowed a share of the through rate the same as the railroad would allow any other connection. The pipe line is a common carrier under the laws of Pennsylvania, and on all oil that is gathered in the oil fields and piped toward the seaboard and delivered to the Pennsylvania Railroad as it was at Hamilton, the rate was the same as the through railroad rate, and the pipe line got a share of that rate for its haul as the Pennsylvania Railroad got a share for its haul. The legal and the full explanation is in this letter from Mr. Dodd and the attorneys of the Pennsylvania Railroad, which I shall present as an exhibit.

¹ See Mr. Mathews p. 505, bottom.

² See p. 700.

I.

NEW YORK, December 7, 1890.

THE UNITED STATES INDUSTRIAL COMMISSION.

DEAR SIRS: James W. M. Newlin, in his letter to George Rice, which was given in evidence before the United States Industrial Commission, made two specific allegations:

First. That during the years 1881, 1882, and 1883, Fennaille & Despeaux paid the Pennsylvania Railroad Company 48 cents per barrel for carriage of oil, all rail, from Foxburg to Communipaw, and at the same time, between the same points, the railroad company carried oil for the Standard Oil Company at a reduction of 22½ cents per barrel.

Second. That the Pennsylvania Railroad Company carried oil from McCalmont and other points to Communipaw, charging Fennaille & Despeaux 33 cents per barrel, and at the same time, between the same points, carried oil for the Standard Oil Company of New York for 19.875 cents per barrel.

He further claims that these facts were proven in the case of Fennaille & Despeaux v. The Pennsylvania Railroad Company.

We desire to make the most specific denial of these statements:

First. That it is not true that oil was so carried for the Standard Oil Company; and

Second. It is not true that any evidence of such fact was given in the case of Fennaille & Despeaux v. Pennsylvania Railroad Company or any other case, nor was any evidence given, written or oral, from which any sane man could infer such a state of facts. On the contrary, the evidence given was positive that at the dates mentioned the Standard Oil Company paid the same rates on freight as other shippers and received no drawbacks or preferences.

Mr. Newlin, after stating these facts were proven in said case, refers to the specific evidence, which was an agreement between the Pennsylvania Railroad Company and the National Transit Company, dated May 6, 1881. I presume a copy of this agreement was handed to the commission, and it is only necessary to say that the most astute and suspicious mind could not distort the language of that agreement into a support of the allegations which Mr. Newlin bases upon it, and Mr. Newlin should have been more cautious in making such allegation, as he had already been heard in the United States court at Philadelphia on his construction of this agreement, and after argument the case was dismissed by the court for want of any proof of discrimination.

Mr. Newlin claims the discrimination lurks in sections 4 and 8 of the said agreement. The agreement was a joint traffic agreement in regard to oil carried partly by pipe line and partly by rail, the through pipe line at that time having been completed to a point near Milton, Pa. The fourth section is as follows:

"The through rates from the discharging points of the gathering pipes in the region to the destination of the oil, whether the same shall be shipped entirely by rail or by trunk pipe and rail, shall be fixed by the trunk-line railroad companies, provided they can agree upon the same, and the transit company agrees to accept thereof as the share due to its through pipes,¹ the proportions hereinafter fixed. The through pipe lines include only such lines as receive oil from the local or gathering pipes and do not include any part of said local or gathering pipes."

By this section the railroad companies were authorized to make the through rate, and a distinction was drawn which has always been maintained between the local and gathering lines and the through pipe lines. With the local or gathering pipe lines and their charges for gathering oil, the railroad had no connection, except in the single event provided for in section 8. Charges for oil carried by the through lines to Milton and thence by rail were prorated between the pipe lines and railway as provided in section 7.²

Section 8 is as follows:

"Whenever the through rate from the exit point of gathering pipe shall be less than forty (40) cents per barrel, the local or gathering pipe shall be considered as entitled to a rate equivalent to only one-fourth ($\frac{1}{4}$) of the rate which shall be formed by the addition of the said through rate to the public rate which the local pipe charges,

¹ In the transcript of the evidence in Despeaux v. The Pennsylvania Railroad Company, submitted to the commission by Mr. George Rice as his Exhibit D, this clause reads, "the share due through its pipes." Otherwise the section as there given agrees with this text.

² Section 7 is given in Mr. Rice's Exhibit D as follows: "The through rate from the exit point of gathering pipe to the seaboard on oil delivered at Milton, as hereinbefore described, shall be divided as follows: Rates to Philadelphia shall be prorated upon the basis of the all-rail distance from Olean to Philadelphia via Emporium, Milton, and Harrisburg. Rates to New York shall be so divided that the railroad company shall receive thereon the same as it shall currently receive on oil to Philadelphia, with the current difference from Philadelphia to New York added. Of the said through rates to Baltimore the railroad company shall receive the same from Milton to Baltimore as it shall at the same time receive from Milton to Philadelphia on oil destined to the last-named point."

and one-half (½) of the difference between this one-fourth and the said public rate shall be considered as due and to be paid to the railroad company, but this difference shall never be such as to make the local pipe receive less than ten (10) cents per barrel."¹

The obvious intention of this so-called dangerous section is to take from the pipe line a certain portion of its charges and give it to the railroad when the through rate is less than 40 cents.

Referring to Mr. Newlin's figures, the first relates to a rate in excess of 40 cents, and he certainly could see, if he has eyes, that section 8 has no reference to such a case. The second table of Mr. Newlin's figures relates to a rate less than 40 cents, and if it referred to carrying oil by pipe line to Milton, or any point on the through lines, and thence by rail to seaboard, it would come within section 8, but it does not so refer. If the Standard had oil carried by rail from Foxburg or McCalmont, it was not affected by this agreement; if it had oil carried by pipe line to Milton and thence by rail to seaboard and the total through rate was 33 cents, it paid the railroads 33 cents and the railroads adjusted the charges with the pipe line company under section 8.

Further, Mr. Newlin's figures are based on a total misreading of section 8. This misreading consists in confounding "through rate from exit point of gathering pipe" and the "public rate which the local pipe charges."

In Mr. Newlin's first figures the through rate from exit point of gathering pipe is 48 cents. The public rate which the local pipe line charges is 20 cents. One-fourth of the sum of these rates is 17 cents.

Mr. Newlin says one-half of the difference between this 17 and 68 cents is the amount the Standard paid to the railway company for freight. The contract does not say so. It says one-half of the difference between this 17 cents and the "said public rate" shall be paid to the railroad. Referring back to see what "public rate" has been mentioned we find it is "the public rate which the local pipe charges." There is no other reference to "public rate" in the section.

The figures which Mr. Newlin injects instead of the "said public rate" are made up of the through rate from exit point of gathering pipe and the public rate which the local pipe line charges, or 68 cents, while "said public rate" is 20 cents, and one-half of the difference between 17 and 20 is 1½. Therefore, if he had made his figures correctly, he would have shown that the Standard only paid 1½ cents per barrel freight while others were paying 48 cents. But such a *reductio ad absurdum* would have defeated his purpose.

Pursuing the investigation further, it will be found on Mr. Newlin's theory that "one-half of the difference between this one-fourth and the said public rate" fixed the amount the Standard paid for its freight. If the railroad charged others 60 cents per barrel, the Standard would pay nothing. But if others paid 33 cents per barrel, the Standard would pay 3.37½ cents, and the lower the rates to others the higher to the Standard.

All this is absurd, and the absurdity consists in the misreading and misapplication of the section. It has no reference whatever to the freight rates the Standard shall pay. They were fixed by the railroad without discrimination. When others paid 48 cents the Standard paid 48 cents, and when others paid 33 cents the Standard paid 33 cents, but if the oil went part of the way to seaboard by pipe line, under this agreement, the pipe line was paid a pro rata proportion for its share of the transportation. To compensate the railroad for a low rate of freight, the pipe line company agreed to take something from the pipe rate which the local pipe line charged and pay it to the railroad. This only applied when the rate was less than 40 cents, and would increase as the railroad rate diminished below this point, but was "never to be such as to make the local pipe receive less than 10 cents per barrel."

Admit for argument that the Standard and the pipe line are essentially the same, and what is the result? The Standard received from the railroad company a pro rata amount for its share of the transportation by pipe line, and to recompense the railway company for an exceedingly low rate for through freight, agreed to pay to the railroad company a portion of its local pipe-line earnings. It may have been a rebate to the railroad; it certainly was not a rebate to the Standard.

Coming next to the agreement of August 22, 1884,² which superseded the agreement of May 6, 1881, a case of payment to the railroad company is much more clearly shown. The pipe line was then completed to seaboard. It could not have reached that point without the consent of the railway company, as no free pipe-line law then existed in the State of New Jersey. It was still necessary to have a traffic contract with the railroad and to deliver oil to the railroad at different points on the

¹This section appears in the same words in Mr. Rice's Exhibit D.

²For the text of this agreement, see p. 663. For discussion of it, see Mr. Emery, pp. 663, 666, 667; Mr. Rice, pp. 788, 789.

through line, that point being Milton, as before, for oil destined for Philadelphia. In addition to agreeing to pro rata rates for oil carried partly by pipe and partly by rail, it was further agreed that if the railroad company did not move 26 per cent of the oil, the Transit Company should pay it the deficiency.

Settlements were made with the railroad company, and one of the settlements is referred to in Mr. Newlin's letter, that of September 30, 1884, which shows a payment to the railroad company for such deficiency, amounting to \$10,722.22.

Many such settlements were put in evidence, all of them showing monthly payments of large amount to the railroad company. None of these were payments for freight, but payments to the railroad company for the deficiency in the amount it carried as specified in the agreement.

Attempting to distort a payment of this kind to the railroad company as a discrimination in favor of the Standard Oil Company ceases to be absurd—it is malicious.

S. C. T. DODD.

Law offices of Geo. Tucker Bispham, A. H. Winterstein, John Hampton Barnes. Sharswood Brinton, Girard Building, Broad and Chestnut streets, Philadelphia. Despeaux v. P. R. R.

NOVEMBER 29, 1899.

S. C. T. DODD, Esq.,

Standard Oil Company, 26 Broadway, New York.

DEAR SIR: I did not find Mr. Sellers in when I called to-day, and am now writing without consultation with him. I will, however, supplement this letter by any suggestions which Mr. Sellers may have to make.

Mr. Newlin's claim, to which you refer, is based not upon any oral testimony given at the trial, but entirely upon his construction of the fourth and eighth paragraphs of the agreement of May 6, 1881. This agreement was between the National Transit Company and the railroad company, and it was in our view of the matter simply a traffic agreement between two transporting companies. Mr. Newlin's position, however, was that the National Transit Company was in reality the Standard Oil Company, which owned a large controlling interest in its stock, and his argument is based upon that assumption, and his contention is that any diminution or abatement of the charges of the railroad company under this contract inured to the advantage of the Standard Oil Company and was to be treated as if it were an allowance or rebate to the latter company.

He arrives at the figures which you give in your letter in this manner:

He considers the fourth and eighth paragraphs in the agreement together, and he contends that the provisions as to through rate contained in the latter paragraph, when read in connection with the former, are applicable to through rates, whether the same are greater or less than 40 cents per barrel from Foxburg to Communipaw. Assuming this to be so, Mr. Newlin's calculation is as follows:

The eighth paragraph provides:

"Whenever the through rate from the exit point of gathering pipe shall be less than 40 cents per barrel, the local or gathering pipe shall be considered as entitled to a rate equivalent to only one-fourth of the rate which shall be formed by the addition of the said through rate to the public rate which the local pipe charges, and one-half of the difference between this one-fourth and the said public rate shall be considered as due and to be paid to the railroad company, but this difference shall never be such as to make the local pipe receive less than 10 cents per barrel."

The through rate by rail was 48 cents.

The public rate of the local or gathering pipe was 20 cents.

The calculation, therefore, would be thus: 48 plus 20 equals 68; one-fourth of 68 equals 17; one-half of 51 equals 25½; 48 minus 25½ equals 22½.

The above calculation is the basis on which Mr. Newlin's allegation, in his letter to Mr. Rice, to which you refer, is based.

The 19.875 cents per barrel is arrived at by Mr. Newlin in this way, the calculation being at the rate of 33 cents per barrel from McCalmont to Communipaw on the same principle as above. Thus: 33 plus 20 equals 53; one-fourth of 53 equals 13.25; one-half of 39.75 equals 19.875.

This is the way in which he gets his figures showing, as he says, that the Standard Oil Company was charged that amount only for transportation.

In addition to the obvious replies that the arrangement was a traffic arrangement, and that such an agreement can not be construed as a rebate to a shipper simply because that shipper happens to be a stockholder, and even a controlling stockholder, in one of the transportation companies, there are other answers based upon the language itself of paragraphs 4 and 8. The assumption that the provision in paragraph 8, when the rate is less than 40 cents, shall be applicable to paragraph 4, which

refers to a rate above 40 cents, would seem to be without warrant. Moreover, the "one-half of the difference between this one-fourth and the said public rate" refers to the difference between the said one-fourth (made up of the through rate by rail to the public rate by local pipe charges) and the rate of local pipe charge—that is, 20 cents. In other words, instead of taking one-half of 51 (see above calculation), there should be taken one-half of 3, being 20 less 17, or 1½.

Whether I am right in this last calculation or not, it is nevertheless true, as I have stated above, that there was no evidence whatever, oral or written, which was introduced at the trial, which justifies Mr. Newlin's assertion; but that assertion rests altogether upon his forced construction of the fourth and eighth paragraphs of the agreement of 1881, which I have endeavored to explain.

If the foregoing is not sufficiently clear to you, let me know and I will endeavor to make it plain.

Truly, yours,

GEO. TUCKER BISPHAM.

Attached thereto is the following:

Law offices of Geo. Tucker Bispham, A. H. Wintersteen, John Hampton Barnes, Shanswood Brinton, Girard Building, Broad and Chestnut streets, Philadelphia. *Despeaux v. P. R. R.*

DECEMBER 6, 1899.

S. C. T. DODD, Esq.,

26 Broadway, New York.

DEAR SIR: I have your favor of the 5th instant.

After the plaintiff closed his evidence a motion for a nonsuit was made and fully argued by Mr. Sellers and myself on the part of the defendant and by Mr. Newlin for the plaintiff. The motion for a nonsuit was granted. Mr. Newlin made a motion to take it off, and this was subsequently argued and the motion denied. The nonsuit therefore stands. Mr. Newlin has taken an appeal to the circuit court of appeals, but there has been some difficulty about settling a bill of exceptions. When this is finally adjusted I will advise you. Meanwhile the above will give you the present condition of affairs.

Truly, yours,

GEO. TUCKER BISPHAM.

Q. (By Mr. JENKS.) Have these pipe-line and railway companies changed their rates on oil since 1884?¹—A. You go back too far for me. I can say that the rate for oil of the Pennsylvania Railroad Company, both for pipe and rail, is the same as it was when I came to New York nearly ten years ago.

Q. A copy of the contract was furnished by Mr. Archbold, and fixed the dates pretty definitely; but you say the rates have not changed for ten years?—A. For ten years.

"PLEASE TURN ANOTHER SCREW."

Regarding the letter from Chess, Carley & Co. to J. M. Culp, general freight agent of the Louisville and Nashville Railroad, June 16, 1881, in which the expression was used: "Please turn another screw."² The firm of Chess, Carley & Co. was a partnership in which the Standard Oil Company of Cleveland had an interest. This was before the formation of the Standard Oil Trust, which was formed in 1882, and the firm of Chess, Carley & Co., as I have testified, was a partnership in which Mr. F. D. Carley was the resident partner and manager. The Standard Oil Company of Ohio had an interest in the Chess-Carley business, but absolutely no control or direction of that company's affairs.³ I was in the office, and the only boss we knew was Mr. F. D. Carley. I should like to refer, in regard to Mr. Carley's control of that business, to his testimony taken before the Bacon committee in 1888. On page 526 of that committee's report⁴ Mr. Carley testified as follows (reading):

"Q. Were you a member of the firm of Chess, Carley & Co.?—A. Yes, sir.

"Q. At what time?—A. Through its whole history.

"Q. Over what years does that extend?—A. I do not remember exactly, but I think somewhere about 1869 or 1870 we formed that firm.

"Q. When did you terminate it?—A. When we formed the Chess-Carley Company.

"Q. When was that?—A. Four or five years ago. I was president of it until its dissolution.

"Q. State whether or not it was dissolved when it sold its property to the Standard Oil Company.—A. Yes, sir.

¹ See Mr. Emery, p. 667.

² See Mr. Rice, pp. 704, 705, 747, 748.

³ Compare the case of the Vacuum Oil Company, p. 554.

⁴ Fiftieth Congress, first session, House reports, Vol.

"Q. Are you connected with the Standard Oil Company?—A. No, sir.

"Q. You occupy no position under it?—A. No, sir.

"Q. Where did you reside during the time you were a member of the firm of Chess, Carley & Co. and the Chess-Carley Company?—A. Louisville, Ky.

"Q. Had you charge of that business?—A. Yes, sir; I was sole and exclusive manager of the Chess, Carley & Co. and of the Chess-Carley Company."

The party who wrote this letter (and without the knowledge of Mr. Carley) was a Mr. Hathaway, who had formerly been in the Louisville and Nashville Railroad employ. His explanation of this letter was that when errors occurred in the Louisville and Nashville Railroad office there was an expression used, "that the machinery of the office was loose," and it should be corrected or tightened up by turning a screw. In the case referred to, the shipment of a car of oil by Rice to Nashville was billed at less than the regular tariff rate which other shippers were paying, and Hathaway simply called their attention to the error and used the expression referred to. By reference to page 530 in the book of testimony taken before the Committee on Manufactures, in 1888, it will be seen that Mr. F. D. Carley testified as follows (reading):

"This much I know about this letter that Hathaway wrote. He would say to me, 'Mr. Carley, there is another carload gone through to Wilkerson,' or to whoever it might be. I said, 'I do not think it is right on the part of the road. Can not you get them to stop it? I mentioned it to them before. They said it was the fault of the clerk; that it was clerical.'"

Now, on page 524 of the same book, Mr. J. M. Culp, who is the gentleman to whom the letter was addressed, and who was general freight agent of the Louisville and Nashville road, and who is now traffic manager of the Southern Railway here, testified as follows (reading):

"I desire to say, with regard to that letter, or rather with regard to the rate charged on the shipment referred to in that letter, that it was less than the proper rate. It was less than any rate that we had with Chess, Carley & Co., or I believe ever have had. It was a fifth-class rate. Our rate on oil from Louisville to Nashville was higher than fifth class, and I presume the desire of Chess, Carley & Co. was to have at least as high a rate as was charged on their shipments charged on this. Had that letter come to me—had I seen the letter—I would have simply understood it that it meant that we should require our agents to charge at least as high a rate as was charged on the shipments of Chess, Carley & Co."

That is the explanation of it, and, in my opinion, a very reasonable one. The facts are, as Mr. Culp has testified, and as I recollect the occurrence, that the rate charged on that shipment was less than we were paying at that time and less than we ever paid, even prior to the interstate commerce law.

CHESSE, CARLEY & CO.'S GROCERY STORE.

Mr. Rice alleges that the Standard Oil Company established grocery stores in the South.¹ This was before the Standard Oil Company had any control or direction in Chess, Carley & Co.'s business, as that business was entirely under the control of Mr. F. D. Carley. And the establishment of that grocery store, as referred to by Mr. Rice, was during the time of Chess, Carley & Co.

Q. (By Mr. JENKS.) Such a grocery was established by Chess, Carley & Co. for the purpose alleged by Mr. Rice?—A. There was such a store.

Q. (By Mr. SMYTH.) Was there only one?—A. Only one.

Q. (By Mr. JENKS.) Was it established for the purpose of driving out a competitor in the oil business?—A. I did not say that. I say that Chess, Carley & Co. established that store to sell groceries and oil, the same as there were stores established selling oil and groceries.

Q. Did Chess, Carley & Co. have stores elsewhere for the purpose of selling groceries and oil?—A. No; it only had that grocery store. Probably the profits of that were not sufficient to justify any extension.

Q. (By Mr. SMYTH.) Where was that store?—A. Columbus, Miss.; but the Standard Oil Company had no more to do with it than that stenographer.

Q. (By Senator KYLE.) Have the Standard Oil Company ever indulged in such a practice?—A. It has not, to my knowledge, in any way or at any place.

Q. Prior to the interstate commerce act or since?—A. Not to my knowledge.

Q. Have they ever made any threats in that direction through their agents?—A. Not to my knowledge.

Q. You do not know, then?—A. I do not.

¹ See pp. 709, 710.

TANK CARS.

J. McDougall declining to build tank cars for Rice on credit,¹ the Standard Company never directly or indirectly had anything to do with it and never had any knowledge of it until it was seen in Mr. Rice's testimony.

The charge that the Standard Oil Company bought up tank cars from railroads, in order to keep them from other shippers,² is positively denied.

As to railroads owning tank cars,³ I would say that the tank car is a special car, used for the transportation principally of petroleum, and it would be a burden upon the railroads if they were required to invest their capital in tank cars. The ownership of the car would not insure transportation of oil, and if every railroad were required to have a sufficient tank-car equipment to do the oil business that at times moves over its rails it would mean the building of many more tank cars than the business would require. For instance, say it would require 200 tank cars, costing \$150,000, to transport oil between Chicago and St. Paul and Minneapolis. There are five lines competing for this business, and if each railroad was required to own 200 cars there would be four times as many tank cars as the business would require. Take as another example the McDonald field, which was a producing field and is now. At one time it produced oil to the extent of 60,000 to 80,000 barrels a day. It has run down now to 5,000 barrels. If the Pennsylvania road and the Lake Erie and Western, which are the two railroads which touch that field, had been required to furnish tank cars to move the oil produced in the McDonald field when it was producing 60,000 to 80,000 barrels a day those roads would be in rather bad shape with their tank cars now, when there is only 5,000 barrels to move from there. A tank car is just like a Pullman car; you might just as well require a railroad to own all the Pullman cars that are necessary to go over its road as to require the railroad company to own all the tank cars that may at times go over its rails.

Q. (By Mr. KENNEDY.) Can you state which is the cheaper system for the railroads to employ in the transporting of oil—the tank car or barrels?—A. I would like to say now the tank car, by all means. But Mr. Rice referred especially to that in his evidence,⁴ and I will touch that later on.⁵ If you will allow me to proceed in the regular order of his testimony, I think it is better to go right through it.

TANK CARS FAVORED AS AGAINST BARRELS.

Mr. Rice alleged great discriminations in favor of the Standard Oil Company as against himself for a year or so after the passage of the law.⁶ I would say that he refers to the published tariffs of various railroads, that were published and printed and open for all on the Louisville and Nashville Railroad and other railroads which at that time made lower rates on oil in tank cars than on oil in carloads in barrels. These were published tariffs and open to everybody, and Mr. Rice and other shippers shipped in tank cars as well as the Standard Oil Company, and the Standard Oil Company shipped oil in barrels in carloads the same as Mr. Rice and other shippers. It was simply a tariff rate in which the railroads made a difference between the tank-car rate and the barrel box-car rate, and it was open to all; there was no discrimination between parties at all. It was a discrimination, or difference rather, between two modes of shipment.

Q. (By Mr. JENKS.) At that time had there been any ruling upon the relative rates for tank cars and barrel shipments by the Interstate Commerce Commission?—A. There had not been; but in 1888 Judge Cooley, of the Interstate Commerce Commission, ordered that the rates per hundred pounds on oil in tank cars as well as on oil in barrels in carloads, including the weight of the barrels, should be made the same, and the railroads adjusted their tariffs according to that, and the tariffs remain on that basis to-day.

Q. At the time Mr. Rice claims he was discriminated against in this way was he, as a matter of fact, shipping oil in tank cars?—A. He had a few tank cars, and other oil shippers had tank cars; and as far as the higher rates on oil in barrels are concerned, the Standard Oil Company was shipping more in barrels than all the others put together.

Q. How about the relative amounts in barrels and in tank cars shipped at that time over these roads?—A. At that time I would say that, as I recall the evidence which was given at that time in this book, our carload shipments were in excess of our tank-car shipments.

Q. Your barrel shipments?—A. Our barrel shipments were in excess of our tank-car shipments.

¹ See pp. 711, 712..

² See p. 712.

³ See p. 712.

⁴ See pp. 716, 717.

⁵ See pp. 767, 769.

⁶ See pp. 714, 715.

Q. Over those roads on which you said the discriminations were made?—A. Over those roads the shipments—prior to those shipments the rates were made on barreled oil and tank cars; the tariffs were published, and they simply pursued that same system of making rates, and it was open to everybody that had both methods of shipment.

Q. And other shippers than the Standard Oil Company had both modes of shipment which they were using?—A. Absolutely.

“OUTAGE” OF 62 GALLONS ON TANK-CAR SHIPMENTS.

Mr. Rice refers to outage of 62 gallons and then 42 gallons which was made on all tank-car shipments.¹ This was an allowance for the average loss between the full shell capacity of the tank car, which tank car was loaded at the loading point, and the amount that was taken by actual measurement to be received in the tank car at destination. This allowance was made to all tank-car shippers alike and was reasonable, as the actual loss was in excess of the allowance. The allowance, however, was discontinued in the summer of 1892 and has never been reinstated. The principle of that allowance was simply that the railroad ought not to charge on a quantity greater than it delivered, and as the actual result and experience had shown that there was a loss between the amount of oil put into the tank car at the refinery and the amount delivered at the point of destination, an allowance was made, which was very small, at that time 62 gallons, and at another time 42 gallons; but this, as I say, since 1892 has been done away with completely.

ESTIMATED AVERAGE WEIGHT OF PETROLEUM PRODUCTS.

Mr. Rice refers to the relative charge made by railroads between oil in tank cars and oil in barrels in carloads.² The railroads receive a very much larger percentage of live weight on oil in tank cars than on oil in barrels. Railroads charge and collect freight on tank-car shipments at full shell capacity of the tank car, no matter whether that tank car is loaded to its full capacity or not. The average capacity of the Union Tank Line Company's cars to-day is 140 barrels, and it is on that basis that the railroads charge and collect their freight.

Q. (By Mr. SMYTH.) You do not weigh the cars?—A. The weight of the petroleum in tank cars is taken on the basis of the full shell capacity of the tank, based on an average weight of 6.4 pounds to the gallon.³ The reason for that is that some products of petroleum, such as naphtha, weigh from 5½ to 5¾ pounds to the gallon; refined oil weighs 6½; lubricating oil weighs from 7¼ to 7½ pounds to the gallon; and the average weight of 6.4 pounds represents the actual average weight of the various products of petroleum as they are manufactured and as they are shipped throughout the United States; and the reason the railroads have made such a rule is to prevent misrepresentation and the cost that would be involved in weighing every tank car. You can see that it would be a very difficult matter for a railroad to get the actual weight of tank-car shipments, because those tank cars are first loaded at the refinery and not in the railroad yard, as ordinary freight is, and then pulled out by the railroad. They could only weigh, therefore, the full tank car with the weight of the car added to it, and that car is probably destined to some point away beyond that railroad that receives it on its rails. So the custom has been ever since I have had any knowledge of the business to have one average weight which applies to all products alike and applies to all shipments alike.

Q. The average is both as to weight and capacity?—A. No; the average is as to weight. The capacity of the tank car varies, and the capacity is shown by the various tank-car owners to the railroads, and they publish it at large to the world in the form of every tank-gauge handbook, which shows the actual number, owner, and capacity of every tank car that is used over the various lines in the United States to-day.

Q. (By Senator KYLE.) And the average charge is, as you state, 6.4 pounds to the gallon?—A. To the gallon.

Q. For the full tank capacity?—A. Full shell capacity of the car.

Q. (By Mr. SMYTH.) Do all the large refining concerns own tank cars?—A. Very largely. I will show you the tank-car ownership in the United States in a few moments. The same rule applies, I might say, where oil is shipped in barrels. There is an average weight of 400 pounds applied to the various products of petroleum. Some weigh less and some more, but 400 pounds is the accepted weight on railroads on all petroleum products.

¹ See p. 716.

² See pp. 716, 717.

³ See Mr. Rice, pp. 781, 782.

TANK CARS RETURNED FREE.

Q. (By Mr. CLARKE.) Those which you have referred to are for freight one way, I suppose?—A. The freight rate is charged, of course, only on the freight that is hauled.

Q. (By Mr. SMYTH.) Does the car come back empty?—A. The car comes back empty; the tank car as well as the box car, very largely, simply because the box car when loaded with oil is unfit for use for sundry merchandise. You will find that every large oil-carrying railroad in the United States has the box cars marked "oil," meaning that they can be used only for oil. I do not mean to say they are never used for any other freight, but they are set aside for that purpose.

Q. (By Senator KYLE.) Is there any charge for these return tanks?—A. No charge.

Q. Has there ever been a charge for return tanks?—A. No, sir; not in my recollection.

Q. Have they ever charged the independent companies outside of the Standard Oil Company for the return of these tanks?—A. No, sir. They charge the Standard Oil Company the same rate. I mean to say that since the passage of the interstate-commerce law there has been no charge on the return of what is known as regular tank cars, the cylinder tank car, within the United States, excepting to one section.¹

Q. (By Mr. SMYTH.) There is no freight charged on empty coal cars, is there?—A. No, sir.

ADVANTAGES OF TANK CARS.

I digress from this question as to the relative charge. I have stated that the average capacity of the Union Tank Line car to-day is 140 barrels. The minimum weight required by railroads in the shipment of oil in barrels is 60 barrels, and not 1 per cent of the carloads of oil in barrels in the United States run over 60 barrels, from the fact that even loading 60 barrels in an ordinary box car requires putting them up on top of the lower tier. This is an expense to the owner and to the railroad, and it also causes leakage from the rolling of the barrels on top. The result is that carloads of oil shipped in barrels in box cars average 60 barrels as against the average capacity of tank cars of 140 barrels. Therefore one tank car holds twice as much as a box car when loaded with oil, and the railroads receive their pay accordingly.

Q. It takes less cars?—A. Necessarily. It means one car instead of two for the same freight. It means carrying two cars for one; all expense of handling, and the cost of two cars.

Q. (By Senator KYLE.) And the expense of unloading is less?—A. Yes; in the tank car. It is universally loaded by the shipper and unloaded by the consignee. In the box car it is generally loaded by the shipper and very often unloaded by the railroad in their depot.² The tank car never is.

Q. (By Mr. JENKS.) Is the freight rate the same per barrel, whether in barrels or in tank cars?—A. It is the same rate per 100 pounds. In barrels, the weight of the barrels is charged for.

Q. So, when shipped in barrels freight is charged on 400 pounds?—A. Yes.

Q. When in tank cars it is 300 pounds for the same amount of oil?—A. Yes.

Q. That makes shipping by tank cheaper than by barrel?—A. Absolutely; but the barrel is an article of merchandise. When the oil is sold in barrels, the value of that barrel is added to it. There is no ground why the railroad should, on an article of merchandise, which the barrel is, receive no pay for the shipment. Admitting the pay on the weight of the barrel, the railroad then only gets half as much revenue on the oil in barrels as on tank cars of oil.

TARIFFS NOT MADE UP AT NO. 26 BROADWAY.

Mr. Rice charges that railroad tariffs were issued from No. 26 Broadway.³ I deny positively that we have ever made or promulgated any railroad tariff by any Standard Oil Company interest, and I am positive that no railroad tariff was ever promulgated by any Standard Oil Company interest.

Mr. PHILLIPS. I will ask Colonel Clarke to take the chair, as I expect to ask some questions in a short time. I shall be obliged to you, Colonel, if you will take the chair.

Q. (By Mr. JENKS.) You say that no oil tariff has been made or promulgated by any of the Standard Oil Companies. I suppose when that statement was made it was not intended to be taken literally. Would you go so far as to say that the Standard Oil Company, or the Standard Oil officials, did not reason with railroad

¹ See p. 769; Mr. Rice, pp. 717, 719.

² See p. 717.

officials in order to get them to agree upon what they considered to be a fair and just rate of freight on oil?—A. I certainly do not wish to be understood that myself or possibly others of our representatives have not seen railroads in regard to tariffs on the shipments. We do have intercourse with railroad officials, as every large shipper probably does, but that we have ever issued— Mr. Rice's intent certainly was to give the idea that we simply named a rate and sent it to the railroads to accept. It is not true.

RATES NOT ARRANGED TO FAVOR STANDARD OIL SHIPPING POINTS.

Q. Is it a fact, as has been frequently stated, that over lines of railroad where the Standard Oil Company has very large shipments the rates on oil are frequently made, relatively speaking, lower than over other roads where the business rivals of the Standard Oil Company have large shipments and where the Standard Oil Company's interests are relatively small, and that this difference in rates to the advantage of the Standard Oil Company is brought about by the influence of the Standard Oil Company officials?—A. That is absolutely not true, sir. In the first place I do not know any railroad on which competitors of the Standard Oil Company ship that we do not ship on ourselves; and the oil rates of the United States from the various oil shipping points are on a basis. In other words, the same rates apply from all of the Pennsylvania oil fields, both East and West, and the same is true of the Lima field; and while we may not be located at the very point some competitor is, he has the same rate from his shipping point in that field that we have from our shipping point in the same field.

Q. Your main distributing points are, I suppose, ordinarily different from those of your chief competitors. Would you be able to secure rates from your main distributing points which would affect your business favorably and not affect your rivals in the same way? Is that frequently true?—A. I do not think it is, sir. I can only say that we get exactly the same rate from the same point and to the same point that every other shipper pays from and to that point.

STANDARD MEN CONNECTED WITH RAILROADS DO NOT GET SPECIAL RATES FOR THE STANDARD.

Q. (By Mr. KENNEDY.) Are the Standard Oil Company officials or stockholders ever in a position, as railroad officials, where they can give favors to the Standard Oil Company in its shipments?—A. I am glad you asked that question, sir. I do not think it, but I know. Mr. Rice wishes to give that impression,¹ and I can say in reply that since I have had any knowledge of railroad rates on the Standard Oil Company's business, no official of the Standard Oil Company who is connected with railroads has ever made a rate or arrangement for the Standard Oil Company, nor have any of those gentlemen who are connected and have interests with railroads ever asked me to give any undue or unreasonable, or in fact any, share of the Standard Oil Company business over such a railroad. In other words, the Standard Oil Company's business stands on its own merits; and as I before said, none of these gentlemen who may or may not have interests in these various railroads have ever made a rate or made an arrangement for Standard Oil Company business. That business is done by me, or by the proper party in whose territory or district the question may arise.

Q. Should you be sure to know whether that was so or not?—A. I should know. If any of the gentlemen who have large railroad interests, as alleged, made a tariff or arrangement with a railroad for our business, I certainly should know of it. I should be advised of it, as I am the proper department that has a record of those rates, and should have to know, necessarily.

Q. (By Mr. SMYTH.) Do we understand that shipments of the Standard Oil Company have not been influenced toward certain lines by the fact that the officers of the Standard Oil Company were reputed to be large owners of the stock in those lines?—A. In no way, sir; and you can readily see that if the Standard Oil Company's business was run on the basis of favoring the individual interests of the different stockholders of the Standard Oil Company, the company's business itself would necessarily suffer.

Q. (By Mr. A. L. HARRIS.) It is true that officers of the Standard Oil Company have offices in different railroads?—A. It is true that Mr. William Rockefeller, for

¹See Mr. Westgate, pp. 573-576; Mr. Gall, pp. 675-677, 682-685. See also the testimony of Mr. W. M. Kidd and Mr. George L. Winlock, pp. 772-776, footnote.

²See p. 727.

instance, is a director in some of the railroads. He probably also is a bondholder in the United States, but there is no connection between such interests and the interests of the Standard Oil Company, or the business of the Standard Oil Company.

ALLEGED TANK-CAR DISCRIMINATIONS.

Q. (By Mr. CLARKE.) We will proceed.

The Witness. Mr. Rice refers to a rule of the Southwestern bureau in regard to charging on the weight of a tank, when that tank is intended for storage, at the same rate as on the oil contained in the tank.¹ If, as Rice alleges, the Standard Oil Company owns nearly all the substations of the country, this rule is hard on the Standard Oil Company. If the railroads wished to discriminate in favor of the Standard Oil Company, they would carry the weight of the tank free the same as they do the regular tank car. Do you understand? Here is a tank that is intended to be used as a storage tank at some substation. It is loaded with oil and sent to that station. The railroad rule referred to charges the same rate per hundred pounds on the weight of the tank as on the oil contained in the tank. Now, ordinarily on the tank car there is no charge for the weight of the tank. If they wanted to favor us, all they would have to do would be to treat that tank containing the oil as they do the ordinary tank car.

Q. (By Mr. PHILLIPS.) There is one question I want to ask. That is in regard to shipping oil by barrel and by tank car. Has it not been testified that it is much more dangerous to ship oil in tank cars than in barrels, in case of collision and fire?²—A. It may have been so testified, sir. Different men have their different opinions; but the answer to that is that the tank car is growing in favor, not only in the shipping of petroleum, but in shipping all other liquid products, which are open to the same objection. I think the economy in shipping in tank cars over shipping in barrels, which is being shown by the enormous growth in the use of tank cars for a great many liquids, proves that the tank car is a better method for shipping. And the Central Freight Association rule to which he refers is entirely proper, as it is intended to prevent the unloading of bulk petroleum in railroad yards or depots without proper facilities, as such unloading would increase the danger of loss by fire. The rule simply means that they will not allow a tank car to be held in the depot or in the yard of a railroad to be unloaded by improper means into a tank wagon or into barrels, as leakage or accident might result, to the large loss of the surrounding property, and they simply require that proper facilities should be at the point where the tank car is shipped to.³

The Southern Pacific tariff: The rule referred to⁴ was submitted to the Interstate Commerce Commission, who did not order it stopped when they decided the transcontinental case of 1890.

Q. (By Mr. JENKS.) Will you be kind enough to state the rule?—A. That rule was simply the rule by which the transcontinental lines charged for returning the cylinder car, and did not charge for returning what is known as the box-tank car. The box-tank car is a car which has a tank in each end and loading space between. There are other shippers besides the Standard Oil Company that ship and own these cars, and the Standard Oil Company ship both these cars and cylinder cars to the transcontinental points, and they pay exactly the same rates on cylinder cars as other shippers and get their box cars returned free the same as other shippers.

TEMPORARY REDUCTION FOR THE PROFIT OF THE STANDARD.

Regarding alleged correspondence from the Standard Oil Company's San Francisco office,⁵ I know nothing about this correspondence and can not verify it. It would be fair to say, however, that I have full knowledge on all rates paid in California, and I can say positively we pay the tariff rates in force at the time of shipments, wherever made; Mr. Rice's charge there was that the rates were put up at one season and put down at another from Chicago and other Eastern points to the transcontinental points. I can say, and the Interstate Commerce Commission can affirm, that the rates on petroleum and its products from Chicago and other Eastern points to California and other transcontinental points have not been changed since March 2, 1891. The rates have absolutely been the same for nearly nine years.

"COMMISSIONS" ON FREIGHT.

Regarding commissions on freight business, and charges that the Standard Oil Company make their own commission:⁶ It is absolutely false, and I state unqualifiedly that the Standard Oil Company has never received, either directly or indirectly, a

¹ See p. 718.

² See pp. 377, 378; Mr. Rice, pp. 716, 717.

³ See p. 718, bottom.

⁴ See p. 719.

⁵ See pp. 719-726.

⁶ See p. 727.

101

commission from any railroad in any form since the passage of the interstate-commerce law.

Q. (By Mr. PHILLIPS.) Should you be in a position to know absolutely if it received any?—A. I should, sir.

Q. In regard to all railroads and all transportation?—A. I should, sir.

Q. And in regard to divisions and local freights in certain sections, and so on, would it bar others than the Standard Oil Company from entering those sections? You would be in position to know all about that, should you, either directly or indirectly?—A. I did not catch the last part of your question. I should know if the Standard Oil Company received any benefits throughout the United States, and I would unqualifiedly say they have not.

AS TO LOCAL RATES FAVORABLE TO THE STANDARD.

Q. I think it has been testified before this commission that in certain sections of the country, while they may have a through rate of freight up to a certain division of the United States, local rates are made so that independent refiners can not enter those portions, and in that way, indirectly, the Standard Oil Company has an advantage, which would be similar, and perhaps superior, to a rebate or a drawback?—A. If you mean, sir, because we have refineries at the Atlantic seaboard to supply New England and at Chicago to supply the West, as compared with the man who has his refinery in the oil regions and tries to supply both the West and New England, I admit we have advantages; but I say we pay the same rate of freight from the same shipping point to the same destination as every other shipper does.¹

Q. And there are no local rates, as far as your knowledge goes, that would interfere with the independents entering that subdivision?—A. Whatever the local rate is from any point to any point we pay the same as any other shipper pays from that point to that point.

Mr. CLARKE. You may proceed.

RECEIVERS COWEN AND MURRAY'S LETTER.

THE WITNESS. In regard to the letter from Receivers Cowen and Murray to the Interstate Commerce Commission, in which they admit paying rebates since the passage of the interstate-commerce law,² and which Mr. Rice assumed means paying us large rebates, I would say positively that since the passage of the interstate-commerce law the Baltimore and Ohio Railroad has not paid us one dollar in rebates, or in any way made any concession from their tariff rates. Mr. Archbold filed with this commission a letter from the Baltimore and Ohio Railroad dated August 21, 1899, confirming this statement.

Q. (By Mr. KENNEDY.) Would you say that an inspection of the books of the Baltimore and Ohio Railroad Company would not show that rebates or discriminations or commissions or anything of the kind had been paid to the Standard Oil Company since the passage of the interstate-commerce law?—A. I would; absolutely, sir.

Q. (By Mr. SMYTH.) You know Mr. Rice stated that rebates were not paid, but that commissions were given to persons to secure the business of the Standard Oil Company and others? You deny that?—A. Previously I denied that we received commissions in any form from any railroads. That applies particularly to the Baltimore and Ohio, and any other railroad you wish to point out.

UNDERBILLING OF TANK CARS.

Regarding alleged underweighing of tank-car shipments from Boston to Newport, R. I.: For most of the years 1896 and 1897 we were making occasional shipments of naphtha in tank cars from Boston to the Newport Gas Company. The shipments altogether amounted to some fifteen or twenty tank cars during the entire period. On three or four of the cars the New York, New Haven and Hartford Railroad, through clerical error, billed these cars at less than their actual weight. This resulted in an undercharge. As soon as it was discovered, the balance due was paid.

The railroads transporting these shipments, as well as all railroads of the United States, had the actual capacity of all these cars, and the error occurred through no fault of the Standard Oil Company.

I shall hand as an exhibit Tank Gauge Book No. 4, which is the fourth book which has been published by the Central Freight Association, giving the capacity of all

¹ See p. 768, footnote 1.

² See pp. 728, 732.

tank cars of the Union Tank Line Company. The same publication has been in the hands of the railroads for the past ten or fifteen years.¹ This book contains the number and the capacity of the tank cars referred to by Mr. Rice. We furnished this information to the railroads, and we submit that it is not likely that, having furnished the actual capacity of the cars to the railroads, we would go to these same railroads on interstate shipments and show a less rate, because it would simply mean that we would know that we were violating the law and furnishing evidence to prove that we had.

The Interstate Commerce Commission, through Commissioner Prouty, investigated this charge at Boston, March 12, 1898, and after the investigation dropped it, as it was clearly shown by testimony taken there that the mistakes were simply clerical errors. I wish to offer a sworn statement of Vice-President Hall (now president) of the New York, New Haven and Hartford Railroad, which was given in answer to the request of the Interstate Commerce Commission in regard to this very matter, in which he gives the detail of the shipments for the two years. I read from his answer that the mistakes occurred "through error of this (railroad) company's agent and without misrepresentation or fault on the part of the shipper."²

¹ As to the actual use of this book in certain railroad offices, see the testimony of Mr. W. M. Kidder Mr. George L. Keyes, and Mr. George L. Winlock, pp. 772-775, footnote.

² The copy of Mr. Hall's statement submitted to the commission is as follows:

[The New York, New Haven and Hartford Railroad Company, President's Office.]

The Honorable INTERSTATE COMMERCE COMMISSION,

Washington, D. C.

NEW HAVEN, CONN., January 25, 1898.

GENTLEMEN: In the matter of alleged irregularities in the transportation of petroleum and its products from East Boston, Mass., to Newport, R. I. (docket No. 523), and in obedience to the order of your board made January 11, 1898, this company makes answer to the inquiries contained in said order as follows:

1. There are, and since April 6, 1896, there have been, no joint through rates or arrangements for through waybilling between the New York, New Haven and Hartford Railroad Company and the Boston and Albany Railroad Company from East Boston, Mass., to Newport, R. I. All shipments of petroleum and its products since said last-mentioned date have been subject to the local rates of the respective companies.

2. Between April 6, 1896, and December 1, 1897, there were the following shipments of petroleum and its products from East Boston to Newport by way of the Boston and Albany Railroad and the railroad of this company, to wit:

(a) On the 18th day of June, 1896, this company received from the Boston and Albany Railroad Company at Boston three U. T. L. cars, Nos. 7610, 8369, and 1829, consigned to the Newport Gaslight Company, containing naphtha, weight 72,000 pounds, which this company rebilled from Boston to Newport at its rate of 10 cents per 100 pounds; total charges, \$72. Said weight was that given in the waybill of the Boston and Albany Railroad Company as delivered to this company, and accepted through error of this company's agent and without any misrepresentation or fault on the part of the shipper. It was subsequently found that the weight should have been 143,180 pounds and a correction thereof was made. Its charge of 10 cents per 100 pounds on the difference, amounting to \$71.18, was collected.

(b) On the 28th day of July, 1896, this company received from the Boston and Albany Railroad Company at Boston two U. T. L. cars, Nos. 1205 and 7915, consigned to the Newport Gaslight Company, containing naphtha, weight 101,580 pounds, which this company rebilled from Boston to Newport at its rate of 10 cents per 100 pounds; total charge, \$101.58.

(c) On the 2d day of September, 1896, this company received from the Boston and Albany Railroad Company one U. T. L. car, No. 1823, consigned to the Newport Gaslight Company, containing oil, weight 50,800 pounds, which this company rebilled from Boston to Newport at its rate of 10 cents per 100 pounds; total charge, \$50.80.

(d) On the 8d day of September, 1896, this company received from the Boston and Albany Railroad Company at Boston one U. T. L. car, No. 2059, consigned to the Newport Gaslight Company, containing naphtha, weight 50,190 pounds. This was by some error rebilled from Boston to Newport at the rate of 14 cents per 100 pounds; total charges, \$70.26. It being subsequently found that upon this shipment there was an overcharge, it was thereafter adjusted to the proper rate of 10 cents per 100 pounds and the excess refunded.

(e) On the 16th day of October, 1896, this company received from the Boston and Albany Railroad Company at Boston two U. T. L. cars, Nos. 4531 and 7802, consigned to the Newport Gaslight Company, containing oil, weight 89,470 pounds, which this company rebilled from Boston to Newport at its rate of 10 cents per 100 pounds; total charge, \$89.47.

(f) On the 19th day of October, 1896, this company received from the Boston and Albany Railroad Company at Boston one U. T. L. car, No. 3869, consigned to the Newport Gaslight Company, containing naphtha, weight 42,490 pounds, which this company rebilled from Boston to Newport at its rate of 10 cents per 100 pounds; total charges, \$42.49.

(g) On the 10th day of February, 1897, this company received from the Boston and Albany Railroad Company at Boston two U. T. L. cars, Nos. 1329 and 7936, consigned to the Newport Gaslight Company, containing naphtha, weight 48,000 pounds, which this company rebilled from Boston to Newport at its rate of 10 cents per 100 pounds, total charges, \$48. Said weight was that given in the waybill of the Boston and Albany Railroad Company as delivered to this company and accepted through error of this company's agent and without any misrepresentation or fault on the part of the shipper. It was subsequently found that the weight should have been 101,613 pounds, and a correction thereof was made. Its charge of 10 cents per 100 pounds on the difference, amounting to \$53.61, was collected.

(h) On the 19th day of May, 1897, this company received from the Boston and Albany Railroad Company at Boston two U. T. L. cars, Nos. 7915 and 1286, consigned to the Newport Gaslight Company, containing naphtha, weight 48,000 pounds, which this company rebilled from Boston to Newport at its rate of 10 cents per 100 pounds; total charges, \$48. Said weight was that given in the waybill of the Boston and Albany Railroad Company as delivered to this company and accepted through error of

I refer now particularly to the two cars which Mr. Rice refers to; two cars containing 100,986 pounds which were carried at 48,000 pounds.¹

Q. (By Mr. JENKS.) Was this the same case investigated by Mr. Prouty?—A. Yes. Vice-President Hall, who now is president of the New Haven Road, says this in his sworn answer: "(h) On the 18th day of May, 1897, this company received from the Boston and Albany Railroad Company at Boston two U. T. L. cars, Nos. 7915 and 1286, consigned to the Newport Gaslight Company, containing naphtha, weight 48,000 pounds, which this company rebilled from Boston to Newport at its rate of 10 cents per 100 pounds; total charges, \$48. Said weight was that given in the waybill of the Boston and Albany Railroad Company as delivered to this company and accepted through error of this company's agent and without any misrepresentation or fault on the part of the shipper. It was subsequently found that the weight should have been 100,986 pounds, and correction thereof was made. Its charge of 10 cents per 100 pounds on the difference, amounting to \$52.98, was collected."

I also offer in connection with that case the testimony taken before Commissioner Prouty at the hearing in Boston March 12, 1898, and I would like to read from Mr. Winlock's testimony at that time.² Mr. Winlock was general agent of the Ne

this company's agent and without any misrepresentation or fault on the part of the shipper. It was subsequently found that the weight should have been 100,986 pounds, and correction thereof was made. Its charge of 10 cents per 100 pounds on the difference, amounting to \$52.98, was collected.

(i) On the 22d day of July, 1897, this company received from the Boston and Albany Railroad Company at Boston two U. T. L. cars, Nos. 1286 and 7544, consigned to the Newport Gas Company, containing oil, weight 100,540 pounds, which this company rebilled from Boston to Newport at its rate of 10 cents per 100 pounds; total charge, \$100.54.

8. Annexed hereto are copies of the original waybills and Boston and Albany Railroad vouchers connected with each of the above-specified shipments.

All of which is respectfully submitted.

THE NEW YORK, NEW HAVEN AND HARTFORD RAILROAD COMPANY,
By JOHN M. HALL, Vice-President.

STATE OF CONNECTICUT, City and County of New Haven, ss:

John M. Hall, being duly sworn, says that he is the vice-president of the New York, New Haven and Hartford Railroad Company, above named, and that the foregoing answer is true as he verily believes.

Subscribed and sworn to before me this 25th day of January, 1898.

JOHN M. HALL.

AVERY CLARK, Notary Public.

¹ See p. 731.

² The following are further extracts from stenographer's notes of the testimony taken at this hearing, a copy of which, verified by the affidavit of Mr. Walter Rogers, the stenographer, was submitted to the Industrial Commission by Mr. Page. The hearing was held before Mr. Charles A. Prouty, Interstate Commerce Commissioner. Mr. J. F. Marchand appeared for the Interstate Commerce Commission; Mr. Samuel Hoar for the Boston and Albany Railroad; Mr. G. L. Winlock for the New York, New Haven and Hartford Railroad, and Messrs. Hyde & Baxter for the Standard Oil Company.

Testimony of Mr. W. M. Kidder, agent of the Boston and Albany Railroad at East Boston:

Q. (By Mr. MARCHAND.) Mr. Kidder, just explain the method of billing freight for the Standard Oil Company out of East Boston.

"Mr. HYDE. We should like to have that restricted to interstate shipments, if you please.

"Q. (By Mr. MARCHAND.) Is it customary to incorporate in your waybill the weights of cars received from the Standard Oil Company for shipment of naphtha over the New York, New Haven and Hartford Road?

"Mr. HYDE. Just a moment. We should like to have the question restricted to these shipments, if you please. I understand that is the matter in investigation, Mr. Commissioner.

"The COMMISSIONER. Yes; but I think you may ask him, Mr. Marchand, what his custom is as to similar shipments, for the purpose of showing what he did with reference to these particular shipments was in accordance with the ordinary methods of business.

"Mr. HYDE. So far as it refers to interstate matters.

"Q. (By Mr. MARCHAND.) Is it customary to incorporate in the waybill the weight of the cars of naphtha for the Standard Oil Company?—A. Yes, sir.

"Q. What is your source of information as to weight?—A. Well, the receipts received from the Standard Oil Company give no weights. My waybill clerk inserted the weights of 24,000 pounds for each tank car.

"Q. In the absence of any weight reported by your yard master, from whom, as I understand, you obtain the memorandum of shipment, how do you obtain the weights?—A. As I say, without the weight my billing clerks put in the minimum tank-car weight, which is 24,000 pounds.

"Q. Is it customary to ship tank cars of naphtha upon the minimum weight?—A. Yes, sir.

"Q. Under what circumstances do you do that?—A. Do that every time where there is no weight shown on the receipt. You know we don't weigh these cars at East Boston at all.

"Q. What do you charge to the Standard Oil Company for transporting these tank cars to Boston for reshipment?—A. Six dollars per tank.

"Q. When you want to ascertain the weight or capacity of a car, how do you go about it? I have reference to tank cars.—A. Tank cars?

"Q. Yes.—A. Well, the only way to do it would be to weigh them empty and weigh them loaded.

"Haven't you, or hasn't your company—haven't you, I will put it—in your possession a book published

Haven Road at Boston, and testified that he had full charge of rates from Boston to all points on the New Haven road.

Mr. Winlock says: "I have nothing to say except what Mr. Page has said, so far as the relations between the New Haven road and the Standard Oil Company are concerned, is absolutely true. There is no arrangement of any kind between the Standard Oil Company and the New Haven road by which they can get any better rates, whether it is by a rebate, or by underbilling, or by anything of that kind, than what everybody else gets. Our rates are published, and posted for everybody. These undercharges in weight were errors of our local agents in accepting them as such. They should have investigated the matter more than they did. Instead of blindly taking the weights given by the Boston and Albany Railroad vouchers, they should have taken some means, as they did in nearly every other case, to get at the proper weights. The tariffs to Newport were based on actual weight, and instead of taking this constructive tonnage of the Boston and Albany road, which they used for purposes of their own, they should have taken, as I said, some means of ascertaining the weights in every case. The other cases were errors of theirs."

Q. (By Mr. JENKS.) I see in the testimony that the weights are taken from the Boston and Albany. I understand your shipping point is East Boston?—A. It is.

Q. And the Boston and Albany road takes the oil from East Boston to where it delivers to the New Haven and Hartford?—A. Yes.

Q. Is it true, as has been stated, that when oil is delivered to the Boston and Albany road by your people the billing is done by your people directly, and that you furnish the weights to the Boston and Albany?—A. It is not true, sir, as was shown in this late testimony. I will explain it: Our works are located at East Boston on the Boston and Albany road. The Boston and Albany road have to switch any car from Boston to East Boston, where the cars are delivered to the New Haven road. That switching charge, as I recall it, is \$6 per car; either \$4 or \$6 per car. The Boston and Albany road, like many other roads, wishes to show its tonnage, whether the rates are per car or per hundred pounds; and where the rate is per car, as in this instance, it probably uses 24,000 pounds, which is the usual carload weight; it is the minimum carload weight. They simply put in 24,000 pounds. The testimony shows, and I swear now, that we did not give the Boston and Albany road 24,000 pounds as the weight of those cars, nor did we give them any weight. We did notify, not only directly, but through this book, the actual weight of all those cars, and it was simply an error of the New Haven road, as shown in the testimony, and as offered by Vice-President Hall, that the New Haven road took in error the constructive weight of the Boston and Albany in their bill, instead of taking the actual weight, which they had in their power to get, and should have got.

Q. It is usually the custom of the Boston and Albany in their shipping, to put in the minimum weight, 24,000 pounds?—A. It seems to be so in this case. I can not say what the general custom is, but it is the custom. There is nothing exceptional in the Boston and Albany having a switching rate for switching; it is no more than any other railroad does.

Q. As to the regular custom of the Boston and Albany in shipping to points in Massachusetts, you would swear somewhat positively that their shipping rates are based on the full car rates? I am not speaking of interstate traffic.—A. I say this: that, as far as the Boston and Albany rates are concerned, whether within the State of

by the Central Freight Association, known as Capacities of Tank Cars Used in the Transportation of Petroleum and its Products?—A. No; I never remember of seeing such a book.

"Mr. MARCHANT. I wish to offer this book in evidence.

"The COMMISSIONER. Mark that. (Book marked 'Exhibit 3, W. W. C.')

"The COMMISSIONER. The witness is shown Exhibit No. 3, being entitled 'Tank Gauge Hand Book No. 3.'

"The WITNESS. No, sir; I never saw that book before.

"Q. Did you ever see a book like it?—A. No, sir.

"Q. Do you know of any other book which contains the capacities of tank cars which are used by railroads?—A. I do not.

"Q. Then, Mr. Kidder, if you wanted to arrive at the weight of a car loaded—a tank car loaded—you would weigh it first empty, and then weigh it after it was filled?—A. Yes, sir; that is the only correct way that I know of of doing it.

"Q. Now, when you deliver tank cars to the New York, New Haven and Hartford road what do you furnish the New Haven road with?—A. I don't know, sir; I can't tell you.

"Q. Who does know?—A. Our Boston office; we only bill the cars, you know, to Boston.

"Q. (By the COMMISSIONER.) Mr. Kidder, the Standard Oil Company has a large storage capacity for petroleum in East Boston, has it?—A. Yes, sir; I don't know the capacity.

"Q. I suppose you receive from time to time tank cars loaded there for transportation to points on the line of the Boston and Albany Railroad?—A. Yes, sir.

* * * * *

"Q. What I want to know, if you have any knowledge of this sort, is what the method would be if the Standard Oil people desire to ship a tank of oil from East Boston to some point upon your line to

Massachusetts or without the State, we pay exactly the same rates as anyone else pays from Boston to the same destination.¹ Now, I can not recall and I do not know every local rate on every railroad in the United States, but I do know that we pay the same rate of freight from the same point to the same point as every other shipper.

Q. Whether it be local, within the State, or interstate?—A. Yes.

Q. (By Mr. A. L. HARRIS.) Who determines the weight and contents of the tank car as listed in your book?—A. The capacity of the tank car is first found in the case of the Union Tank Line Company by measurement, and that is confirmed by water

which there was a rate by the hundred pounds, and not an arbitrary rate, as it was in this case. Would that be waybilled directly from East Boston, or would it be sent over to Boston and waybilled?—A. It would be waybilled from East Boston.

Q. When you receive that car from the Standard Oil Company what do you sign, if anything?—A. The same kind of a receipt is signed.

Q. Would that receipt, as far as you know, state the weight of that tank?—A. No, sir; it would not.

Q. How would you know what the weight was?—A. We would bill it at the standard minimum weight of a tank car.

Q. Bill it at 24,000 pounds?—A. Yes.

Q. And that is ordinarily done with the Standard Oil Company, is it, to local points?—A. Yes, sir.

[Testimony of Mr. George L. Keyes.]

Mr. Keyes was employed in the freight department of the New York, New Haven and Hartford road at Boston.

Q. (By Mr. MARCHAND.) Have you in use in your office a book issued by the Central Freight Association giving the capacities of tank cars?—A. No, sir.

Q. Have you any publication showing the weights of tank cars and capacities?—A. No, sir.

Q. How do you arrive at the weights?—A. We have taken the weights rendered on the papers from the connecting line."

[Testimony of Mr. W. F. Davis.]

Mr. Davis was billing clerk at the Park Square station, Boston, of the New York, New Haven and Hartford Road.

Q. (By the COMMISSIONER.) Mr. Davis, how long have you been a billing clerk in the Providence office?—A. About 6 years.

Q. How many billing clerks are employed there?—A. There are 6 employed there now.

Q. During the last 6 years have you billed out at one time and another a good many of these tank cars?—A. Quite a number.

Q. What do you mean by quite a number?—A. Perhaps one a week.

Q. During that time have you ordinarily sent them along on this voucher of the Boston and Albany of 24,000 pounds?—A. Unless I received other instructions.

Q. How often have you received other instructions?—A. I couldn't say as to that.

Q. Well, give us the same idea, approximately, as to how often you received other instructions as you have given as to the number of cars you sent out?—A. In almost every case.

Q. You say you have received other instructions in almost every case.—A. Yes, sir.

Q. How do you happen to receive those instructions?—A. By a letter.

Q. And by a letter from whom?—A. From the Standard Oil Company.

Q. So that the Standard Oil Company had been accustomed to instruct you as to the weight at which those tank cars should be billed?—A. Yes, sir.

Q. And the Standard Oil Company must have known unless they did instruct you you would have billed the car at 24,000 pounds?—A. I don't know about that.

Q. What did they instruct you for?—A. If they wanted a car prepaid they would instruct us to prepay the freight.

Q. This particular car was prepaid, wasn't it?—A. Yes, sir.

Q. You say the Standard Oil Company have usually written your office a letter instructing you and giving you the weight of the car?—A. Yes, sir.

Q. Now, can you tell us about what part of the instances which you have billed out you received instructions of that kind?—A. In almost every case.

Q. And that came to you without solicitation or of application to the Standard Oil Company?—A. Yes, sir.

Q. It was done by them of their own motion?—A. Yes, sir."

[Testimony of Mr. George L. Winlock.]

Mr. Winlock was assistant general freight agent of the New York, New Haven and Hartford road.

Q. Haven't you in your office a publication which designates the capacity of tank cars?—A. Yes, sir.

Q. How long have you had such a publication?—A. Since about the middle of February, I should judge.

Q. Had you no compiled information with respect to capacities of tank cars prior to February, 1898?—A. No, sir."

(The witness is reading a series of letters from the Standard Oil Company, giving information as to the weights of tank-car shipments.)

Q. (By Mr. HYDE.) And the next one in point of time?

Mr. PAGE. Will the Commissioner please note that this next one is one of these undercharge shipments?

"A. The next one is:

"FEBRUARY 9, 1897.

"Mr. A. H. POSTER:

"You will receive from the Boston and Albany road, U. T. L. cars 1829 and 7986, consigned to the Newport Gaslight Company, of Newport, R. I. The weights of these cars are as follows: 1829, 50,272

¹ See testimony of Mr. W. M. Kidder, at the top of the footnote above, on this page.

gauge, and the Central Freight Association have a bureau of inspectors who go around and test the capacity of those cars.

Q. Each car is numbered?—Each car is numbered and each car's capacity in gallons is given, and its equivalent capacity in pounds, based on the average weight of 6.4 pounds per gallon.

Q. (By Mr. CLARKE.) What paper or vouchers passes from the Boston and Albany Railroad Company to the New York, New Haven and Hartford Railroad Company in that case?—A. Simply a bill of lading that that car which they received at East Boston and which they delivered to the New Haven road at Boston was destined for the Newport Gas Light Company at Newport.

Q. Do the Boston and Albany haul this freight over its line from Albany to Boston at a lower measurement or at a higher measurement?—A. This shipment originated at East Boston on the line of the Boston and Albany road.

Q. Over the road that used to be called the Freight Railroad from East Boston to Boston?—A. I do not know the name of the road, but the switching charge is from Boston to East Boston.

Mr. CLARKE. I will explain to the commission that it is a railroad some 4 or 5 miles long. It is rather more than an ordinary switch. This used to pass around through Cambridge and connect with the main line of the Albany road, and then ran back into Boston to connect with the New York, New Haven and Hartford.

REGION SUPPLIED WITH OIL FROM BOSTON.

Q. (By Mr. JENKS.) You spoke of this shipment originating at East Boston. Do you have East Boston for the main distributing point for all New England?—A. For a section of New England.

pounds; 7986, 51,341 pounds. Kindly bill these cars freight prepaid and send us bill in duplicate at once to this office for collection.'

"That, as Mr. Page says, is one of the cars which appears on the statement as undercharged by us.

* * * * *

Q. (By the COMMISSIONER.) You have said, Mr. Winlock, that you understood that your agents billed these tank cars at their actual weight?—A. In case of interstate shipments.

Q. That, taken all in all, is what your instructions amounted to?—A. Yes, sir.

Q. Do you have a different rule where the shipment is to a point within the State?—A. I am not prepared to answer that question.

Q. I don't ask what the rule is; I ask whether you have a different rule; because, if you have one rule in one case and another rule in another case, the Standard Oil Company ought to see certainly that you have sufficient knowledge on which to make this claim.—A. I have not prepared myself, Mr. Chairman, in regard to State shipments whatever.

Q. Do you mean by that that you don't know whether you have a different rule?—A. No, sir.

Q. Or do you mean that you don't want to state?—A. I have not looked it up. I should have to look it up before I made any such statement as that.

Q. If your instructions were the same in reference to your intrastate and interstate shipments, you know that, don't you? You know I am not asking what the rule is, but I am simply asking whether, in point of fact, you have one rule for shipments in the State and another rule for shipments which are destined to points outside the State.—A. As I recollect it, we have not; but I should want to make sure of it before I answered that question.

Q. So you can not tell?—A. I can not tell; no, sir.

Q. You are the man who would know about that rule, if there was any?—A. I have already said that I think it is the same. I am not absolutely positive of the different rates which apply on intrastate business.

Q. I am not talking about rates; I am talking about a rule as to the billing of these cars, and my question is this: When you bill a tank car to an interstate point—a point without the State of Massachusetts—do you bill it at its actual weight; and when you bill a car to a point in the State of Massachusetts, do you bill it at a weight of 24,000 pounds?—A. That is a question that I could not answer.

Q. Do you mean to say that you have no knowledge about it?—A. No, sir.

Q. You mean you don't want to answer that question?—A. I mean that I don't want to answer that question.

Q. (By Mr. HYDE.) One question I should ask you, Mr. Winlock. Having received the letter of February 9, giving the weights and the numbers of cars, the waybill which you made out, or which was made out in your office by a clerk, was simply an error?—A. Yes. This letter is not addressed to my office; it is addressed to Mr. Porter. I understand that Mr. Porter's clerk overlooked that letter in billing.

Q. (By Mr. MARCHAND.) Will you allow me to look at that letter?—A. Certainly.

Mr. PAGE. Mr. Commissioner, may I ask the witness one question in regard to what the commissioner just asked him?

"The COMMISSIONER. Certainly.

Q. (By Mr. PAGE.) You have no understanding with the Standard Oil Company, or any instructions from your superiors, by which you are to bill cars within the State at less than the actual rate?—A. None whatever.

"The COMMISSIONER. Not the actual rate?

Q. At less than the actual weight. You have no understanding with us by which you should bill cars at 24,000 pounds within the State because of our interstate shipments, have you, or for any reason?—A. We have no instructions from you.

Q. Or understanding with us?—A. We have no understanding with you at all, Mr. Page, of any kind.

* * * * *

Q. In other words, Mr. Winlock, the rates that you may name us within the State have no connection or no bearing in regard to interstate business?—A. None whatever."

Q. What section? How much is covered from your central distributing point?—A. Well, I can not say. Of course, it is for Boston particularly, and I know we make shipments from there up to Portland, and I know we make shipments from there down into Massachusetts and Connecticut.

Q. Down as far as New Haven?—A. Almost. I mean as far as New Haven. It depends upon what we may have in the Boston tanks, and what the order may be for. You know there are many grades of petroleum, and we do not carry everything required at that point or at every shipping point.

Q. Do you suppose that your ordinary shipments of petroleum for lighting purposes, at New Haven, for example, would come from East Boston?—A. No; I do not think that we ship to New Haven from East Boston.

Q. You would to Providence and Newport, probably?—A. Newport. In these cases it depends upon the stock and depends upon the situation. I can not answer as to the exact territory that may be supplied from any station, but it would supply the territory as far as its location and its stock was able to do so.

Q. How do you supply your shipping station at East Boston?—A. We supply partly by rail shipments and partly by steamer shipments from New York and Philadelphia.

Q. From your refineries at Bayonne?—A. From seaboard refineries, whatever one it may be.

WHY ARE THROUGH RATES REFUSED ON PETROLEUM PRODUCTS?

Q. The statement has been made here by some of the independent refiners that in their attempts to ship oil into New England from the West they had found that, although there were through rates on the regular tariff sheets for almost all kinds of goods, there were no through rates for petroleum on the New York, New Haven and Hartford. They stated that in shipping corn, or almost anything else, to Newport or Providence, they would get through rates the same as the Boston rates; but that on petroleum no such through rates were given at all; they had to give the local rate, and this local rate, added to the regular rate from the West, made a rate to New Haven or Newport or Providence very much higher than to Boston.

Now, the statement was made here that that applies not only to New Haven, but generally, and that the shippers of petroleum in the West are placed at a decided disadvantage on that account. Can you give any reasonable explanation why the railroads should make a special exception of petroleum as to the furnishing of through rates?—A. Why, I can say this—that I do not know anything about the corn rates at all.

Q. As to what is the general rate?—A. I mean to say that there are many commodities which the railroads make rates on, on the basis of through rates and local rates, whereas they may be applying through rates on other commodities. I do not know anything exceptional in the matter of oil in New England as compared with corn in the West. I do know that we ship from the oil regions to New England to some extent, and we pay exactly the same rates as the other fellow pays.

Q. Can you mention some of the New England points you supply from the West or from regions of the West?—A. I can not. I can say we do make shipments to New England as well as Boston. I know also we have made shipments from Cleveland, and also as far as Lima, and wherever we have made those we pay the same rates as other people do.

Q. Is it your rule to make shipments from Cleveland, Lima, or other Western points to the territory of the New Haven road?—A. Yes; we have.

Q. The general fact that you have a distributing point at Boston, from which you can supply this territory that is supplied by the New York and New Haven road, and that they can not furnish through tariffs from the West, would seem to some of your competitors, at any rate, to give you some decided advantage, although no illegal advantage, over them?—A. We do not deny that by having our refineries at the Atlantic seaboard and supplying New England from those refineries we have an advantage over the man who has to take the oil from Cleveland or the oil region, but we claim no fair adjustment of rates can be made that will put that man on an equality with us in that situation.

Q. Would you say further that the Standard Oil Company officials have not represented the matter to the New Haven road in such a way that they have succeeded in getting the New Haven road to refuse to make through rates on petroleum, while it does make through rates, and those equivalent to Boston rates, on a proportion of other goods that are shipped?—A. I think that Mr. Condit Prouty answered that question by saying that the New Haven road in charging rates

trary rates on oil from Boston as well as from the Hudson River were receiving more money themselves than they would if they applied the through rate, and for selfish reasons they got the most money they could out of the traffic.

Q. (By Mr. SMYTH.) Is it not a fact that those rates apply to a great many other commodities besides oil; that a larger rate is charged for the shorter distance?—A. As I say, Mr. Smyth, I do not know much about other traffic. I can say specifically in regard to the difference in the rate of corn and oil that I do not know the reasons for it. I can say in a general way that I do not believe the railroads make rates that will injure the business or prosperity of the road. The prosperity of a road depends upon the prosperity of the patrons, and if the railroad makes any rates that are going to prevent shipping over their road, it seems to me they are doing what a reasonable man would not do; and my experience is that the railroads are represented by as high an order of intelligence in this country as any class that I know of.

Q. You have no reason to believe that oil is the only commodity that is charged a higher rate for the shorter distance?—A. Absolutely none.

Q. I mean to that point?—A. No, sir. I only know, however, about oil.

MR. WILLIAM ROCKEFELLER DOES NOT INFLUENCE TARIFFS ON THE NEW YORK, NEW HAVEN AND HARTFORD.

Q. (By Mr. JENKS.) It has been intimated by Mr. Rice¹ and others that this special refusal to give through rates on petroleum by the New York and New Haven road was presumably brought about by the fact that Mr. William Rockefeller was a director of the road, or by some other special influence brought to bear in favor of the Standard Oil Company to check these shippers of the West?—A. I will say, as far as the New Haven road is concerned, and Mr. William Rockefeller, that absolutely I do not know of any arrangement, or any tariff, or any change in tariff, that Mr. William Rockefeller has ever suggested or influenced on the part of the New Haven road or any other road. I do not believe that Mr. Rockefeller knows who the traffic manager for his road is to-day, or would know him if he was in this room.

LOW RATES FROM THE STANDARD'S WORKS AT WHITING.²

Q. (By Mr. KENNEDY.) I see that your testimony has been so far in rebuttal of Mr. Rice; there was another witness before the commission who made a statement that I should like to hear you say something about. He is the gentleman to whom you have just alluded, an interstate-commerce commissioner. He made a statement before the commission which seemed to show that the Standard Oil Company had an advantage in shipping from its Whiting works down the Mississippi Valley to New Orleans over the independent shippers or refiners of Cleveland, Ohio. I do not know just what the figures were, but they struck me at the time, if true, as indicating that the Standard Oil Company did have an advantage in the rates that were made, a great advantage, over the refiners of Cleveland. As traffic manager of this tank-line association, do you know anything about those rates?—A. I know what the rates are from Cleveland and from Lima to New Orleans. They are based on the local rate to the Ohio River plus the rate from the Ohio River to New Orleans. The rate thus figures out, as I recall, less than half a cent a ton a mile. The haul from Cleveland to New Orleans is over 1,000 miles and has a low rate. As to the rate from Whiting to New Orleans we have an advantage. Whiting is some 400 or 500 miles nearer New Orleans than Cleveland. The rate from Whiting—

Q. (Interrupting.) Not that much nearer.—A. Well, I do not know that it is, but it is appreciably nearer. And the rate from Cleveland to Whiting plus the rate from Whiting to New Orleans is higher than the rate from Cleveland to the Ohio River plus the rate from the Ohio River to New Orleans. In other words, I mean to say that we are paying a higher rate in proportion from Whiting to New Orleans when you consider the haul from Cleveland to Whiting.

Q. (By Mr. JENKS.) The rate from Whiting, as you say, is considerably lower than from Cleveland. Do you know whether the rate from Whiting on other similar products, like linseed oil, for example, is lower than the rate from Cleveland to New Orleans?—A. I do not know what the rates are on linseed oil either from Whiting or from Cleveland.

Q. Statements have been made to this effect—I do not mean to say that these figures are exact, but approximately exact—that on linseed oil the rate from Cleveland to New Orleans would be possibly 28 cents, and from Chicago it would be somewhat less, say 25, but that on petroleum the difference would be as great as from 31 to 26 cents,

¹ See p. 731; Mr. Westgate, p. 274.

² See Mr. Kennard, p. 266; Mr. Westgate, p. 276; Mr. Rice, pp. 730, 731, 732.

showing that there would be a considerable advantage to petroleum as compared with a somewhat similar product, like linseed oil?—A. I can not testify on that; but you can not pick out any two commodities and say that because there is a difference on one between two points the same difference should apply to the other. The reasons governing commodities are very often different in the matter of their manufacture, of the territory that they go over, and the cost in getting them up to that point, and various and sundry reasons, which are good reasons from the railroad standpoint; and as they have the authority we accept them as good reasons.

Q. (By Mr. CLARKE.) Are linseed-oil shipments made in tank cars? (No answer.)

Q. (By Mr. FARQUHAR.) Is there a large shipment of linseed oil from Whiting?—A. Without being an expert on linseed oil, let me call your attention to the difference. Linseed oil is grown very largely in the West. At Chicago linseed oil is nearer the point of production than it is at Cleveland. Now, there may be very good reasons why the rate from Chicago to New Orleans on linseed oil might be higher than it is from Cleveland, simply because the traffic may stand more.

Q. The natural distributing point for linseed oil is east of Cleveland rather than west of it?—A. The natural distributing point is west of Cleveland rather than east, because the oil is grown in the West.

Q. Would not the same reasons hold good for Buffalo the same as Cleveland?—A. Yes.

Q. Now, does this commission understand you to say that the position of the Standard Oil Company on the seaboard, having an inside line of distribution, is an advantage that you get over all competitors, and that that one is just the one that you have?—A. I do not understand what you mean by the inside advantage.

Q. By the shorter line of distribution—geographical distribution.—A. At the seaboard for the East and at Chicago for the West, as I have said, we have an advantage over the man who is shipping at some interior point.

Q. And the Standard would have the advantage over all competitors on an even tariff?—A. No.

Q. On an even tariff for all from the same point?—A. Yes. I say we are on an even tariff for all. We ship from Cleveland where our competitor is, and we ship from the oil region where our competitor is; yet we have competitors on the Atlantic seaboard that pay the same rate as we do. We endeavor to supply each point from our nearest refinery.

Q. (By Mr. CLARKE.) Do you know why your company located their refinery at Whiting?—A. Because it was nearer the great West, which is a large consumer of oil.

HAVE OBEYED THE INTERSTATE-COMMERCE LAW.

Mr. Farquhar, I do not know whether you were here when I made the explanation in regard to the Newport case.

Q. (By Mr. FARQUHAR.) I do not care; I will take the record as it came on that.—A. But I will call your attention to the fact that the Standard Oil Company has shipped thousands of carloads of freight to all points in the United States, over nearly every railroad line in the country, and the freight bills for its cars pass through the hands of numberless employees both of the railroads and the shippers who have such large and diversified interests throughout the United States, and it would have been impossible to keep such rebates secret had any such been granted, especially since Mr. Rice and others like him have been on the constant lookout for something tangible by which to prove their oft-repeated allegations that the Standard Oil Company has been violating the interstate-commerce law. That law has been in effect for more than 12 years, and at the end of this period the best case that the opponents of the Standard Oil Company can produce is that involving a clerical error in the billing of three or four cars shipped from Boston to Newport; and I would like to see somebody else equal that record.

EARNINGS OF UNION TANK LINE COMPANY ONLY 4½ PER CENT.

Mr. Rice makes the statement that the mileage paid the Union Tank Line Company of three-fourths of a cent a mile pays back the investment every three years.¹ I would say that since the formation of the Union Tank Line Company, August 1, 1891, that company has never paid a dividend, and that the earnings of that company for the 8 years, 1891 to 1898, inclusive, have shown an average yearly return on the capital invested of 4½ per cent per annum. This return has been figured without charging anything off for depreciation, although according to master car builders'

¹ See p. 732.

rules (on which railroads base their settlements between each other) a depreciation of 6 per cent per year is deducted in case one railroad destroys another railroad's cars. The three-fourths of a cent mileage paid the Union Tank Line Company is exactly the same as is paid all other tank-car owners, and there are in the United States between 170 and 180 individuals and companies, entirely outside of the Standard Oil Company, owning an aggregate of 7,420 tank cars, while the Union Tank Line Company's equipment November 1, 1899, was 5,851 cars.

I offer a statement giving the names and ownership, made up from the very best records we have, of the owners of cars outside of the Union Tank Line Company, showing an aggregate ownership of nearly 2,000 cars more than the Union Tank Line Company has.

(Following is a copy of the exhibit offered by the witness:)

Statement showing number of tank cars and owners of same, other than Union Tank Line Company, based upon best obtainable published information as of November 1, 1899.

Name.	Location.	Number.
American Cotton Oil Co	Chicago ..	356
Alcatraz Asphalt Co	San Francisco ..	1
American Oil Works	Titusville, Pa.	6
Arper, Geo. W.	San Francisco	5
Alexander Co., M. H.	Cincinnati	4
Archer & Douglas Tank Line	Chicago	51
American Tank Line	Cleveland	225
Anglo-American Provision Co	Chicago	18
Armour Tank Line	do	126
Allegheny Valley Railroad	Pittsburg	37
American Product Co	Philadelphia	2
Baltimore and Ohio R. R.	Baltimore, Md.	44
Baltimore and Ohio Southwestern R. R.	Cincinnati	5
Barrett Manufacturing Co	Chicago	88
Beaber Refining Co	Washington, Pa.	2
Bay Terminal R. R.	Toledo, Ohio	1181
Barber Asphalt Paving Co	New York City	18
Brazilian Turpentine Co.	Allegheny, Pa.	1
Buckeye Transportation Co	Cincinnati	2
Brittan Provision Express	Chicago	10
Burlington and Missouri River R. R.	Lincoln, Nebr.	1
Boston and Albany R. R.	Boston, Mass.	9
Central R. R. of New Jersey	New York City	30
Century Oil Co.	Lima, Ohio	14
Cincinnati Oil Works	Cincinnati	1
Cleveland Refining Co	Cleveland, Ohio	10
Climax Tank Line	Titusville, Pa.	52
Columbia Oil Co.	New York City	40
Columbia Tank Line	Indianapolis, Ind.	117
Continental Oil Co.	New York City	8
Continental Refining Co	Oil City	25
Cornplanter Tank Line	Warren, Pa.	87
Craig Oil Co.	Toledo, Ohio	77
Crew Levick Co.	Philadelphia, Pa.	2
Crystal Oil Refining Co	Oil City	9
Cudahy Packing Co	South Omaha, Nebr.	50
Cygnat Tank Line	Cleveland	14
Canadian Pacific Rwy	Montreal	34
Canada Southern Rwy	Detroit, Mich.	85
Consumers' Gas Co.	Toronto, Ont.	9
Central Lard Co.	New York City	81
Charlotte Oil and Fertilizer Co	Charlotte, N. C.	5
Cleveland Linseed Oil Co	Cleveland	11
Cotton Oil Refining Co	Baltimore, Md.	5
Crescent Tank Line	New York City	187
Crystal Tank Line	Chicago	154
Charleston and Western Carolina R. R.	Wilmington, N. C.	6
Cleveland and Marietta R. R.	Cambridge, Ohio	2
Duffy, James M.	Eldred, Pa.	1
Dold Packing Co.	Kansas City, Mo.	96
Denver and Rio Grande R. R.	Denver, Colo.	16
Emery Manufacturing Co	Bradford, Pa.	54
Emery Candle Co	Cincinnati	2
Empire Oil Works	Reno, Pa.	39
Eagle Cotton Oil Co.	Meridian, Miss.	34
Ellis & Company	New York City	80
El Paso and Northeastern Rwy	Alamogordo, N. Mex.	9
Florence Pipe and Tank Line Co	Denver, Colo.	30
Freedom Oil Works Co	Freedom, Pa.	47
Fairbanks, N. K.	Chicago	20

¹ We learn that the Bay Terminal Railroad Company has under construction and almost completed 100 additional 8,000-gallon capacity tank cars, built by Haskell & Barker Car Co., Michigan City, Ind.

Statement showing number of tank cars and owners of same, other than Union Tank Line Company, etc.—Continued.

Name.	Location.	Number.
Freret, F. W.	New Orleans, La.	1
Germania Refining Co.	Oil City, Pa.	15
Glade Oil Works.	Warren, Pa.	10
Globe Tank Line.	Marietta, Ohio.	10
Great Western Tank Line.	Cleveland, Ohio.	53
Green Line.	Oil City, Pa.	750
Guarantee Oil and Gas Co.	Terre Haute, Ind.	5
Gulf, Colorado and Santa Fe R. R.	Galveston, Tex.	5
Grand Trunk Rwy.	Montreal	92
Garden City Dairy Co.	Chicago	20
Gate City Oil Co.	Atlanta, Ga.	9
Goyer, G. W.	Memphis, Tenn.	7
Globe Refining Co.	Louisville, Ky.	111
Holmes, A. S.	Buffalo, N. Y.	11
Holmes & Adams	Titusville, Pa.	5
Houston and Texas Central Rwy.	Houston, Tex.	4
Heinz & Co.	Pittsburg, Pa.	21
Hammond Tank Line.	Hammond, Ind.	20
Independent Refining Co.	Oil City	31
Independent Tank Line.	Boston	4
Indiana Pipe Line and Refining Co.	Chicago	85
Ivorydale and Millcreek Valley Rwy.	Cincinnati	59
International and Great Northern R. R.	Palestine, Tex.	13
Jobbins, Wm. F.	Aurora, Ill.	4
Kansas City Tank Line.	Kansas City, Mo.	100
Kentucky Refining Co.	Louisville, Ky.	157
Keystone Sirup Co.	Peoria, Ill.	11
Leader Refining Co.	Washington, Pa.	18
Lewis Tar Tank Line.	Rock Island, Ill.	7
Leonard & Daniels	Piqua, Ohio.	14
Louisville Tank Line.	Louisville, Ky.	91
Leonard & Ellis.	Warren, Pa.	25
Lewis Roofing Co.	Rock Island, Ill.	40
Louisville Cotton Oil Co.	Louisville, Ky.	1
Lakeside and Marblehead R. R.	Marblehead, Ohio.	1
Los Angeles Terminal R. R.	Los Angeles, Cal.	1
Lexington and Eastern Rwy.	Lexington, Ky.	1
Manhattan Oil Co.	Lima, Ohio.	755
Miller's Oil Refining Co.	Allegheny, Pa.	7
Milwaukee Gaslight Co.	Milwaukee, Wis.	5
Muir Tank Line.	Warren, Pa.	10
Municipal Gas Co.	Albany, N. Y.	10
Merchants' and Planters Oil Co.	Houston, Tex.	123
Michigan Ammonia Works.	Detroit	4
Mutual Refining Co.	Charleston, S. C.	16
Metzger Linseed Oil Co.	Chicago	3
Morris Tank Line.	do	37
Mexican Central Rwy.	City of Mexico	65
Monterey and Mexican Gulf Rwy.	Monterey, Mexico	3
National Linseed Oil Co.	Chicago	111
Nichols Chemical Co.	New York City	29
Northern Pacific Railway.	St. Paul, Minn.	6
New York Central and Hudson River R. R.	New York City	30
Ong Hiller & Co.	Cincinnati	3
Omaha Packing Co. Tank Line.	South Omaha, Nebr.	25
Pacific Coast Oil Co.	San Francisco	45
Pacific Steam Whaling Co.	do	16
Paine & Co.	Wilkesbarre, Pa.	4
Paragon Refining Co.	Toledo.	106
Peerless Tank Line.	Cleveland	135
Pennsylvania and Delaware Oil Co.	New York City	10
Pennsylvania Paraffine Works.	Titusville, Pa.	5
Penn Petrolatum Co.	Corsopolis, Pa.	2
Pennsylvania Tar Manufacturing Co.	Chicago, Ill.	6
Penn Refining Co.	Oil City.	39
Powell & Co., M. W.	Chicago	1
Producers' Oil Co.	Warren, Pa.	50
Provision Dealers' Despatch.	Chicago	31
Peerless Transit Co.	Cleveland, Ohio.	201
Pittsburg Refining Co.	Pittsburg, Pa.	5
Pecos Railway System.	Carlsbad, N. Mex.	10
Portland and Rumford Falls Rwy.	Rumford Falls, Me.	1
Red "C" Oil Manufacturing Co.	Baltimore, Md.	4
Richardson Lubricating Co.	Quincy, Ill.	2
Bepauno Chemical Co.	Wilmington, Del.	4
Rio Grande, Sierra Madre and Pacific Rwy.	El Paso, Tex.	6
Shawnee Oil Co.	Lima, Ohio.	49
Smith, Levi	North Clarendon, Pa.	6
St. Louis Southwestern Rwy.	Tyler, Tex.	4
Spears' Sons, Alden	Boston, Mass.	2
Solvay Process Co.	Geddes, N. Y.	34
Southern California Rwy.	Los Angeles, Cal.	38

Statement showing number of tank cars and owners of same, other than Union Tank Line Company, etc.—Continued.

Name.	Location.	Number.
Southern Cotton Oil Co.....	Philadelphia, Pa.	50
Swift Refrigerator Line.....	Chicago.....	200
Sayers Tank Line.....	St. Louis, Mo.....	20
Spencer, Kellogg.....	Buffalo.....	2
Sherman Oil and Cotton Co.....	Sherman, Tex.....	200
Santa Fe Pacific R. R.....	Los Angeles, Cal.....	75
Santa Fe, Prescott and Phoenix R. R.....	Prescott, Ariz.....	2
Sonora Rwy.....	San Francisco.....	7
Southern Pacific Co., Pacific System.....	do.....	123
Schwarzchild & Sulsberger.....	Kansas City, Kans.....	2
Sherbrooke Tank Line.....	Capelton, Quebec.....	18
Texas and Pacific Rwy.....	Dallas, Tex.....	1
Titusville Oil Works.....	Titusville, Pa.....	25
Toledo Linseed Oil Co.....	Toledo, Ohio.....	10
Trinity Cotton Oil Co.....	Dallas, Tex.....	20
Texas Midland R. R.....	Terrell, Tex.....	24
Toledo and Ohio Central Extension R. R.....	Marletta, Ohio.....	2
United Oil Co.....	Florence, Colo.....	2
Union Oil Co. of California.....	Santa Paula, Cal.....	37
United States Ammonia Co.....	New York City.....	2
Warren Refining Co.....	Warren, Pa.....	33
Waverly Oil Works.....	Pittsburg, Pa.....	27
Wallace & Gregory Bro's.....	Paducah, Ky.....	2
Western Chemical Co.....	Denver, Colo.....	9
Wogan Brothers' Tank Line.....	New Orleans, La.....	30
Wilburine Oil Works.....	Warren, Pa.....	18
Wisconsin Central Lines.....	Milwaukee, Wis.....	5
Western New York and Pennsylvania Rwy.....	Buffalo.....	13
Wright & Hills Linseed Oil Co.....	Chicago.....	12
Total.....		7,420

Q. (By Mr. KENNEDY.) Do these tank-line companies, outside of the tank line you are speaking for, carry oil for the Standard Oil Company?—A. The Standard Oil Company ship, as far as they can, in Union Tank Line cars. They do use outside cars when they can not get the Union tank cars, and need them.

Q. Now, the testimony is that the Standard Oil Company do pretty nearly 90 per cent of the business in the United States, and it would look a little curious that they could do that business with 40 per cent of the tank-line cars of the country, unless they were using the cars of some other company to some extent.—A. The explanation of that is that the tank cars used by other individuals are not confined to the use of petroleum, but their tank cars receive exactly the same mileage basis as is paid to the Union Tank Line Company; and that company, I say, as vice-president of it, has shown an average earning of $4\frac{1}{2}$ per cent per annum, charging off nothing for depreciation. It ought to be borne in mind in connection with the Union Tank Line that, owing to the fact that during the summer the consumption of petroleum is small, a large part of the equipment of the Union Tank Line Company is idle, and during that time is earning nothing whatever; and at other times the volume of the business requires the whole number of cars owned.

Q. (By Mr. JENKS.) What did you say is the number of cars owned by the Union Tank Line Company?—A. Five thousand eight hundred and fifty-one, November 1.

SEVEN MILLION DOLLARS REBATES FROM ATCHISON, TOPEKA AND SANTA FE RAILROAD;
NONE TO THE STANDARD.

Regarding the statement that in 1894 an expert accountant discovered that \$7,000,000 in rebates had been paid by the Atchison, Topeka and Santa Fe Railroad,¹ I would say that the Standard Oil Company did not receive one dollar of this money.

WHY THE UNION TANK LINE COMPANY CONTINUES TO DO BUSINESS WITHOUT PROFIT—
WHY A SEPARATE ORGANIZATION.

Q. (By Mr. CONGER.) I should like to return for a moment to this matter of tank cars. The statement made would indicate that that was very far from being a profitable business. As I understand, it has been continued by this company for a period

¹ See p. 738.

of years, and I would like to ask upon what theory you are able to induce the stockholders to continue their investments and make additional investments from time to time as would seem to be necessary.—A. The answer is simple: the tank car is a necessary facility in the economical distribution of petroleum and its products. It is one of the means by which we are enabled to ship oil cheaply and supply it cheaply. For that reason the investment, as you see, in the Union Tank Line Company is a proper one, for the Union Tank Line Company is the necessary arm of the petroleum business.

Q. The owners of the Union Tank Line Company, to a large extent, are the same as the owners of the Standard Oil Company?—A. You see—

Q. (By Mr. FARQUHAR, interrupting.) Is it not of just the same character as horses and vans and other things that are used in distribution? You can not expect a profit out of it, but it is an incident and a condition that you can not escape from in distribution.—A. It has been one of the most necessary parts of the business in distributing economically the products of petroleum.

Q. (By Mr. CONGER.) If you regard it in the same light as you do horses and freight wagons, why is the business conducted by an independent company—by the company called the Union Tank Line Company—and not by the Standard Oil Company itself?—A. The Union Tank Line Company is simply a corporation that owns tank cars.

Q. What is the purpose or advantage of the separate organization?—A. I am not a lawyer.

Q. You do not need to be a lawyer to answer a question like that, if you choose to answer it; it is a business question, not a question of law.—A. I do not refuse to answer it. The Union Tank Line Company has been formed to own and run these cars over the various railroads of the United States for the transportation of oil.

Q. You have testified that there is no profit in it at all?—A. I do.

Q. What I am trying to get at is why it is continued as a separate organization instead of by the Standard Oil Company itself directly?—A. Well, if it is profitable or unprofitable, it would make no difference whether it was conducted in the name of the Union Tank Line Company or in the name of the Standard Oil Company; but it was formed under the name of the Union Tank Line Company, and I say it is a necessary adjunct in the distribution of petroleum, and it is therefore continued although it is not profitable.

Q. (By Mr. SMYTH.) I suppose the stock of the tank line company can be bought independently of the stock of the Standard Oil Company?—A. I do not know.

Q. I mean it is listed for sale?—A. It is a separate company.

Q. If a man becomes a stockholder in the Union Tank Line Company, does he necessarily become a stockholder in the Standard Oil Company?—A. No; I do not understand he does.

Q. (By Mr. KENNEDY.) In what State is the Union Tank Line Company incorporated?—A. In New Jersey.

Q. Does the Interstate Commerce Commission exercise control over it like any other interstate transportation company?—A. Why, I never heard that the Interstate Commerce Commission had control of private car lines. No; this is a car line.

Q. (By Mr. SMYTH.) It does not make rates?—A. It has no rate or payment like a railroad.

Q. (By Mr. KENNEDY.) It does not come under the control, then, in any way of the Interstate Commerce Commission?—A. No; no more than the dressed-beef cars or Pullman cars or refrigerator cars or any other private cars.

Q. (By Mr. FARQUHAR.) In the building and running of your tank steamships, is that done by a separate department of the Standard Oil, or is it the Standard Oil itself?—A. I do not know enough to answer you in regard to that.

Q. (By Mr. JENKS.) The Union Tank Line Company has nothing to do with foreign shipments?—A. No; nothing whatever.

Q. (By Mr. CONGER.) Referring to the number of stockholders in this organization, do you know whether they are many or few, three, four, or five, or several hundred?—A. Of what organization?

Q. The Union Tank Line Company.—A. I think there are a great many; I do not know. I have never kept the books; the secretary could say how many stockholders there are, but I do not know.

Q. Do you know, or would you care to testify as to the salaries that are paid the officers of the company? The point I am getting at is this, that if such an organization is continued and continues in business when that business is so unprofitable as you testify, it seems to me that there must be some other way than through the distribution of dividends to make it profitable to its officers or stockholders.—A. I

think I have made that clear, that the tank car is a necessary adjunct in the petroleum business.

Q. Well that is——. —A. (Interrupting.) And is necessary in enabling the Standard Oil Company to distribute the products of petroleum economically throughout the United States; and by economically distributing, it has increased its business—the Standard Oil Company's. Now, that the tank-car line itself only shows, as I have testified, a return on the investment of 4½ per cent is no reason why it should be discontinued if it is necessary:

By Mr. BOYLE. May I consult with the witness?

By Mr. CLARKE. What is the pleasure of the commission?

By Mr. FARQUHAR. There is no objection at all.

(Mr. Boyle consults with witness.)

Q. (By Mr. CONGER.) How long has this Union Tank Line Company been in business or in operation?—A. Since 1891, when the company was formed.

Q. The point I was getting at is the advantage that the Standard Oil Company gets by having this Union Tank Line Company continue in business. Does the Union Tank Line Company do it simply through philanthropic or generous motives toward the Standard Oil Company?—A. I have testified that my knowledge and belief is that the present owners of the Union Tank Line Company and the Standard Oil Company are the same. Now, those owners think that the tank car is necessary in the conduct of the general business, and therefore continue in the use of those cars under the name of the Union Tank Line Company.

Q. Well, that puts a little different light on it; I understood you to say that they were not the same in all respects?—A. You misunderstood me; I said that they were different corporations.

Q. Now, then, do you know of any reasons why the officials or officers of the Standard Oil Company should prefer to operate this as an independent company instead of by the Standard direct?—A. I do not.

Q. (By Mr. JENKS.) When you speak of the Standard Oil Company are you thinking of one company or the several Standard Oil Companies?—A. I am speaking of the company, as it is generally known, as one company.

Q. Is this company that you are speaking of in that way technically and legally one company, or is it several—twenty-five different companies?—A. I do not know that I am competent to answer as to that. There has been recently formed, as you know, the Standard Oil Company of New Jersey, which, as I understand—I had rather cancel that answer. I do not know; that is all.

Q. You had intimated some little time ago that there were probably some legal reasons which you yourself did not know about, for having this Union Tank Line Company organized as a separate corporation. Perhaps in the same way there are some legal reasons why the Standard Oil Company, which we speak of sometimes as one, was organized as several different companies. I had thought it possible that as long as the Union Tank Line Company was serving so many different companies it might be a convenient matter legally for it to have its separate organization, and I did not know but you had—— —A. (Interrupting.) I am very much obliged for the suggestion. I have no doubt that that is the reason: that the Union Tank Line Company, as a separate corporation running its cars all over the United States, is in a better position to do so than if those cars were owned by the Standard Oil Company that was doing the manufacturing or the marketing business.

Q. You also had suggested that it was largely a matter of bookkeeping between all these different companies?—A. Well, I did not mean to convey any such idea. I did mean to say this, and that is all I can say about it, that the Union Tank Line Company is a separate corporation, and serves all these companies in furnishing tank cars for shipment.

Q. (By Mr. KENNEDY.) Have the tank cars that the Union Line owns been provided with air brakes and couplers in compliance with the interstate-commerce law?—A. They have.

Q. Consequently they are an instrumentality of interstate commerce?—A. The cars are used in interstate commerce, yes, and would be subject to the general order requiring cars used in interstate commerce to be equipped with air brakes and couplers.

Q. I asked you those questions because you said in reply to a question of mine a little while ago that you did not know that a company like that was subject to the Interstate Commerce Commission.—A. As I understand that, you refer to requiring cars used in interstate traffic to be equipped with safety appliances, and that is not a part of that law.

Q. It is put under the Interstate Commerce Commission's supervision.—A. It is? Then to that extent they are.

THE TANK LINE'S ONLY INCOME IS ITS MILEAGE—IT PAYS NO COMMISSIONS.

Q. (By Mr. SMYTH.) But they are not under the jurisdiction of the Interstate Commerce Commission in reference to fixing rates, because on those cars the railroads fix the rates.—A. We simply carry the oil and receive the mileage, the same as the railroads pay all other tank-car-line owners.

Q. (By Mr. FARQUHAR.) Does not your company stand in the same relation as the other private cars in this country?—A. Exactly.

Q. Paying exactly the same as the other cars do?—A. Exactly.

Q. (By Mr. CONGER.) I would like to inquire if the witness can tell whether the Union Tank Line Company pays commissions to the Standard Oil Company for freight carried?—A. They do not. They get nothing from the Standard Oil Company; the only thing that the tank-line company gets is the mileage they receive from the railroads when they run their cars over the line.

Q. I think you misunderstood my question. Does the tank line company pay a of its earnings to the Standard Oil Company as a commission for getting its business?—A. Not one dollar.

Q. Would you care to state the salaries paid to the officers of this tank-line company; are they large?—A. I should say they are small. I should prefer not to say what my salary is or what the others are, but I would say they are not exorbitant. am not afraid of its making too large a showing for the Union Tank Line Company; but I think they are small.

Q. The point is this: I think it has been testified to before this commission that in the opinion of several very prominent and highly respectable railroad men this rate of three-quarters of a cent a mile ought to be profitable for the owners of the cars, and the testimony that you have given here this morning seems to me remarkable; I have been trying to get at the disposition of the earnings of this company.—A. If a car was continued in constant use throughout the year on long trips, it might be; but I tell you honestly that my statement that 4½ per cent is the average earning on the investment of the Union Tank Line Company is the exact truth, without any manipulation of the books to make a salary or a big earning. We have been, for instance, in the last 2 years at an expense of \$125 on each car for these automatic brakes, air brakes, and the automatic couplers; and that \$125 on each car does not bring us back 1 cent.

Q. Oh, that is probably true; in addition you testified that in your opinion there are conditions surrounding the use of these tank cars that would make the business of owning and operating them less profitable than the owning and operating of cars in use the year around?—A. Yes.

Q. (By Mr. A. L. HARRIS.) What allowance is made by the Standard Oil Company to the Union Tank Line Company for hauling its oil?—A. Nothing at all. The Union Tank Line Company gets its pay and its only pay from the railroads over whose lines the car travels.

Q. That is all the pay it gets?—A. It pays none of its earnings to the Standard Oil Company, nor does the Standard Oil Company pay any of its earnings to the Union Tank Line.

Q. (By Representative LORIMER.) The majority of the stock, I understand, of the Union Tank Line Company is owned by the principal owners of the Standard Oil Company; is that correct?—A. I do not know in detail. I believe, and I have stated, that the owners of the Union Tank Line Company and the owners of the Standard Oil Company are the same.

Q. What this commission seems to be trying to get at is why a corporation of that sort should be organized and run without a profit. Now, it seems to me that for some reason of their own, the large owners of this company have organized the Union Tank Line Company for the purpose of running that company in the interest of the Standard Oil Company, and they get their profits by way of dividends on the Standard Oil Company's stock; is not really that the relation?—A. I have testified that I believe the owners of the two properties are the same, and that those gentlemen think that the ownership and the running of the tank cars is a necessary adjunct to their general business, and therefore they continue it.

Q. You probably are not in position to testify that they intend to earn that profit without making the profit directly out of that company, but to get their profits out of the other company?—A. I can not say what their intentions are; I only know the result of the running of the Union Tank Line Company.

Q. Of course, there does not seem to be anything in connection with the Union Tank Line that is worth hedging about?—A. There is not. The inference that Mr. Rice tried to draw and the statement that he made to the commission was that this mileage returned to us the cost of the car every 3 years. I say to you that for 8

years that company has shown an average earning of 4½ per cent. Mr. Rice evidently intended to convey the impression that that mileage was unfair and unreasonable and intended as a freight discrimination on the Standard Oil Company's shipments; and I give you the results of the operations of that company to deny Mr. Rice's allegation.

Q. Do you know whether or not any of this stock is held by persons other than those who own Standard Oil Company stock?—A. Yes, I do.

Q. You know that it is held by others?—A. Yes.

Whereupon, at 1 p. m., the commission took a recess until 2 o'clock p. m.

The commission met at 2.10 p. m., pursuant to recess, Commissioner Clarke presiding.

(By Mr. CLARKE.) The commission will be in order and the examination of Mr. Page will be resumed.

Mr. Howard Page again on the stand and examination resumed.

HOW MR. RICE GOT THE "TURN ANOTHER SCREW" LETTER.

Q. (By Mr. SMYTH.) Mr. Chairman, I should like to ask Mr. Page a question. He has testified in reference to the Chess-Carley "turn another screw" letter to Mr. Culp, who was at that time general manager of the Louisville and Nashville Railroad and is now traffic manager of the Southern. I want to ask Mr. Page if he knows how Mr. Rice came into the possession of that original letter, written by Mr. Carley to Mr. Culp?—A. My information and belief is that Mr. Rice, in making some shipments after the time of the shipment which was referred to in that letter, was charged the regular tariff rate, which all other shippers were paying and which was more than he paid on that shipment. He made a claim on the later shipment, claiming the same rate as had been paid on the shipment which Chess, Carley & Co. complained of. The claim was sent, as I understand, in the regular way to the railroads, and, as is customary with railroads, the billing of the car and the correspondence in connection with the shipment were all gathered together in one folder, and attached to this folder was this letter written by Mr. Hathaway. That letter was attached to the papers and the claim when it was returned to Mr. Rice with the claim refused. He got that letter in that way. It showed that the railroad people did not construe it in any such way as Mr. Rice has tried to put it, because if they had they certainly would not have sent it broadcast and attached it to the papers and sent them back to Mr. Rice.

Q. Mr. Culp, I believe, testified that he never had seen the letter personally?—A. He testified in the proceedings before the Bacon committee in 1888 that he had never seen the letter, and if he had he would have understood it as has been explained, that it was simply calling attention to an error, and that Mr. Hathaway used the same expression that was current in the Louisville and Nashville office when an error occurred, that the machinery was loose and ought to be tightened up.

Q. There was apparently no intent on the part of the Louisville and Nashville officials to suppress the letter or destroy it; it was handled in the ordinary course with the papers in that case?—A. Exactly. And I might further add that Chess, Carley & Co.'s offices in Louisville at the time that letter was written were at the corner of Fourth and Main streets, and the office of Mr. Culp was on the corner of Second and Main streets, two squares away; and I think if it had ever been intended that an order was to be given to the Louisville and Nashville road to advance rates in any such way as Mr. Rice has tried to show, a letter would not have been written that had to go only two squares. It would have been attempted in some other way.

(By Mr. CLARKE.) Mr. Page, you may resume where you left off.

'GHOST TRAINS.'

Mr. Rice refers to ghost trains as a means of discrimination in favor of the Standard Oil Company.¹ I wish to say that the Standard Oil Company has never shipped a pound of freight on such a train, even if there has ever been such a train in existence, which we doubt.

NEGOTIATIONS FOR SALE OF MR. RICE'S PROPERTY.

Mr. Rice states that Mr. F. B. Squire, of the Standard Oil Company of Ohio, made him an offer of \$250,000 for his oil properties.² I beg to offer an affidavit from Mr. Squire denying this, and affirming that Mr. Rice offered him his oil properties at one time for \$24,000, and several years afterwards Mr. Rice again offered to sell his oil

¹ See pp. 740, 741.

² See p. 750, and Mr. Archbold, p. 558.

properties and stop prosecutions, etc., for the sum of \$250,000; and offered to give Mr. Squire \$50,000 of this sum if he could bring about this sale. In other words, Mr. Rice offered to pay a part of the money that he was to receive from the Standard Oil Company to an employee of the Standard Oil Company if that employee could bring about the sale of the property to the Standard Oil Company.

(By Mr. FARQUHAR.) Had you not better read that affidavit?

Witness read the affidavit as follows:¹

"STATE OF OHIO, *County of Cuyahoga*, ss:

"On this 1st day of December, 1899, personally appeared before me, F. B. Squire, who, being duly sworn, deposeth and saith that in the fall of 1876 I lived on Forty-second street, New York City, and while there I was introduced to Mrs. George Rice, who stated that her husband wanted to sell his oil property, consisting of production of crude oil, storage tanks for same, pipe lines, and refinery. The result of the conversation was a 30 days' option, which she secured for me to present to the Standard Oil people for \$24,000 for the entire property. I presented the proposal to the Standard people, but it was promptly declined, they claiming it was only worth half the money. I so advised Mrs. Rice. She stated that the Standard Oil Company would be sorry.

"I met Mr. Rice several times after this, and he kept urging the matter. In the summer of 1881 or 1882 he invited me to meet him and his wife at Asbury Park. I did so. They there made me an offer to sell the property, stop all prosecutions, and be friendly with the Standard Oil Company for \$250,000—\$50,000 to go to me for my good office if I could bring it about. I reported the result to Mr. Archbold, including the offer to me, and it was immediately declined. I advised Mr. Rice, who called at my office the next day, and he stated that the company would regret this act. Immediately after this Mr. Rice published the pamphlet called 'Black Death.'

"F. B. SQUIRE.

"Sworn and subscribed before me the date aforesaid.

"[SEAL.]

F. W. LOTHMAN,
"Notary Public."

Q. (By Mr. FARQUHAR.) Is there any way of impeaching the credibility of the man who makes this affidavit?—(No answer.)

Q. (By Mr. SMYTH.) Is he still in the employ of the Standard Oil Company?—A. Yes.

Q. What position does he occupy?—A. He is one of the officers of the Standard Oil Company of Ohio; whether vice-president or treasurer, I do not recall; but he is an officer of the Standard Oil Company of Ohio.

Q. Occupying a position of trust and responsibility?—A. Yes.

Q. He lives in Ohio?—A. Yes.

Q. (By Mr. A. L. HARRIS.) Of the former Standard Oil Company of Ohio; have you a Standard Oil Company in Ohio now?—A. Yes.

Q. Of Ohio?—A. Of Ohio.

Q. Organized under the laws of Ohio?—A. Yes.

Q. Doing business in Ohio?—A. Yes.

Q. As such?—A. Yes; he is the man Mr. Rice refers to as having made such an offer.

Q. (By Mr. CLARKE.) Did Mr. Rice increase the capacity of his refinery and the value of his property between the times of those two propositions?—A. I do not know.

NO FREIGHT CONCESSIONS IN VIOLATION OF THE INTERSTATE-COMMERCE LAW.

In the foregoing I have tried to pick out and deny positively the different allegations made by Mr. Rice in regard to freight discriminations by various devices, which railroads, both prior to and since the passage of the interstate-commerce law, have given to the Standard Oil Company against himself and other oil shippers. I would say that since July, 1889, as vice-president of the Union Tank Line Company, I know the facts regarding the freight business of the Standard Oil Company, rates, shipments, etc., with the various railroads of the United States. I wish to deny positively that during that time we have received any rebates or concessions from tariff rates contrary to either the letter or spirit of the interstate-commerce law. While from Mr. Rice's testimony one might assume that the oil tonnage of the United States was about the only tonnage transported, yet the total consumption of oil in tons in the United States is less than one-half of 1 per cent of the total tonnage moved

¹Original affidavit filed with the commission. See Mr. Rice's affidavit in rebuttal, p. 798.

by the railroads of the United States, and it is absurd to either argue or conclude that so small a percentage of the traffic moved by the railroads of the United States should be of such controlling influence over railroads and their officials as is so often alleged by Mr. Rice.

I wish to present a letter to Mr. Moseley, secretary of the Interstate Commerce Commission, dated December 1, and his reply of December 6, 1899, in which he refers to the statistics compiled by the Interstate Commerce Commission for the year ending June 30, 1898, showing that the tons carried by the railroads of the United States were 879,006,307 tons. The total consumption of petroleum produced in the calendar year 1898, from the very best sources that can be obtained, was a little less than 24,000,000 barrels; 24,000,000 barrels is equivalent to about 4,000,000 tons, and 4,000,000 tons is less than one-half of 1 per cent of the total tonnage carried by the railroads.

"DECEMBER 1, 1899.

"E. A. MOSELEY, Esq.,

"Secretary, Interstate Commerce Commission, Washington, D. C.

"DEAR SIR: In the advance copy of your twelfth annual report, dated January 11, 1899, you give the earnings of the railways of the United States. On page 79 of this report you say that you have returns of 720 lines, representing 97 per cent of the operated mileage in the United States. You then show that of the earnings there was \$874,865,487 received from freight service.

"Have you any tonnage figures showing the number of tons carried by the railroads which earned this \$874,000,000? If so, I would be very much obliged if you would advise me of the number of tons (2,000 pounds to the ton) at your early convenience.

"Yours, truly,

"HOWARD PAGE."

"INTERSTATE COMMERCE COMMISSION,

"OFFICE OF THE SECRETARY,

"Washington, December 6, 1899.

"MR. HOWARD PAGE,

"26 Broadway, New York, N. Y.

"DEAR SIR: I beg to acknowledge the receipt of your letter of the 1st instant, requesting certain tonnage information bearing upon the freight earnings of railways as shown in the advance copy of the Twelfth Annual Report of the Interstate Commerce Commission. In reply, I would say that we have not the exact tonnage figures referred to, as such data are not compiled for the preliminary report.

"On page 67 of the advance copy of the 'Statistics of Railways in the United States' for the year ending June 30, 1898, tons carried as reported are shown as 879,006,307; tons carried 1 mile, 114,077,576,305.

"A copy of the volume referred to is sent you under a separate cover, page 67 of which is attached hereto.

Very respectfully,

EDW. A. MOSELEY, Secretary.

Mr. Archbold filed here with you letters from about 20 of the principal railroads of the United States, in which, without exception, they stated that since the passage of the interstate commerce law, no concessions or allowances from tariff rates had been made to the Standard Oil Company in any manner or form. It is impossible to believe that men of the character of President Callaway, of the New York Central; President Newman, of the Lake Shore; President Mellen, of the Northern Pacific; Mr. A. J. Earling, vice-president then and now president of the St. Paul Road; President Burt, of the Union Pacific; and the chief traffic officials of lines like the Burlington, Pennsylvania, Baltimore and Ohio, Cleveland, Cincinnati, Chicago and St. Louis, Atchison, Topeka and Santa Fe, Southern Pacific, Louisville and Nashville, Boston and Maine, and other railroads whose letters were presented, would all unanimously state that we had obeyed the law, both in letter and spirit, if the facts were to the contrary.¹

We might be asked why (in view of the known fact that some of the railroads, since the passage of the interstate commerce law, have paid rebates to large shippers) we have not received same. We have not done so because, in the first place, it was against the law,² and secondly, because we knew from past experience that if we received cut railroad rates other oil shippers would receive the same, and we felt, as we now feel, that from a business standpoint alone it has been, and is now, to our interest to have tariff rates maintained.

¹ See Mr. Emery, pp. 634, 642, 643.

² See the decision of Judge Baxter, p. 707, bottom; p. 708, top.

The Standard Oil Company does not need any freight advantages to maintain its business, and all it wants is to be required to pay the same rates as other oil shippers from and to the same points.

THE STANDARD'S ADVANTAGE IN HAVING MANY DISTRIBUTING POINTS—THE CONSUMER GETS THE BENEFIT.

In reference to Interstate Commerce Commissioner Prouty's remarks in regard to the Standard Oil Company, when Mr. Prouty appeared before the Commission early in October, which testimony I heard: Commissioner Prouty's arguments seem to be to the effect that the Standard Oil Company had advantages, by reason of having its refineries and distributing plants at Chicago and the Atlantic seaboard, as well as at Lima, Buffalo, and other middle-State points, as compared with a refiner who had his works only at Cleveland or in the Pennsylvania oil regions. We admit that by having refineries and distributing plants at Chicago for the West; at Buffalo, Lima, and Parkersburg for the middle States and the South, and at the Atlantic seaboard for the East and New England, we have decided advantages over a refiner who has his works only at one point, and who tries to compete with us in selling oil throughout the country. We claim, however, that such an advantage is a fair one, and can not be overcome by any fair or reasonable adjustment of freight rates. We further claim that by having our refineries and distributing plants located at various points throughout the country, we can and do distribute more cheaply and sell the oil at a less cost to the consumer, and it is more to the interests of the country at large for the consumer of oil to get it at a low cost than it is to try to fix freight rates on any basis that will permit one manufacturer at one point to distribute his products throughout the United States.

That, gentlemen, closes all that I have prepared. I am perfectly open and glad to answer any questions you gentlemen have.

ADVANCE IN CANADIAN FREIGHT RATES.

Q. (By Mr. JENKS.) We had some testimony here a little time ago with reference to the freight rates on American oils from the United States into Canada, in which it was said that very lately there had been a very decided increase in the freights on American oil going into Canada. This was thought to be much to the disadvantage of those who had to ship oil from the United States into Canada;¹ can you explain to us that matter of freight rates?—A. I can say that I know there was an advance in freight rates from Detroit and Toledo and Buffalo and other frontier points on oil from the United States into Canada. I can further add that we pay those advanced rates, and that we ship 80 per cent of the oil that is exported from the United States into Canada. We therefore pay four times as much as all the balance of the oil shippers together.

Q. What proportion of your sales in Canada are shipped from the United States, and what proportion are sales from the Canadian product? I understand that the Standard Oil Company owns practically all of the Canadian refineries.²—A. I do not so understand it, and I do not know the relative shipments from the United States compared with the consumption of oil manufactured in Canada. I do know, though, that shipments from the United States into Canada have increased in the last year; in fact, since that advance in rates as compared to the old situation.³

Q. Do you know what proportion of the refining industry of Canada is owned by the Standard Oil Company?—A. No; I do not; I do not know that the Standard Oil Company owns any interests in Canada.

PENDING SUITS FOR ALLEGED FREIGHT DISCRIMINATION—CHARGES ON OIL IN BARRELS.

Q. We have had some evidence with reference to suits that were brought against the railroads by independent refiners in western Pennsylvania, in which they claimed that the railroads had been dealing unfairly with them in the charging of freight rates—suits that are still pending;⁴ can you tell us anything with reference to those suits?—A. I do know that several years ago—I do not recall how many—the Interstate Commerce Commission decided that the weight of the barrel, when loaded with oil, should be carried by the railroad free. In other words, they should not charge for

¹ See Mr. Westgate, pp. 378, 379; Mr. Gall, pp. 675-677, 680, 682-685.

² See Mr. Gall, p. 678; Mr. Archbold, p. 573.

³ See Mr. Gall, pp. 677, 680.

⁴ See Mr. Lee, p. 287; Mr. Westgate, pp. 379, 380; Mr. Archbold, p. 516.

the barrel when it contained oil. An order was entered to that effect, which the railroads declined to obey. The Interstate Commerce Commission have since that time gotten some evidence from the plaintiffs in that case as to the volume of their shipments in barrels within a certain period, and fixed the amount of damages which they claim the railroads should pay back to those shippers of oil in barrels. The railroads also declined to pay that, and that case is now, I believe, before the United States Court in Pittsburgh and is still pending. I would say in connection with it that at the time when the shipments were made in barrels by these plaintiffs and the rate of freight was charged on the weight of the wood, the Standard Oil Company was making shipments of oil in barrels and paying for the weight of the wood. In other words, there was no difference in the rule or the rate that was applied on the shipments of the plaintiffs and upon the shipments of the Standard Oil Company.

Q. Was this custom of the roads one that was brought about in any way, to your knowledge, by the action of the Standard Oil Company officials?—A. No.

Q. What was it?—A. In the first decision of the Interstate Commerce Commission in regard to the relative rates that should be charged on oil in barrels and oil in tank cars, the commission decided, by Judge Cooley, that the rate per 100 pounds in carloads, on oil in tank cars or on oil in barrels, including the weight of the barrels, should be alike. The railroads adopted that order. Then on the second case, after Judge Cooley had left the bench, some other commissioner decided that the barrel should be carried free; and that the railroads declined to follow.

Q. The commission practically reversed its own decision?—A. They tried to reverse their own decision before the United States circuit court at Pittsburgh.

Q. I say, practically reversed its former decisions?—A. Yes.

Q. But it was under the first decision that the charges were made?—A. Under the first decision that the charges were made.

THE MOST OF THE STANDARD'S OIL IS FINALLY DISTRIBUTED IN BARRELS.

Q. Do you recall what proportion of the shipments of the Standard Oil Company at that time, before the second decision was rendered, was in tank cars, and what in barrels?—A. Your question involves the whole country; and I should say that the shipments, as a whole, of the Standard Oil Company in barrels exceed the shipments of the Standard Oil Company in bulk in tank cars; you must bear in mind that when the Standard Oil Company ships its oil in tank cars to a distributing station, it is barreled there to a very large extent, and it goes out in barrels, and it is a part of the barrel sales of oil. I think I am correct in that statement, and it is the best that I can give; that is all.

Q. That is so at the present time?—A. It is true still.

Q. (By Mr. CLARKE.) Therefore, very much of the oil which is shipped is shipped part way in tanks and the rest of the way in barrels?—A. It is; when it comes to local country points on the line of a railroad. The rule that the commission made there, if applied to oil, would naturally apply to every other package that might be put around any other commodity that was susceptible of any other mode of shipment.

Q. (By Mr. SMYTH.) Lubricating oil, I suppose, is shipped in barrels, is it not?—A. It is shipped in tank cars to some extent—yes.

SO FAR AS THE WITNESS'S EXPERIENCE GOES, THE STANDARD NEVER DICTATED FREIGHT RATES TO BE CHARGED TO OTHER SHIPPERS.

Q. (By Mr. PHILLIPS.) You admit, Mr. Page, that the Standard Oil Company did receive large rebates before the passage of the interstate commerce act?—A. I admit that.

Q. From your knowledge and belief and information?—A. My knowledge and belief and actual experience, Mr. Phillips, was that prior to the interstate commerce law we got as low rates as we could.

Q. That amounted to very considerable worth to the Standard Oil Company during that period, no doubt?—A. It meant that we got lower than tariff rates, the same as all other shippers; not only shippers of oil, but all other people. We could get them and did get them. I can add this, that as far as my own experience goes, prior to the interstate commerce law, when we secured lower than tariff rates, it never was in any instance a part of an agreement what the railroads should charge. Any other oil shipper could get as low a rate as we could, or lower, if the railroad saw fit to give it. We attended simply to our own business.

Q. (By Mr. A. L. HARRIS.) That was the universal rule of the Standard Oil Company?—A. Which?

Q. Not to interfere with the rates of anyone else?—A. I can only speak in that regard, so far as my own knowledge goes; and so far as my own knowledge goes it is true.

Q. You do not know anything about the rule which seemed to have prevailed in what is known as the Marietta and Cleveland Railroad, do you?—A. I have no knowledge of that, sir. I believe that case has been fully explained,¹ and prior to the interstate-commerce law my residence and knowledge was confined to the business of the Standard Oil Company in Louisville—in Kentucky.

Q. The only reason that I asked that question was that you made your answer broad.—A. I answered from my own knowledge.

Q. (By Mr. SMYTH.) Do you know of any other oil company besides the Standard Oil Company that received rebates prior to the interstate law?—A. I do, sir.

Q. You think, then, that it was the general custom, as far as your knowledge goes?—A. I know it; and in some cases we found where they had a lower rate than we had.

WHERE OTHER SHIPPERS GOT LOWER RATES THAN THE STANDARD.

Q. You believe, then, that it was the general custom prior to the passage of the interstate-commerce law?—A. That every shipper and others got the lowest rates they could from the railroads.

Q. (By Mr. PHILLIPS.) Can you name any of those companies who received it? I am not doubting the truth of your statement.—A. I know it was shown in some other cases that Scofield, Shurmer & Teagle, of Cleveland, had some lower rates than the tariff. It has been ten years, Mr. Phillips, and I do not know that I can recall the names, but I recall very distinctly that in one instance it was shown that some large shippers of oil from Memphis to Nashville, out on the roads leading from there, had special rates as against—had lower rates than we were paying from the same points to the same points. We found it out because people were selling oil cheaper than we were at the same points.

DOES NOT BELIEVE THE STANDARD EVER RECEIVED A SHARE OF THE RATE PAID BY OTHERS

Q. Do you know of any instance where there was a higher rate charged to the independent refiners than to the Standard, and that was divided between the Standard and the railroads? Is there any such testimony?—A. I do not know of any instance. I will say no; I do not know of any case. In fact, I do not believe there ever was a case where the Standard Oil received from the railroad a share of the rate that was paid by independent shippers. I know it was not so in the territory which I had anything to do with, and it has never been so since I have been in New York.

DOES NOT KNOW.

Q. You are connected with the transportation and know something about the pipeline business also of the Standard Oil Company?—A. No, sir; I know very little about pipe-line matters.

Q. Do you know whether the Standard Oil Company ever placed a premium on oil in special fields where there were independent pipe lines, and by this means caused them to suspend business, or bought them out?—A. I know nothing whatever as to any prices paid for crude oil.

Q. Or about the pipe-line business in that regard?—A. No, sir; I do not.

Q. Do you or do you not know whether the Standard Oil Company opposed, after having their pipe line to the seaboard, the passage of the free-pipe-line law in Pennsylvania or in New Jersey?—A. I know nothing whatever about it, sir.

Q. Do you know whether the Standard Oil Company opposed, directly or indirectly, the United States Pipe Line in securing the right of way through the State of New Jersey?—A. I know nothing whatever about it.

Q. You do not know about that?—A. No, sir; I am not connected with the pipeline department in any way.

Q. When independent companies shipped abroad did the Standard Oil Company ever obstruct ocean transportation in any way or obstruct them in getting ocean and steamship service?—A. Not to my knowledge, in any way.

Q. Have you knowledge or information as to the installation plants or receiving tanks in Germany or other countries?—A. I have not, sir.

Q. Have you any information in regard to the agents who transferred and sold the Standard oil in foreign countries—Standard agencies abroad?—A. I know there are some Standard agencies abroad; yes.

¹ See Mr. Archbold, pp. 556-559; Mr. Rice, pp. 706-709

Q. Have you any information in regard to this: to a man in Germany, or who was in Germany, recently deceased, by the name of Poth, who handled oil of the independent companies in Germany?—**A.** Never heard the name before, sir.

Q. You have no knowledge, then, of their purchasing all these installation plants abroad, almost wholly in Germany?—**A.** I have no knowledge.

EXPORTS—PRICES HIGHER ABROAD.

Q. (By Mr. KENNEDY.) Have you knowledge of the relative value and prices of oil exported?—**A.** I only know in a general way that the exports of petroleum products produced by the Standard Oil Company are in excess of their wells within the United States. In other words, a large share of the Standard Oil Company's business is outside of the United States.

In regard to the relative prices, I would say that the consumer of oil in the United States gets his oil for very much less than the consumer of that same oil abroad, and that is due principally to the fact that we have facilities within the United States for cheaply distributing the oil to the consumer that the company has not got on the other side. Mr. Rice refers to the price of oil at New York for export as compared with the price of oil in Montana and Idaho,¹ and tries to convey the idea that we sell our oil abroad for less money than to the consumer within the United States. I submit that the price of export oil at New York is the price for cargoes at the mouth of the refinery, whereas the price of oil in Montana and Idaho must necessarily include expenses of distribution. The freight goes from Chicago, for instance, out to those Western States, and comparing the price to the consumer of a barrel of oil out in the mountain districts of Idaho and Montana with the cargo price of export oil at New York is manifestly unfair.

Q. Have you any knowledge of the Standard Oil Company selling oil in the German market below the point of profit for the purpose of driving other dealers out of that market and of their being curbed in that practice by the German Government?—**A.** I have no such knowledge, sir.

RUSSIAN OIL.

I have heard, and I believe, that the German Government issued an order within the last year or so requiring the railroads of Germany, which are under governmental control, to burn exclusively Russian oil and not American.

Q. (By Mr. SMYTH.) Is it not a fact that the great competition you have in England is with the Russian oil, which is backed by the Rothschilds?—**A.** The Russian field is a great competitor of the American petroleum field. The production of oil in Russia is, I believe, to-day equal to that of the United States, and at times has been in excess of it. In fact, I have known of reports of one well in Russia that has produced as much as 100,000 barrels per day, which is as much as the entire Pennsylvania oil field in certain sections, and the price, I do know, of Russian crude oil is very much lower than the price of American crude oil.

Q. (By Mr. A. L. HARRIS.) What about its quality?—**A.** Its quality is not so good as the Pennsylvania oil. It is more like the Ohio crude.

Q. (By Mr. PHILLIPS.) Do you know whether the Russian oil is extensively sold now in Germany?—**A.** It is sold in Germany, and it is sold in Italy, and it is sold in England.

Q. Is it sold to any great extent in Germany?—**A.** To as great an extent as they can sell it, sir.

OCEAN TRANSPORTATION—FOREIGN MARKETS AND AGENCIES.

Q. (By Mr. FARQUHAR.) Does the Standard Oil Company own its own ocean lines for transportation of oil to Europe?—**A.** I am not very familiar with that part of it, Mr. Farquhar; but I know in a general way that they do own or have an interest in certain bulk tank ships and also some schooners. The tank ships are used for the transportation of the bulk oil from the United States to certain points in Europe where there are tank facilities for receiving it, and the ships are used for the shipment of case oil to the far East.

Q. Can you tell the commission how many countries in the world the Standard Oil Company sells its oil to?—**A.** I think it would be easier to name those that we do not, or that we do not try to. I think we sell, sir, all over the world; as far as we can.

Q. Will you kindly state the means of transportation for the Asiatic trade? Is that by steamer or sail?—A. By sail, usually, and against very severe competition of the Russians. They have tank steamers by which they transport tank oil from Batoum to India, and even to China and Japan.

Q. The statement has been made that the Standard has sold oil in foreign markets—in Asiatic countries—where they have had a return of only one-third of the price of the oil in the market itself; do you know anything about that?—A. I do not know as to that, sir.

Q. You know nothing about the price of oil and competition of other oils used in Asiatic countries?—A. I only know we have shipped oil there, and still do, as against Russian competition. As to what the prices are there, I do not know; but I do know, from information and belief, as I have before stated, that the consumer of oil abroad pays very much more for his oil than the consumer within the United States.

Q. (By Mr. SMYTH.) Testimony has been given here that the Standard Oil Company has over 360 agencies throughout the world, every one of which is in charge of an American citizen.¹ Do you think that is correct?—A. I do not know. I do know that we have many agencies, but how many I do not know. I do know in a general way that we send Americans to take charge of those departments, but how many there are I can not say.

Q. (By Mr. PHILLIPS.) Do they exert a very considerable influence on our consuls abroad?—A. I have no knowledge of it, sir.

THE STANDARD WOULD MAKE PRICES TO KEEP THE TRADE.

Q. You spoke some time ago of the advantage the Standard Oil Company has over others by having refineries at many different points in the United States in the lessening of freights, etc. There are quite a number of the independents that have such advantage, too, in localities; that have advantages, perhaps, over the Standard Oil Company in certain localities. Is it or is it not, has it or has it not been, the practice of the Standard Oil Company where independent oil was being distributed to ship their oil in and sell it lower than the usual price or make it unprofitable for others? Do you know of any such instance as that?—A. I can only say in a general way, Mr. Phillips, that we doubtless ship the oil from the nearest point and try to sell it.

Q. Do you know or do you not know that when the independent refineries recently began to distribute oil in New York the Standard dropped prices very greatly so as to make it unprofitable?—A. I do not know that, sir.

Q. Or Philadelphia?—A. I do not know it.

Q. (By Mr. JENKS.) You said a moment ago that of course———A. (Interrupting.) It goes without saying that we are in the business and we try to keep our trade, and we make prices that will also keep it.

Q. So, speaking generally, you would presume it was true that competitive prices are lower than where you have no competition?—A. To a reasonable degree, yes; but I will say that the object and the success of the Standard Oil Company has been due to the fact that their effort is continually to reduce the cost of manufacturing and distributing of oil; and we sell it as cheaply as we can, based on that cost, to the consumer, and thereby increase the volume of our business by cheapening the cost to the consumer.

STATEMENTS FURNISHED TO THE COMMISSION.

Q. (By Mr. PHILLIPS.) I am informed that the independent companies have recently made a statement of their business affairs to this commission through Professor Jenks. Would you be willing to advise the Standard Oil Company to make such a statement of their business?—A. I do not know what kind of a statement the independent people have made, and I would not take it upon myself to do so. I think it would be rather impertinent for me, as a subordinate, to advise the officials in charge of the Standard Oil Company matters what kind of a report they should make.

THE TEXAS OIL FIELD.

Q. (By Mr. KENNEDY.) I should like to ask you something about the new Texas oil field. Does the Standard Oil Company own that field, and where is the product refined, and to what part of the country is it shipped?—A. I do not know that the Standard Oil Company owns that field. I know there is a refinery at Corsicana, Tex.

Q. A Standard refinery?—A. It is not known in any way as the Standard Oil Company, and I do not know that it is.

¹ See Mr. Archbold, p. 538.

Q. (By Mr. A. L. HARRIS.) I understood the witness to say that he knew of no instance in which the Standard Oil Company had interfered in any way or concerned themselves in any way with what other companies might get in the way of rebates, etc. Is that true?—A. I said that no arrangement prior to the interstate commerce law, through which we got lower than tariff rates, was predicated in any way upon what that same railroad should give in the way of rates or rebates to other oil shippers.

Q. Do you know anything about the case of Handy and another, trustee, against the Cleveland and Marietta Railroad Company?—A. I do not.

Q. Would you care to have the syllabus of that case read so as to get it in evidence?—A. As I have no knowledge of it, Mr. Harris, I do not know what my testimony would be worth on the subject.

Q. It would be merely to show that your statement in regard to the action of the Standard Oil Company against other companies was probably not entirely correct?—A. I, of course, can speak and only can speak of my own knowledge, and my knowledge in the time prior to the passage of the interstate commerce law was confined to the Louisville business and south.

Q. You desire to have your testimony limited to your own knowledge, and not to be broader than your own knowledge?—A. I supposed that went without saying.

Q. I would like, for the benefit of the commission, to read the syllabus:

“[Circuit Court, S. D. Ohio, E. D., 1887.]

“1. RAILROAD COMPANIES—RECEIVERS—DISCRIMINATIONS.

“The receiver of an insolvent railroad company can not unjustly discriminate in the charges imposed upon rival shippers over his road in order to increase his revenues, and, if guilty of discrimination, may be removed by the court therefor.

“2. NAME—REMOVAL.

“The Standard Oil Company having threatened to store its oil until it could lay a line of pipes to Marietta, unless the receiver of a railroad company should give it a special rate, the receiver agreed to carry its oil at 10 cents per barrel, to charge rival shippers 35 cents per barrel, and to pay 25 cents per barrel of the sum collected from rival shippers to the Standard Oil Company. *Held* to be such gross and wanton discrimination on the part of the receiver as to require his removal.”¹

This is on page 575, Trust Proceedings of 1888.

(Testimony closed.)

SUPPLEMENTARY EVIDENCE.

AFFIDAVIT OF GEORGE RICE IN REBUTTAL OF HOWARD PAGE.

City, County, and State of New York, ss:

On this 2d day of January, 1900, personally appeared before me George Rice, of Marietta, Ohio, who, being duly sworn, doth depose and say:

That he has read the affidavit of one F. B. Squire, the secretary of the Standard Oil Company of Ohio, which was presented to your commission by Howard Page December 13, 1899. In answer thereto I most positively and unequivocally deny that in 1876, or at any other time, I offered or included my producing properties and pipe lines in the proposed sale of my oil properties for the sum of \$24,000.

The real truth of the matter is that in the year 1876 Mrs. Rice and myself were boarding in New York at the same place with said Squire, and Mrs. Rice was acquainted with a Mrs. Waring, who was also an acquaintance of said Squire. That in some conversation with Mrs. Waring the matter of the oil business came up between them, and subsequently the said Squire spoke to deponent about his oil interests, and said he possibly could sell some of it to the Standard Oil Company, if he was so disposed to part with it. That the result of several conversations was that deponent informed Squire that if he or the Standard Oil Company desired to purchase my refining plant (which was only a small part of my entire oil properties

¹ See Mr. Rice, pp. 706-708; Mr. Archbold, pp. 556-559.

and interests in the oil or petroleum business) he or it could have the same for \$20,000, as my wife was very desirous that I should get out of the refining business, and it was finally offered to Squire for that sum, which was not accepted.

In the summer of 1882 I was stopping with my wife at Asbury Park, where Squire, on his own solicitation, came to see me, and he then and there offered me \$250,000 for my entire oil properties, including production, pipe lines, storage tanks, and refinery plant. I never offered the said Squire the sum of \$50,000 commission or any other sum to make said sale; nor did he suggest it or demand it, or any other sum whatever, nor did I say to him that the company would regret their act if they did not purchase from me, nor was I ever aware that said Squire had an office, except by hearsay, at Cleveland, Ohio. As this latter alleged interview occurred in the summer of 1882, as I testified before your commission, and as my pamphlet, *Black Death*, was published on December 15, 1881, it is superfluous to swear to it, that, because said proposition was not accepted by said Standard Oil Company, I immediately published said pamphlet as retaliatory against said company.

I further solemnly deny, as stated by said Squire, that I several times thereafter urged the matter further with him in any manner whatever.

I also further most solemnly and emphatically deny that either Mrs. Rice or myself ever said to said Squire, or to any other person or persons whomsoever, that the Standard Oil Company would be sorry, or any similar words or of like effect.

On November 13, 1889, before Justice Morgan J. O'Brien, at a special term of the supreme court of New York City, I testified as follows:

"I made that offer of \$250,000 to Mr. Squire, who represented the Standard Oil Company—the Standard Oil Trust—in some capacity; his name is F. B. Squire, I think; I don't know when I made that offer to him; some four or five years ago; I can't recollect just the time; I was stopping at Asbury Park with my wife, and he came there as their representative, I suppose, and made that offer to me. I don't know how long my price remained at \$250,000."

I had previously made this same offer to Mr. Squire, and he came down there to buy said properties at a less price, and finally offered me the sum of \$250,000 therefor, which I rejected.

When I testified to above, John D. Archbold, a trustee of the Standard Oil Trust; was present and heard said testimony, and when he followed me on the stand he did not allude to or in any manner contradict my said testimony; moreover, at this time Mr. Archbold testified as follows:

"I know Mr. George Rice, the plaintiff. I remember an interview with him in the month of October, 1886, in which he proposed to dispose of this property and all his future time of service or absence from service, and that conversation is fresh in my recollection.

"After the ordinary commonplaces we came to a discussion of the property question as owned by him, and he expressed his willingness to dispose of the property and business—the refinery property, I should say.

"There was no reference made at that interview, nor at any time in my conversation with Mr. Rice, to the producing property, and I never heard of it until now. He gave me a rough description of the refinery which I might know of, and told me of the volume of business which he had done the preceding year and which he was capable of doing, and came to the point of fixing his price."

This deponent further says that he incorporates herein the above portion of the aforesaid testimony of Archbold's as a corroboration of this affidavit, and a contradiction of the affidavit of said Squire, that my producing properties and pipe lines were all to be included in the original offer for the insignificant sum of \$24,000, while Archbold in 1889 swears, "I never heard of it."

GEO. RICE.

Sworn to before me this 2d day of January, 1900.

J. WILLIAM HILL,
Commissioner of Deeds, New York City.

JOHN D. ROCKEFELLER.

Answers to interrogatories.

1. Q. What was the first combination in which you were interested of different establishments in the oil industry?—A. The first combination of different establishments in the oil industry in which I was interested was the union of William Rockefeller & Co., Rockefeller & Andrews, Rockefeller & Co., S. V. Harkness, and H. M. Flagler, about the year 1867.

2. Q. What were the causes leading to its formation?—A. The cause leading to its formation was the desire to unite our skill and capital in order to carry on a business of some magnitude and importance in place of the small business that each separately had theretofore carried on. As time elapsed and the possibilities of the business became apparent, we found further capital to be necessary, obtained the required persons and capital, and organized the Standard Oil Company with a capital of \$1,000,000. Later we found more capital could be utilized and found persons with capital to interest themselves with us, and increased our capital to \$3,500,000. As the business grew, and markets were obtained at home and abroad, more persons and capital were added to the business, and new corporate agencies were obtained or organized, the object being always the same, to extend our business by furnishing the best and cheapest products.

3. Q. Did the Standard Oil Company or other affiliated interests at any time before 1887 receive from the railroads rebates on freight shipped, or other special advantages?—A. The Standard Oil Company of Ohio, of which I was president, did receive rebates from the railroads prior to 1880, but received no special advantages for which it did not give full compensation. The reason for rebates was that such was the railroads' method of business. A public rate was made and collected by the railway companies, but so far as my knowledge extends, was never really retained in full, a portion of it was repaid to the shippers as a rebate. By this method the real rate of freight which any shipper paid was not known by his competitors nor by other railway companies, the amount being in all cases a matter of bargain with the carrying company. Each shipper made the best bargain he could, but whether he was doing better than his competitor was only a matter of conjecture. Much depended upon whether the shipper had the advantage of competition of carriers. The Standard Oil Company of Ohio, being situated at Cleveland, had the advantage of different carrying lines, as well as of water transportation in the summer, and taking advantage of those facilities made the best bargains possible for its freights. All other companies did the same, their success depending largely upon whether they had the choice of more than one route. The Standard sought also to offer advantages to the railways for the purpose of lessening rates of freight. It offered freights in large quantity, carloads and train loads. It furnished loading facilities and discharging facilities. It exempted railways from liability for fire. For these services it obtained contracts for special allowances on freights. These never exceeded, to the best of my present recollections, 10 per cent. But in almost every instance it was discovered subsequently that our competitors had been obtaining as good, and, in some instances, better rates of freight than ourselves.

4. Q. If so, in what years were these advantages largest, and from what roads were they received?—A. To the best of my recollection the greatest rebates were paid from 1877 to 1879. During that time we had an agreement for a special 10 per cent commission. I think that agreement was made with the Pennsylvania, the Erie, and the New York Central roads. Large rebates were also paid during the summer of 1878, amounting I believe to 64 cents on refined oil to equalize eastern shipments by rail with shipments by Erie Canal.¹ But these rebates were paid to all who shipped by rail. They were not discriminatory rates. I am not now sure whether any other road than the Pennsylvania collected the full amount and paid these rebates. The Erie and New York Central made the same reductions in rates to meet canal shipments, but my impression is that the Erie at least did not collect the higher rate from shippers and rebate it as did the Pennsylvania.

5. Q. About what percentage of the profits of the Standard Oil Company came from special advantages given by the railroads when these were greatest?—A. No percentage of the profits of the Standard Oil Company came from advantages given by railroads at any time. Whatever advantage it received in its constant efforts to reduce rates of freight was deducted from the price of oil. The advantages to the Standard from low freight rates consisted solely in the increased volume of its business arising from the low price of its products.

6. Q. Did the Standard Oil Company or any of its affiliated companies ever receive, under any name whatever, any income from any railroad for oil shipped over those roads by any of its competitors? If so, give particulars.—A. I know of no such instance. It seems that some arrangement of that nature was entered into by one of our agents in Ohio, being the same case which has been testified to by George Rice.² When notice of this agreement was brought to the officers of the company for which it was made it was promptly repudiated, and the money received, some small amount, I think under \$300, was refunded. And this was done not because of any action in court or judicial opinion, but promptly as soon as reported, and before we had any knowledge of judicial proceedings.

7. Q. Has the Standard Oil Company received any financial favors from any railroad since 1887?—A. To my knowledge, none whatever.

¹ See Mr. Lockwood, pp. 386, 387.

² See Mr. Rice, pp. 706-709; Mr. Archbold, p. 556-559.

8. Q. Has the ownership of stock in railroad companies by officers of the Standard Oil Company given the Standard advantages with those railroads over its competitors? If so, give particulars.—A. It has not. Stockholders and officers of the Standard have invested in stock of railway companies. But in no instance have they done so for the purpose of influencing the policy of the railway companies, nor to the best of my knowledge and belief has any attempt ever been made through such ownership to influence any railway in favor of the Standard.

9. Q. To what advantages, or favors, or methods of management do you ascribe chiefly the success of the Standard Oil Company?—A. I ascribe the success of the Standard to its consistent policy to make the volume of its business large through the merits and cheapness of its products. It has spared no expense in finding, securing, and utilizing the best and cheapest methods of manufacture. It has sought for the best superintendents and workmen and paid the best wages. It has not hesitated to sacrifice old machinery and old plants for new and better ones. It has placed its manufacturing at the points where they could supply markets at the least expense. It has not only sought markets for its principal products, but for all possible by-products, sparing no expense in introducing them to the public. It has not hesitated to invest millions of dollars in methods for cheapening the gathering and distribution of oils by pipe lines, special cars, tank steamers, and tank wagons. It has erected tank stations at every important railroad station to cheapen the storage and delivery of its products. It has spared no expense in forcing its products into the markets of the world among people civilized and uncivilized. It has had faith in American oil, and has brought together millions of money for the purpose of making it what it is, and holding its markets against the competition of Russia and all the many countries which are producers of oil and competitors against American oil.

10. Q. What are, in your judgment, the chief advantages from industrial combinations—(a) financially to stockholders; (b) to the public?—A. All the advantages which can be derived from a cooperation of persons and aggregation of capital. Much that one man can not do alone two can do together, and once admit the fact that cooperation, or, what is the same thing, combination, is necessary on a small scale, the limit depends solely upon the necessities of business. Two persons in partnership may be a sufficiently large combination for a small business, but if the business grows or can be made to grow, more persons and more capital must be taken in. The business may grow so large that a partnership ceases to be a proper instrumentality for its purposes, and then a corporation becomes a necessity. In most countries, as in England, this form of industrial combination is sufficient for a business coextensive with the parent country, but it is not so in this country. Our Federal form of government, making every corporation created by a State foreign to every other State, renders it necessary for persons doing business through corporate agency to organize corporations in some or many of the different States in which their business is located. Instead of doing business through the agency of one corporation they must do business through the agencies of several corporations. If the business is extended to foreign countries, and Americans are not to-day satisfied with home markets alone, it will be found helpful and possibly necessary to organize corporations in such countries, for Europeans are prejudiced against foreign corporations as are the people of many of our States. These different corporations thus become cooperating agencies in the same business and are held together by common ownership of their stocks.

It is too late to argue about advantages of industrial combinations. They are a necessity. And if Americans are to have the privilege of extending their business in all the States of the Union, and into foreign countries as well, they are a necessity on a large scale, and require the agency of more than one corporation. Their chief advantages are:

- 1) Command of necessary capital.
- 2) Extension of limits of business.
- 3) Increase of number of persons interested in the business.
- 4) Economy in the business.
- 5) Improvements and economies which are derived from knowledge of many interested persons of wide experience.
- 6) Power to give the public improved products at less prices and still make a profit for stockholders.
- 7) Permanent work and good wages for laborers.

I speak from my experience in the business with which I have been intimately connected for about 40 years. Our first combination was a partnership and afterwards a corporation in Ohio. That was sufficient for a local refining business. But dependent solely upon local business we should have failed years ago. We were forced to extend our markets and to seek for export trade. This latter made the

seaboard cities a necessary place of business, and we soon discovered that manufacturing for export could be more economically carried on at the seaboard, hence refineries at Brooklyn, at Bayonne, at Philadelphia, and necessary corporations in New York, New Jersey, and Pennsylvania.

We soon discovered as the business grew that the primary method of transporting oil in barrels could not last. The package often cost more than the contents, and the forests of the country were not sufficient to supply the necessary material for an extended length of time. Hence we devoted attention to other methods of transportation, adopted the pipe-line system, and found capital for pipe-line construction equal to the necessities of the business.

To operate pipe lines required franchises from the States in which they were located, and consequently corporations in those States, just as railroads running through different States, are forced to operate under separate State charters. To perfect the pipe-line system of transportation required in the neighborhood of fifty millions of capital. This could not be obtained or maintained without industrial combination. The entire oil business is dependent upon this pipe-line system. Without it every well would shut down and every foreign market would be closed to us.

The pipe-line system required other improvements, such as tank cars upon railways, and finally the tank steamer. Capital had to be furnished for them and corporations created to own and operate them.

Every step taken was necessary in the business if it was to be properly developed, and only through such successive steps and by such an industrial combination is America to-day enabled to utilize the bounty which its land pours forth, and to furnish the world with the best and cheapest light ever known, receiving in return therefor from foreign lands nearly \$50,000,000 per year, most of which is distributed in payment of American labor.

I have given a picture rather than a detail of the growth of one industrial combination. It is a pioneer, and its work has been of incalculable value. There are other American products besides oil for which the markets of the world can be opened, and legislators will be blind to our best industrial interests if they unduly hinder by legislation the combination of persons and capital requisite for the attainment of so desirable an end.

11. Q. What are the chief disadvantages or dangers to the public arising from them?—A. The dangers are that the power conferred by combination may be abused; that combinations may be formed for speculation in stocks rather than for conducting business, and that for this purpose prices may be temporarily raised instead of being lowered. These abuses are possible to a greater or less extent in all combinations, large or small, but this fact is no more of an argument against combinations than the fact that steam may explode is an argument against steam. Steam is necessary and can be made comparatively safe. Combination is necessary and its abuses can be minimized; otherwise our legislators must acknowledge their incapacity to deal with the most important instrument of industry. Hitherto most legislative attempts have been an effort not to control but to destroy; hence their futility.

12. Q. What legislation, if any, would you suggest regarding industrial combinations?—A. First. Federal legislation under which corporations may be created and regulated, if that be possible. Second. In lieu thereof, State legislation as nearly uniform as possible encouraging combinations of persons and capital for the purpose of carrying on industries, but permitting State supervision, not of a character to hamper industries, but sufficient to prevent frauds upon the public.

JOHN D. ROCKEFELLER.

STATE OF NEW YORK, *County of New York*, ss:

I swear that these statements made by me of my own knowledge are true, and that all other statements I believe to be true.

JOHN D. ROCKEFELLER.

Sworn and subscribed to before me this 30th day of December, 1899.

S. MARSHALL BUSSELLE,
Notary Public, No. 190

INFORMATION FURNISHED BY MR. S. C. T. DODD.

S. C. T. Dodd, solicitor of the Standard Oil Company, furnishes the following additional facts in reply to schedule of questions:

Q. What patents, machines, or processes of any kind formerly used exclusively by one plant are now used by all adapted to use them?—A. The following is no doubt an incomplete, but as full as we can now supply, list of patents, by patent numbers, belonging to the various companies in 1882, the use of which was open to all. The subject of the patent is given when known: 9406, 104747, 145898, 146946, seaming machine; 146947, seaming machine; 148748, machine for stamping and bending sheet metal; 149516, sheet metal seaming machine; 150352, soldering-iron heater; 150606, apparatus for the distribution of liquid fuel; 150607, can-seaming machine; 150887, machine for uniting tinned plates by heat and pressure; 151155, apparatus for uniting tinned plates; 151619, apparatus for heating soldering irons; 152862; 154077; 154877; 155320; 158117; 158119; 165362, soldering apparatus; 167356, apparatus for facilitating the filling, etc., of cans; 169372, liquid-fuel burners; 171164, oil-can nozzles; 177553, apparatus for facilitating the conveyance and delivery of boxes; 179135, box-nailing machines; 182470, apparatus for facilitating the examination and packing of cans; 185777, machines for nailing boxes; 191172, sheet metal can machines; 192278, feeding mechanisms for nailing machines; 194168; 203073; 224843; 227823; 227824; 227825; 227826; 227829; 228553; 228554; 230962; 234423; 234803; 234424; 236499; 239981; 240176; 240331; 240332; 240333; 240923; 240936; 240937; 239618; 3365, design for can; 7609; 23735, seaming machine; 23736, corrugating sheet metal; 24472, powder kegs; 38974, sheet-metal can; 39616, soldering cans; 40661, sheet-metal can; 42355, tin cans; 43326, cans for paint and fruit; 43371, sheet-metal cans; 43079, molding sheet metal; 81692, sheet-metal can; 82481, bending tops and bottoms; 82766, sheet-metal cans; 86571, sheet-metal cans; 87692, seaming machine; 87704, soldering machine; 88410, soldering machine; 89431, soldering machine; 91248, machine for metal cans; 192448, sheet-metal cans; 87485, improvement in the manufacture of lubricating oils from petroleum; 87658, improved process of preparing petroleum to be used in lubricating wool; 68974, improvement in stills for refining and distilling oils; 85810; 86535; 137157; 5570; 6871; 7095, improvement in burning heavy hydrocarbon oils; 7996, improvement in manufacturing of hydro-carbon oils; 7155; 8373; 8374; 43157; 50935; 66594; 79661; 113795; 124917; 148075, piston balance-valve for steam engines; 163710, helical-cone suction fans; 181814, apparatus for purifying paraffin; 182169, apparatus for the separation of petroleum products; 183909, balanced slide valves; 191279, steam valves; 191430, metallic cartridges; 200310; 211761; 212562; 217063; 229962; 223549; 229297; 255861, method and apparatus for gluing barrels; 237130, horizontal hoop-driving machine; 219228, improvement in barrel-trussing machines; 4920; 5053; 5652; 7321; 7322; 9017; 37798; 42671; 44258; 47082; 50780; 58021; 68426; 77959, license under Cheesebrough patent; 99500, 174506, process for determining the grade of lubricating oils; 212914; 2960; 4366; 4367; 4375; 32568; 53539; 120539.

Q. What by-products, if any, are available to your organization which could not profitably be made by separate plants?—A. All products are made by separate plants, but most of them were at one time protected by patents, the use of which became available to all plants.

Q. Has there been under the organization any specialization of the plants, further than at time of the organization, giving to each the work for which it is best adapted? Give details, if any.—A. Some of the corporations whose stocks were taken into the original trust were abandoned because of location or ill adaptation for the desired work. Others were organized at more convenient locations and with superior plants. Those manufacturing oil for export are located at tide water, while those for domestic trade are located at central shipping points in the interior.

Q. Have any plants or offices of the organization been closed, shut down, suspended, dismantled, or sold out? If so, give list, with disposition made of each.—A. No plants or offices of the organization have been closed or sold out. But in the eighteen years all plants of companies have been made new and more effective, and plants have been abandoned at one place because of more effective plants erected in a more suitable place. I am unable to give the particulars of the changes for eighteen years; suffice it to say that almost nothing now remains of plants of eighteen years ago.

Q. Are your prices, in fact, the same throughout the United States, allowing for cost of transportation?—A. Yes.

Q. Are they, in fact, the same in the United States as in foreign countries, allowing for cost of transportation?—A. Somewhat lower in United States.

Q. Have your agents ever authority to make, or have they ever in fact made, lower prices or rebates in special sections of the country?—A. No authority.

Q. Have they done so for the purpose of meeting competition or otherwise?—A. No doubt prices have been cut to meet lower prices made by competitors.

Q. What dividends have you declared? Give complete list, with dates.—A. Dividends were paid quarterly and have aggregated per annum as follows:

	Per cent.		Per cent.
1882	5.25	1891	-- 12
1883	6	1892	-- 12.21
1884	6	1893	-- 12
1885	10.50	1894	-- 12
1886	10	1895	-- 17
1887	10	1896	-- 31
1888	11.50	1897	-- 33
1889	12	1898	-- 30
1890	12		

Q. Give list of stock dividends, with dates.—A. May, 1887, 20 per cent.

Q. What was the total amount of net profit, or loss, during your last business year?—A. Profit, 30 per cent.

Q. What distinctions, if any, are made in the distribution of profits between the former owners of closed or dismantled plants and others?—A. None.

Q. What sums have been added in enlargement or improvement of plant? Specify the use. Give particulars, with dates.—A. In 1882 the property of the various companies was estimated to aggregate \$75,000,000, for which amount trust certificates were issued. In 1892 they were estimated to aggregate \$121,631,312. This increase was partly from profits, partly from additional capital invested. Possibly 50 per cent of the addition was profit. No estimate has since been made, but the addition of profits to capital was in about the same proportion until 1896, since which time profits have been divided. The improvements are in the way of greater efficiency in method and in facilities for enlarged output.

Q. What has been allowed for annual depreciation?—A. An average of 5.77 per cent.

Q. What disposition has been made of plants closed or dismantled since the formation of the organization? List, with particulars for each.—A. All that was useful of closed or dismantled plants was used in construction of new plants; all else was sold as junk. No data are within my knowledge or control from which particulars can be given.

Q. Give any further particulars which show the work of the organization and its effects.—A. About the year 1872 the condition of the refined-oil business was disastrous, and failures were of constant occurrence. Leading refiners began to combine for the purpose of making the business successful. The combination was by means of purchase of stocks and interests of various companies, and, until 1882, the combination was solely by stock ownership in the hands of a limited number of individuals, who controlled the corporations as agencies in a common business. In 1882 these owners, whose names appear in Exhibit A,¹ entered into the trust agreement. The companies whose stock they owned, in whole or in part, appear in the same agreement. They were not then competing companies. The individuals named as trustees controlled them by virtue of absolute ownership of a majority of their stocks. When the trust was dissolved, in 1892, the same fact existed. The individuals then trustees continued to control the companies by virtue of absolute ownership of a majority of their stocks. Consequently the corporations named have been, many of them since 1872, separate agencies carrying on business as a unit for the individuals who are their common stockholders. What they have accomplished in that time may be thus briefly summarized:

1. They have cheapened transportation, both local and to the seaboard, by perfecting and extending the pipe-line system;² by constructing and supplying cars by which oil is shipped in bulk;³ by building tanks for storage of oil in bulk; by purchasing and perfecting terminal facilities for receiving, handling, and reshipping oils; by purchasing and building steamers and lighters for river and harbor service; by building wharves, docks, and warehouses for foreign shipments; by purchasing and building

¹Agreement, p. —.

²See Mr. Lee, pp. 280, 284; Mr. Rogers, pp. 581, 588, 589; Mr. Monnett, pp. 299, 322; Mr. Phillips, p. 584; Mr. Emery, pp. 666, 667.

³See Mr. Boyle, p. 412.

ocean steamers for carrying oil in bulk, and by employing in foreign countries the same special methods for storing and transporting oils in bulk, by which means alone the markets of Europe are to-day held for American oil against Russian competition.

2. By uniting the capital, skill, and acts, and the various processes and patents of a number of persons, as well as their secret processes, and by building up manufactories on a more extensive and perfect scale, with improved machinery and appliances, and by locating them in the centers of the trade they were intended to reach, the manufacture of oil has been much cheapened and improved.

By spending large sums in the investigation of methods of utilizing Ohio and Indiana oils,¹ and by purchase of various patents, they have succeeded in making a superior article of illuminating oil out of what for some years seemed an almost worthless product.

3. By uniting with the business of transporting and refining businesses necessarily collateral thereto, to wit, the manufacture of barrels, tin cans, boxes for inclosing cans, paints, glue, sulphuric acid, etc., and by union of capital and skill, obtaining the best machinery and manufacturing on a large scale, they have cheapened these products.

4. They have obtained and utilized the best scientific skill in investigating and experimenting upon the obtaining of new and useful products from petroleum, and have cheapened illuminating oil and otherwise benefited mankind by the utilization of these by-products.

5. They have used their united capital in opening up the markets of the world for American petroleum, and have held those markets against the fiercest foreign competition. This was rendered possible only by the employment of millions of capital, in the cheapening of transportation at home, across the ocean, and in foreign lands, and by the best and cheapest methods of manufacture.

The proofs of these propositions will be found in the statistics of petroleum, showing its production, prices of crude and refined, consumption at home, and amount exported to foreign markets. While the Standard does not produce, refine, and market all the oil, it has been the leader in the business, and competitors have succeeded by uniting their capital, skill, and acts and following the same methods.

It may be asked whether all this could have been accomplished without combination. It could if one man could have commanded the necessary capital and employed the proper means and persons. But that was manifestly impossible. It could have been accomplished by one corporation instead of many, but no charter could be obtained authorizing a corporation at once to produce, manufacture, transport by pipe line, car, and steamer, and deal in oils, and also to manufacture packages, acids, etc. The theory of the combination was that a corporation created by and largely doing business in a State should take its charter from that State. Until charters can be granted by the Federal Government the agency of different corporations will be required in any business like that of American petroleum, which seeks all the markets of the world.

S. C. T. DODD.

SEPTEMBER 18, 1899.

¹ See Mr. Archbold, p. 532; Mr. Emery, p. 624; Mr. Gall, pp. 672, 681.

THE SUGAR COMBINATIONS (RESUMED).

BOSTON, MASS., *July 18, 1899.*

TESTIMONY OF EDWIN F. ATKINS.

At a meeting of the subcommission on manufactures and general business, held in Boston, Mass., July 18, 1899, Chairman Smyth presiding, Mr. Edwin F. Atkins appeared at 10.45 a. m., and being sworn, testified concerning the sugar industry.

Q. (By Mr. SMYTH.) What is your address?—A. Thirty-five Broad street, Boston.

Q. And your business?—A. Manufacturer and importer of sugar.

Q. (By Mr. FARQUHAR.) How long have you been in the business?—A. I have been in business since 1867—in general business—and always more or less connected with sugar. When we were refining sugars we imported from all over the world.

Q. Have you a refinery now?—A. No; we put our refinery in the American Sugar Company at the time the combination was formed, and since that time I have had no active interest in the management of any refinery.

Q. (By Mr. SMYTH.) If you have any preliminary statement that you would like to make to the commission—

RESULTS OF THE WAR WITH SPAIN.

A. The developments from the Spanish-American war, and the peace that followed it, have been such as to entirely upset the foreign sugar business in the way of imports. Since the duties bore equally on foreign sugars imported into the United States from all parts of the world, except the Sandwich Islands, the tariff made little difference in the foreign selling price. After this war started the first thing done was to annex the island of Hawaii. While the Sandwich Islands sugars had come in free of duty for many years past there had not been a very rapid increase, through the fear in those islands that the treaty might be canceled. Since the annexation of the islands they have begun to use every effort to develop every acre of land that can possibly be brought into the cultivation of sugar, and the consequence is that I look for further material development of the sugar industry in the Sandwich Islands. The second effect of the war was that on Porto Rico. Undoubtedly Porto Rico will be annexed to the United States, probably by the coming Congress, and the sugars from Porto Rico will be admitted into the United States free of duty.

Q. (By Mr. FARQUHAR.) Do you mean by "annexation" a Territorial condition or a colonial condition?—A. I do not believe that it can be anything except a Territorial condition. I do not believe that we can find any way of carrying on colonies. I think that island as well as the Sandwich Islands must come in as Territories for a period of years, the same as our Western Territories.

THE PRESENT TARIFF ON SUGAR.

Now, the present tariff assesses a duty upon raw sugar, 96 test, of \$1.68½ a hundred pounds—1.68 cents a pound. That bill was framed largely in the interest of the people in the United States who wanted to raise beet sugar. It went through Congress because it was at the same time an easy way to collect revenue, and the country was at that time in need of revenue, so they put on this high rate of duty. The rate as assessed under the Dingley law was, then, about equivalent to 85 per cent ad valorem on foreign sugars. That was the protection which the beet-sugar manufacturer expected to get, and one-eighth cent per pound on refined sugars, as the beet-sugar factories were making, practically, granulated sugar.

I have some tables here, prepared 2 weeks ago, before I had any idea of coming before this commission, giving the value of sugar abroad, on a basis of 4½ cents, duty paid, in New York on the 1st of July. Though they were made up quite recently, the market has since changed; but the proportions hold the same. I have taken Germany, Cuba, Java, English colonies, Porto Rico, and Hawaii. Of course there are many other sources of supply, but these are the largest.

The United States has framed treaties with the British colonies, Barbados, Trinidad, British Guiana, and Jamaica, subject to ratification by the United States Senate, under the power, conferred upon the President in the Dingley bill, of

making treaties with foreign countries and rebating duties in the United States to an extent not exceeding 20 per cent, we receiving reciprocal advantages. The power of the President in that matter, under the Dingley Act, expires on the 24th of July, current month. I have made due allowance for the difference of freight rates between places where business becomes coastwise and those countries from which sugars can be brought under flags of all nations. Our business with the Sandwich Islands has become coastwise, and although Porto Rico is not annexed and our duties are enforced against its products, the President and the War Department declared the business of Porto Rico coastwise.

I take first the duties under the tariff. In the case of Germany they are \$1.685 per 100 pounds plus the countervailing duty of 25.9 cents; Cuba, \$1.685, without any countervailing duty; Java, \$1.685, without countervailing duty; English colonies, after ratification of the treaties, \$1.348, no countervailing duty; Porto Rico, no duty at all; Hawaii, no duty at all. Now, the freights from Germany are about 8 cents a hundred; from Cuba, 10 cents; from Java, 30 cents; from the English colonies, 10 cents; from Porto Rico, 18 cents; from Hawaii, 27 cents. Then I have figured the insurance from these various countries—the marine insurance—laid down in New York. In the case of Germany, I have deducted from the charge the bounty paid by Germany, which is 25.9 cents per 100 pounds. That leaves the free-on-board value on the basis of 96 test. Of course the sugars coming in from various countries are of various grades and values, but all hold to the relative value of 96 test.

Q. (By Mr. SMYTH.) It is the standard?—A. Yes; and the markets rise and fall from that basis.

FOREIGN VALUES OF SUGAR CORRESPONDING WITH 4½ CENTS IN NEW YORK.

The estimated price, free-on-board values, United States currency, on a basis of 96 test, in the various countries which are our principal sources of supply, calculated from the New York value, July 1, 1899, of 4½ cents for 96 centrifugal sugar, would be as follows: In Germany, \$2.71 per hundred; in Cuba, \$2.69; Java, \$2.46; English colonies, \$3.02; Porto Rico, \$4.28; Hawaii, \$4.14.

The refiner in New York or Boston is buying from all these countries. He bids in Cuba at \$2.69, or Porto Rico at \$4.28, or Hawaii, \$4.14—or the same price laid down here in New York or Boston duty paid.

TABLE 1.—*Estimated free on board values, United States currency, on the basis of 96° test, in the various countries constituting our principal sources of supply, calculated from the New York value, July 1, 1899, of 4½ cents for 96° centrifugal sugar.*

Charges.	Germany.	Cuba.	Java.	English colonies.	Porto Rico.	Hawaii.
Duties:	<i>Cents.</i>	<i>Cents.</i>	<i>Cents.</i>	<i>Cents.</i>	<i>Cents.</i>	<i>Cents.</i>
Tariff.....	1.685	1.685	1.685	1.348	None.	None.
Countervailing.....	.259	None.	None.	None.	None.	None.
Estimated freights.....	.080	.100	.300	.100	.180	.270
Insurance on f. o. b. value.....	.020	.025	.050	.028	.032	.090
	2.044					
Less bounty.....	.259					
	1.785					
F. o. b. value.....	2.715	2.690	2.465	3.024	4.288	4.140
	4.50	4.50	4.50	4.50	4.50	4.50
Foreign value above.....	2.71	2.69	2.46	3.02	4.28	4.14

CUBA CAN NOT COMPETE UNDER OUR PRESENT TARIFF ARRANGEMENTS.

The consequence is that if Cuba is made an independent nation Cuba is commercially ruined by our tariff. It is impossible for that island to compete under the conditions of our present tariff; no duty on sugar from some countries, a reduced duty on sugar from other countries, and no duty on sugar produced in the United States.

CONSUMPTION IN THE UNITED STATES AND SOURCES OF SUPPLY.

As to consumption and supply in 1898 we have the following curious results: The consumption of the United States was 2,047,000 tons. Now the sources of supply: Of domestic cane we produced in Louisiana and Texas during that year 235,000 tons, and of domestic beet sugars 33,000 tons; that is, 268,000 tons of domestic sugar, of course protected to the extent of the existing tariff. We received free from Hawaii and Porto Rico during the same year 295,000. The crops of Trinidad, Barbados, Jamaica, and British Guiana, which will have special advantages, I suppose, of 20 per cent under the new treaties, produced 227,000 tons in the same year. Of the remaining sources of supply we have Cuba, which produced 300,000 tons; Java, 695,000 tons; the Philippines export 60,000 tons (though the trade was upset by the war); Egypt, 90,000 tons; Santo Domingo and other West Indies, 70,000 tons; Brazil, 165,000 tons; all this is subject to the full rate of duty of \$1.685 on the hundred pounds. We have the immense sum of 2,170,000 tons. In addition to that is the surplus crop of Europe, 500,000 tons.

TABLE 2.—Consumption and supply.

	Tons.
Consumption of sugar, United States, 1898	2,047,000
Sources of supply on basis of crops of 1898-99:	
Domestic cane	235,000
Domestic beet	33,000
Total (protected by present tariff)	268,000
Free foreign sugar:	
Hawaiian Islands	240,000
Porto Rico	55,000
Total (no duty)	295,000
To have advantage under reciprocity treaties:	
Trinidad	50,000
Barbados	45,000
Jamaica	27,000
British Guiana	105,000
Total (supposed duty 1.35 cents)	227,000
Subject to full duty:	
Cuba	300,000
Java	695,000
Philippines export	60,000
Egypt	90,000
Santo Domingo and other West Indies	70,000
Brazil	165,000
Total (duty 1.685 cents)	1,380,000
	2,170,000
Excess of European beet sugars over requirements of Continent and Great Britain on basis of crops of 1898-99, about	500,000

The present United States tariff will, in case of the annexation of Porto Rico and ratification of the reciprocity treaties as agreed upon, have the effect of taxing the consumer and granting a bounty to the producers, as follows, the figures being made up on the basis of last year's crops:

The domestic production of 268,000 tons has the benefit of the full duty of \$1.685, equal to \$34.74 per ton, or \$10,114,320. Of course these domestic sugars will add the duty to the price of foreign sugars, and the producer gets the full benefit of the protection. The duty on the Sandwich Islands' 240,000 tons, on an average of 95 test, including all grades, would amount to \$36.96 per ton, or \$8,870,400. Porto Rico, with a crop of 55,000 tons, on an estimated average test of 89, would get the benefit of a duty equal to \$32.35 per ton, or \$1,773,750. Trinidad, Barbados, and Jamaica, with their crops of 122,000 tons, on an average test of 89, the duty would amount to \$32.25 a ton at the full rate, or \$3,934,500, and 20 per cent rebate on that amount would be \$786,900. British Guiana, with 105,000 tons and an average test of 96, the duty under the present rates would amount to \$37.74 per ton, or

\$3,962,700, and the rebate of 20 per cent would give \$792,540. The sum total of that which may be considered a tax on the consumer for the benefit of the producer is \$22,337,910.

TABLE 3.

Domestic production, 268,000 tons; estimated average, 96 test; duty at 1.685 cents per pound = \$37.74 per ton.....	\$10,114,320
Sandwich Islands, 240,000 tons; estimated average, 95 test; duty at 1.65 cents per pound = \$36.96 per ton.....	8,870,400
Porto Rico, 55,000 tons; estimated average, 89 test; duty at 1.44 cents per pound = \$32.25 per ton.....	1,773,750
Trinidad, Barbados, and Jamaica, 122,000 tons; estimated average, 89 test; duty at 1.44 cents = \$32.25 per ton, \$3,984,500; supposed 20 per cent rebate.....	786,900
British Guiana (Demarara), 105,000 tons; estimated average, 96 test; duty 1.685 cents = \$37.74 per ton, \$3,962,700; supposed 20 per cent rebate.....	792,540
Charged consumer for benefit of producer.....	22,337,910

CUBA RUINED IF OUR TARIFF DISCRIMINATES AGAINST HER SUGAR.

Now, you can see that Cuba, for which we went to war, if it is to be independent, and comes to this country and is obliged to pay the full rate of duty, is absolutely ruined commercially, because the crop of sugar is the only staple product. They raise a great deal of tobacco, but it is insignificant as compared with the sugar, and the future of Cuba depends upon the reestablishment of her sugar industry. She can take care of herself provided she can get into the United States free of duty, or if she enters the United States on the same terms with other sugars; but entering here with a duty of \$1.685 per hundred pounds, when her sugars are in ordinary times only worth about \$2.25 a hundred pounds—you can readily see that such a condition as that would mean the absolute ruin of the island of Cuba.

THE TARIFF AND THE BEET-SUGAR INDUSTRY—THE AMERICAN FARMER GETS NO MORE FOR BEETS THAN THE GERMAN.

A great deal has been said about the need of the farmers in the United States having protection, heavy protection, in order to enable them to raise beets for the manufacture of beet sugar in competition with the farmers in Europe. Now, I have gone through the figures with as much care as I could. I have not got sufficient data to submit them to you to-day, but I possibly will have a little later. As far as I have investigated I find that the American farmer receives from \$4 to \$4.50 per ton for his beets. I find that the German farmer gets almost the same price for his beets, which leads me to infer that the American farmer has been held up for the pity of the public by the beet-sugar manufacturers only to get this high rate of duty. In fact, the farmer does not get it, but the manufacturer of the beet sugar gets it.

Now, here is a little paragraph taken from Willet & Gray's circular of June 29: The farmers of Germany received last year for their beets, delivered, \$4.38 per ton. I believe that ton is 2,204.6 pounds. This was prior to November; and after that, for later deliveries, \$4.52. Holland paid to her farmers \$4.26 to \$4.46 where it was near the factory and \$4.06 where it was distant from the factory. Russia paid \$4.24; Sweden paid \$4.42 to \$4.85; Belgium, \$3.47 to \$6.17, according to the grade of the beet; France paid \$4.83 to \$5.21 per ton for the beets.

There has been a very interesting book written by Herbert Myrick in the interest of the American sugar industry, and I will quote a few paragraphs here in regard to the prices of beets.

The Watsonville factory (in California) pays \$4 a ton for all beets. He gives a little table here showing the prices paid to the farmers in southern California, showing an average of \$4.35 a ton. Then, speaking of the Chino factory in California, the average price for beets was \$3.75, and speaking of the Chino factory again, he says the factories have been obliged to reduce their price from \$5 to \$4 a ton. In Lehi Valley, in Utah, he says, at \$4.25 a ton the farmers received \$162,000 for the crop. I could go on and quote a great many other instances, but it is not necessary.

The point I wish to make is this: The beet-sugar manufacturers in this country have called and are still calling for a very high rate of duty, in order to enable

the American farmer to raise beets in competition with the European farmer. My investigation would show that the manufacturers of beet sugar in the United States pay to the American farmer, in spite of the duty, but very little more than the German farmer gets from the German manufacturer.

DUTY ON RAW SUGAR AND DUTY ON REFINED—THE BEET-SUGAR MANUFACTURER GETS BOTH.

The Dingley tariff protects the manufacturer of beet sugars—as to the sugar tariff there are two rates of duty. The first is \$1.825 on the 100 test; that is, the standard test at \$1.685, and for every degree up or down $3\frac{1}{2}$ cents, equivalent to \$1.825 for 100 test. It pays another duty of one-eighth cent per pound where the sugar is above No. 16 in color and called refined sugar.

Q. (By Mr. FARQUHAR.) How do you make the 100 test on that?—A. All sugars pay a duty on the test, whether raw or refined. If it is refined it pays an additional duty of one-eighth cent on the pound.

Now, the manufacturer of beet sugar in the United States gets the first duty of \$1.825, and as he manufactures refined sugar he gets another protection of one-eighth cent on the pound, or $12\frac{1}{2}$ cents. Then these beet factories are situated, most of them, west of the Missouri River, and freight to the Missouri River we can figure at about 50 cents—one-half cent on the pound.

Q. From the port?—A. Yes; from the coast. So he has an advantage over foreign imported refined sugar of the two rates of duty plus the cost of transportation to the Missouri River. Where he is supplying the local demand in the region west of the Missouri River it gives him an advantage of \$2.45 on every 100 pounds of sugar he produces.

BEET SUGAR SHOULD BE MADE IN THE UNITED STATES FOR $3\frac{1}{2}$ CENTS A POUND.

Now, I notice in the report of the Agricultural Department in Washington on the beet-sugar industry that some figures have recently been made abroad on the cost of the production of beet sugar in the United States. They are looking upon the United States as a possible competitor. They take the theoretical yield of the beet as reported by the United States Department of Agriculture and the experiment stations, which reports show the beet in the United States, in most of the States of the Union, as equal to the beet on the continent of Europe. They figure on the actual reports of the prices paid for these beets—the figures that I have given. In that way they get at the cost of production; that is, the price at which beet sugar ought to be produced in the United States— $8\frac{1}{2}$ cents a pound, I believe, for granulated sugar. It may be $3\frac{1}{2}$; unfortunately I have not the data with me.

Now, the point I have been trying to make is that this high rate of duty, given at the request of these beet-sugar manufacturers—

Q. (By Mr. SMYTH.) Does not that affect the Louisiana planter: does it not protect him?—A. Exactly. I am illustrating with beet sugar because the other has been brought out to some extent, I think, in your investigations.

Now, if beet sugar, granulated, can be produced in the United States at $8\frac{1}{2}$ cents a pound, according to the reports of the experiment stations, and at the figures given, based on the actual prices paid for the beets and the labor, it would seem that the manufacturing of beet sugar here in this country requires nothing like the present protection.

HIGH DUTY MAKES HIGH SKILL UNNECESSARY—THE LOUISIANA SUGAR INDUSTRY.

In practice they have not come up to the theoretical yield of the beets; but they do it in Germany, they do it in Austria and in France, and there is no good reason why they should not do it in the United States, except for the fact the protection is so large it does not pay them to make a wide study of such questions as this.

Now, in Louisiana, when they had an enormous protection—the old protection—they went on making sugar in open kettles.

Q. (By Mr. CLARKE.) That was before the McKinley tariff?—A. Clear before that. After the McKinley tariff came into force, sugars were made free and domestic sugars were paid a bounty, which was less than the former protection, but a good bounty. When that period came they went to work and began to improve their methods, because they could not get the prices for the sugar, and in Louisiana to-day you will find as fine plants as anywhere in the world. That was brought about by low prices. When I first went into Cuba some years ago, when prices dropped so low, a new set of men came in there;

and they built some of the finest factories in the world, worked them scientifically and got skilled labor, and found they could produce sugar at a profit at a price which everybody supposed would entail a heavy loss. That was the result of the stimulation of low prices. The same thing happened in Demarara; the same thing happened in Germany. Instead of being discouraged when prices went down to the cost of production, they went to work scientifically and found a way to reduce the cost.

Q. (By Mr. FARQUHAR.) Have you anything to say about withdrawal of the Louisiana bounty? In what condition has it left the industry in Louisiana?—A. Except for a very unfortunate freeze that they had last winter, something unavoidable—the sugar industry in Louisiana was in better shape a year ago than it had been previously. They produced a large crop in 1897-98, and would have produced a still larger crop in 1898-99 if it had not been for the weather.

Q. (By Mr. SMYTH.) Was not that improved condition due to the protection they had after the Dingley tariff?—A. As regards prices it was.

LOW PRICES COMPEL IMPROVED METHODS—CANE AN ARTIFICIAL GROWTH IN LOUISIANA.

Q. A change in that tariff would seriously affect their prosperity, would it not?—A. I will not say that. They had not begun to improve their methods until sugars went down to a point where it stimulated them; and the prices in Louisiana during the last year or two would have been considered ruinous 20 years ago.

Q. (By Mr. CLARKE.) Did not their improvement begin under the stimulus of the McKinley tariff?—A. No; there was no duty under the McKinley tariff. They improved their methods when sugar went so low they could make no profit out of it.

Q. (By Mr. SMYTH.) Do you think that industry could be prosperous if the duty was withdrawn?—A. No; I do not think so. I do not think the climate of Louisiana is adapted to the production of sugar cane. It is an artificial growth there, and they are deserving of the greatest credit for being able to produce sugar there at all. It is only through the very best of work that they have been able to compete in spite of the protection. In the case of beet sugar it is another thing.

Q. But the duty applies to all sugar, whether beet or cane?—A. Yes. Our climate in the United States is as well adapted to the production of sugar beets as any other place, whereas the climate of Louisiana is not adapted to the production of sugar cane as are the West Indian Islands and parts of South America. Cane in Louisiana never fully ripens. It is always cut before it matures. It does not contain the sugar that is contained in the same cane in the West Indian Islands.

THE TARIFF AND THE SUGAR REFINERS.

A great deal has been said about the protection accorded to the refiner. We will see what they get. I can not give you the exact foreign cost of granulated sugar, but if I say $8\frac{1}{2}$ cents a pound it will be near enough. Now, the first duty that pays on 100 test would be \$1.825 per hundred; if that is figured out it amounts to something over 50 per cent. The second rate for refined sugar is $12\frac{1}{2}$ cents on the hundred pounds, and on a value of $3\frac{1}{2}$ cents would be $3\frac{1}{2}$ per cent ad valorem.

Q. (By Mr. FARQUHAR.) That is claimed to be insufficient, is it not? Considering the duties on refined sugar and the countervailing duties against the bounties in Europe, what is the protection to the American refiner?—A. Our countervailing duty offsets the bounties in Europe.

Q. Then that is a protection here?—A. It is a protection against the sugar coming from those countries.

Q. Sugar refiners claim there is insufficient protection to their business now.—A. I think we can throw the bounty out entirely, and then in addition to that the refiner has one-eighth cent per pound.

Q. That is $3\frac{1}{2}$ per cent ad valorem?—A. I believe that is the protection the refiner gets. If you have granulated sugar in Europe for export to the United States at a given price, it pays one-eighth cent a pound over and above what is assessed as regular duty. That one-eighth cent is the protection the manufacturer gets for refining sugar.

COST OF REFINING.

Q. Can you give us the rate of profit to the refiner, independent of the tariff?—A. I am not acquainted with the management of refineries at the present time. It would be my experience of 10 years ago, which is a back number now. I know what we figured our cost at that time; we considered it to be about a half cent a pound.

Right here possibly I might call your attention to this thing in the discussion that I have seen in the papers about the cost of refining sugar. People seem to figure just the bare cost of refining. Besides the cost of refining, namely, labor, fuel, char, office expenses, etc., you must take account of packages, insurance on goods in transit, and interest on money borrowed to conduct your business. It may be that the concern has money enough to conduct its own business, but the interest on that accumulated surplus ought to be considered. What it would cost the refiner to-day I do not know, but if he has reduced the cost 25 per cent from those figures as we calculated them 12 years ago, I should consider that he has done very well.

THE TARIFF AND THE BEET INDUSTRY.

Q. (By Mr. FARQUHAR.) Suppose instead of one-eighth cent it was one-fourth cent duty, what effect would that have on the consumer?—A. I think that would depend on the source of supply. If the present competition is waged for a long period they are going to continue to sell sugars at very little, if anything, above the cost of refining them.

Q. (By Mr. SMYTH.) Do you think such a change in the tariff would stimulate the beet industry in this country?—A. Well, no. I think a man that can not make money under the present protection had better go out of business.

Q. (By Mr. CLARKE.) Prices would be lower without the present protection, I suppose?—A. Yes.

Q. You say low prices stimulated the development of the Louisiana industry?—A. I said it stimulated the improvement in the method of production.

Q. (By Mr. SMYTH.) They had to cheapen the cost?—A. Or go out of business.

Q. They went at it in a scientific way?—A. Exactly. Now anybody ought to be able to go into the beet industry to-day, if there is anything in it at all, and make money whether he knows anything about the business or not. The sugar business is something to be learned. I have been in the business for more than 30 years, giving most careful attention to it all the time, to the cost of production in all parts of the world, and I do not think that I have begun to know it yet.

CUBA—LITTLE FRESH CAPITAL GOING THERE.

Q. What is the condition of the sugar industry in Cuba at the present time? You are interested in sugar raising in Cuba?—A. Yes, sir. Before the insurrection 1,080,000 tons of sugar: the crop that has just closed, a little over 800,000 tons. That reduction was brought about by the insurrection and war. Now the people are afraid: they have no money in Cuba, no available money for investment. There is plenty of money in the United States, and plenty in Europe, in England, and also in Spain. They would go to Cuba and go into the sugar business, but they are afraid of the independence of the island and the withdrawal of the United States.

Q. You think it is true that English capitalists are investing in Cuba at the present time?—A. Capitalists have invested in railroads.

Q. Any in sugar plantations?—A. I do not know of any. There may have been some. They have invested quite largely in railroads.

Q. Since peace?—A. Since peace. Before, these people had interests there, but they are consolidating and extending. Very little fresh capital is going into Cuba; and the reason is, they see very clearly that if Cuban sugars have to pay the high rate of duty in the United States in the future, and sugars are admitted free from the Sandwich Islands, Porto Rico, and the Philippines, and the domestic industry is stimulated by the present enormous rate of duty, they could not compete.

DOUBTFUL WHETHER THE PRESIDENT COULD MODIFY THE TARIFF AS TO CUBA.

Q. (By Mr. CLARKE.) Supposing Cuba should be independent, and there should be a reciprocal agreement between this country and Cuba, like that which is being arranged with the British West Indies, could the sugar industry in Cuba prosper?—A. Well, before I answer that question I should like to go back a little. Special power was conferred upon the President to make reciprocity treaties for 2 years from the date of the signing of the Dingley Act. That power expires on the 24th of July, this month. Whether the President has a constitutional power to make treaties affecting the tariff I am not able to state; some hold he has, but I think in the face of the coming election the President would be very cautious about exercising that power.

Q. Congress might extend the time, I suppose?—A. Congress might extend the time by a special act. Congress can do what it likes in regard to the tariff. It is

a very simple matter to make suggestions, and very good suggestions, in regard to the settlement of these matters; in practice it is a most difficult thing to get any partial tariff bill through Congress, particularly if it is a sugar-tariff bill.

Q. (By Mr. FARQUHAR.) Without opening the tariff question at all before Congress, could not this take the form of reciprocal treaties with these countries?—A. I do not think so, sir.

Q. I understand in the Dingley bill there is executive authority.—A. It does seem to me, if the President had the constitutional power to make treaties why did Congress take so much care in conferring such power and limiting it? I think, looking back at our treaties for 50 years, that every treaty which has involved the expenditure of money, or has affected the existing tariff, has gone to the House.

A 20 PER CENT REDUCTION OF DUTY WOULD NOT MEET THE NEEDS OF CUBA.

Q. Without any opening of the question of the tariff by the coming Fifty-sixth Congress, if they took up the reciprocal features and made the extension, it would accomplish all that was needed in this matter?—A. No, sir.

Q. What else is needed?—A. Suppose there is a change of 20 per cent. That will reduce the duty on centrifugal sugars from \$1.68 to \$1.35. That is against no duty from the Sandwich Islands, no duty from Porto Rico. My point is this: No country—I do not refer to Cuba especially, I only illustrate with Cuba—no sugar country in the world, in the face of the enormous production, can hold the United States market in the face of discriminating duties, because the selling price of sugar ranges too near the cost of production. Now, the world's price of sugar two years ago ranged at less than the average cost of the world's production. Some few individuals were able to make money because they thoroughly understood their business. These individuals were not confined to any one place—they were all over the world; but I believe the world's crop of sugar was produced at a loss for a period of at least three years.

When you make some sugars free and put a high tariff on others, the effect is to aid, first, the sugars that come in without duty; second, those with a favored duty, and to leave out such as pay the full rate of duty. The result would be that if there is any discriminating duty the enormous natural production will drop the price below the cost of production, and no country can compete in the United States market against a discriminating tariff. I do not say they will not compete for a month or a year, but the effect in two or three years will be to drive them out of business.

THE SUGAR DUTIES AND THE CONSUMER.

Q. When American refiners claim that one-eighth of a cent is insufficient as a protection, and that one-fourth of a cent will be sufficient, what are we to argue as to the condition of the consumer? Is the sugar cheapened to the consumer, when the price of sugar is really regulated by the refiners of the United States and nobody else? By what process will you cheapen the refined product for the American people—for the consumers generally?—A. I would take the duty off raw sugar entirely, except countervailing duties against bounty-paid sugars.

Q. Mr. Havemeyer claims that would abolish all the refineries and break the business to pieces.—A. Do you think you understood Mr. Havemeyer right on that point? I am very much inclined to think you are mistaken. I say the way to reduce the cost of sugar to the consumer is to abolish the duty on raw sugars. As to the duty on refined sugar, one-eighth cent a pound is so small that I do not think it affects the consumer in any way. If you want to reduce the profit of the refiner, that is all you can do; take off the one-eighth cent a pound.

Q. With free raw sugar, what effect would that have on the refining business in this country?—A. No effect whatever.

Q. (By Mr. SMYTH.) What would be the effect on the income of the Government? If the duty on the raw material was repealed, what would be the loss to the Government?—A. I could figure that, but it would be a rough estimate. It would be about \$56,000,000.

Q. In what form would the Government make that?—A. That is a pretty big question. We have tariff taxation and internal-revenue taxation. I think one of the easiest ways the Government can raise a revenue is on refined petroleum oil. There are many articles of that nature where the collection of the revenue would be very simple. Not having given particular thought to the question of revenue, I would only make the off-hand suggestion that a reasonable revenue tax might be placed on coffee, and an internal-revenue tax on many articles of domestic production, such as refined petroleum oil.

Q. Would not your argument in favor of the free importation of raw sugar apply to raw materials of every kind?—A. Perhaps it would, but I would not make any statement as to things with which I am not personally familiar.

DOMESTIC PRODUCTION NOT DESIRABLE AT THE PRESENT COST TO THE CONSUMER.

Q. (By Mr. CLARKE.) Do you think it desirable to have a considerable domestic production of sugar—raw sugar?—A. No; I do not, at the present enormous cost to the consumer.

Q. Do you think it desirable for the Government to do anything to encourage the domestic production?—No; I do not.

Q. Do you think that prices would be kept as low to the consumer without domestic production as with it?—A. Yes; I do. The domestic production is so small a proportion of the consumption it practically has no effect on prices.

Q. Suppose it should develop to be a very considerable proportion, so that it would be a factor in competition, would it not help to keep the prices low?—A. If it became a material factor in the supply, and materially reduced the duty-paid price of sugar in the United States, the effect would be to stop the foreign production of sugar so far as the United States market was concerned, because the current prices are now and have been so near the cost of production.

Q. Well, would not there be sufficient foreign sugar imported to compete with the domestic supply, so that the effect of that competition would be to reduce the price to the consumer?—A. When that production gets to be a material factor in the supply of the United States it will naturally reduce the duty-paid price; with the duty-paid price you reduce the foreign value; in reducing the foreign value you very soon get below the cost of production abroad.

Q. Should you be able to purchase a foreign supply, at less than cost of production though, if there was no domestic production?—A. You can not purchase any article for a long period at less than the cost of production.

Q. As a general proposition, you think the interest of the consumer would be safeguarded by domestic production, do you not?—A. No, I do not.

Q. You refer to sugar alone?—A. I am speaking only of sugar. I am not going into the general matter of the tariff. I have always been a protectionist in the past, but I am trying to illustrate this thing under the conditions in which we find ourselves to-day, the conditions which have grown out of the war with Spain.

THE BEET-SUGAR INDUSTRY OUGHT NOT TO REQUIRE PROTECTION.

Q. You think the climatic advantages of production in Cuba are superior to those in any part of this country?—A. Certainly for the production of sugar cane.

Q. It would be practically impossible, then, for our growers to produce for the general domestic market without some form of protection? A. I can not answer that question. I do not know what the cost of production of beet sugar in this country is. I have already stated that the Germans have calculated that cost at 3½ cents a pound of granulated sugar, and if they are correct, and they would seem to be correct from the reports of the experiment stations, it would not seem that beet-sugar makers in the United States require any such protection as they are accorded at the present time. In fact, they ought not to require any protection.

SUGAR MANUFACTURERS LOOK TO THE TARIFF FOR THEIR PROFITS.

Q. Do you think there would be any beet-sugar industry in this country without some form of protection? A. If the people in this country want to produce sugar, they would naturally come to the point where they could produce that sugar at the least cost and get the greatest profit. There are people in Boston, in the last year, who have been looking into the production of sugar as an industry. One went to the Sandwich Islands because, he said, "Sandwich Islands sugar is coming in here free of duty, and at the present tariff I can get for my sugar, out in the Sandwich Islands, 4½ cents a pound." Another concern went to Porto Rico because, they said, "The annexation of Porto Rico is assured, and under the present tariff I can get 4½ cents a pound for the sugars which I can produce in Porto Rico, while they are only worth 2.69 cents in Cuba." Another concern made an investment out in Nebraska in beet sugar because, they said, "The United States is protecting domestic sugar to the extent of \$38 a ton. We have got some cattle in Nebraska that we should like to feed as cheaply as possible, and we should like to get the by-product of the factory to feed them; and if we turn out 10,000 tons of sugar, under the great protection afforded by the United States, it will amount

to about \$400,000; and while we are not conversant with the sugar business, we believe we can make our profit there."

I was sent a prospectus of a beet factory; in fact, I have had a great many, but one in particular was very nicely figured out. They showed very large profits on paper. I went through the figures and found them to be correct. I figured that out on the free-sugar basis, and found that their very large profits were turned into a very considerable loss. That is, the profits they expected to make were out of the existing tariff. Now, naturally a man that is conversant with the business, is cautious about entering upon a business that is dependent for its profits on the existing tariff, because, in my short experience, I have seen the tariff of the United States change with almost every Administration we have had.

Q. (By Mr. FARQUHAR.) It has always been on the safe side for the American refiners; they have been accorded excellent protection by Congress?—A. Yes.

NO TARIFF PROBABLE AGAINST HAWAII, PORTO RICO, AND THE PHILIPPINES.

Q. (By Mr. CLARKE.) Why do you assume that sugar must necessarily come in free of duty from Hawaii, Porto Rico, and possibly the Philippines?—A. Because it does come in free of duty from Hawaii.

Q. I know it does under the existing arrangement, but is it necessary that that arrangement should be continued, or should be extended to Porto Rico and the Philippines?—A. I do not believe that the United States is going to set up a tariff against any territory or possessions belonging to her. Whether it can be done or can not be done, I do not feel competent to give an opinion, but I do not believe it will be done.

THE HAWAIIAN PLANTER RECEIVES THE SUGAR DUTY, BUT DOES NOT PAY IT.

In that connection let me make a statement. The Hawaiian planter is selling his raw sugar in the United States, I might say in New York, at a price that gives him clear 4½ cents a pound. He is buying in the city of New York granulated sugar, made out of imported raw from Cuba and other duty-paying countries, at 3½ cents a pound or something less. In order to assure myself that that was a fact, I went to the New York custom-house within a few days and I said, "I wish to ask you whether the drawback on granulated sugar is in force in regard to Hawaii? In other words, if I come to you with 1,000 barrels of granulated sugar am I entitled to the drawback?" He said, "Yes; you are. We pay you the drawback." That is one of the many complications we have got into growing out of this war.

REFINING IN HAWAII AND IN CUBA.

Q. Is there any sugar refinery in Hawaii?—A. I can not answer; I think there is one.

Q. Are there any in Cuba?—A. One or two small local refineries, but there is no refined sugar exported. Refined sugar can be sent from New York to Cuba in bond and undersell them there, although the duty in Cuba is 2 cents a pound.

GERMANY AND SUGAR BOUNTIES.

Q. (By Mr. FARQUHAR.) How do you account for the great growth of the beet-sugar industry in Germany?—A. That is easily accounted for through the very large bounties paid by the Government.

Q. They pay bounties and we give protection through the tariff?—A. Exactly. It has been an enormous drain. The consumption of sugar in Germany in 1897 was 594,000 tons; the production of sugar, the past crop, in Germany was 1,725,000 tons; the production was about three times the consumption.

Q. That is all beet sugar in Germany?—A. Yes.

Q. By a system of bounties, which amounts to the same as our tariff here, the people of Germany have now, first of all, supplied their own home market with this beet sugar, and they have a surplus to export, and that comes into competition in this country?—A. Exactly. We endeavor to keep that out with a counter-vailing duty.

OUR RESPONSIBILITY TO CUBA AND PORTO RICO—CUBA NEEDS ONLY EQUALITY.

Q. Now, when the cost of producing the beet in France, Belgium, and Germany is very near the same that it is in the United States, for the benefit of the American farmer and people, why should not there be an inducement to sustain the present

tariff and produce all the sugar we can here without regard to Cuba or any other country?—A. There you have the question of our responsibility for these islands we have taken possession of.

Q. As a business view. We are here as a business commission.—A. We have driven the government out of Porto Rico and Cuba, and have done so to benefit the people, ostensibly. If, through our tariff, we prevent these countries from sending their products into the United States, we bring them to commercial ruin. That is the position we find ourselves in to-day, and which we have to consider. I have given you my opinion in regard to the manner of reducing the cost of sugar to the consumer. I should be very glad, indeed, as a producer of sugar in Cuba, to have my sugars admitted free of duty into the United States, and the present tariff maintained as to the other countries. That is human nature; but I do not come before you to advocate any such idea as that, and I will never go before Congress and urge them to take any such position as that. They have either got to put Cuba on a footing with other countries or they have got to throw her overboard entirely and let her sink—one of the two. If they would annex it and maintain the present tariff, that would be nice for me individually, but I would not ask Congress to do anything of that kind. If they will allow the Cuban sugars to come into the United States on exactly the same basis as sugars from other countries, whether subject to duty or free of duty, we have nothing to say more.

THE AMERICAN SUGAR REFINING COMPANY.

Q. Free sugar or tariff-covered sugar, whatever it may be—how do you account for it in this country that one great concern can name and maintain the price of refined sugar?—A. That seems to be very simple. The refining of sugar a few years ago was in comparatively few hands, but there was considerable competition. The refining capacity was largely in excess of the demand. Everybody wanted to run full time, and the consequence was none of them made any money. I was in the refining business for 10 years, and all the profits we made went into the improving of the plant, putting it in first-class condition. We poured money in constantly and did not get a cent of dividends. Then it was proposed to bring all of the houses together, and the American Sugar Refining Company, originally called the trust, was formed. They were enabled to fix a price for their sugars every day, based on the market for raw sugar, and maintain a margin between raw and refined sugar that gave them a profit. Whether that has been too little or too much I do not attempt to discuss.

Q. The only way to maintain the refining industry was to monopolize it?—A. The way to get a profit was to bring the 6 or 8 refineries together.

Q. So that, as you state, since 1891 the price of refined sugar is the price that Havemeyer and Elder put up on the wall?—A. Mr. Havemeyer is the president.

Q. That is simply the controlling power, I mean.—A. That is the controlling power.

Q. That is the chief executive power that fixes the price of sugar?—A. Yes. These prices are based on the market price of raw sugar.

COMPETITION WITH THE AMERICAN COMPANY IS POSSIBLE, BUT NOT PROBABLE.

Q. Do you think that any strong competition in refining, under present conditions, could ever arise in this country to fight the American Sugar Refining Company?—A. I should not think for a moment of going into the sugar-refining business and doing my business cheaper than the American Sugar Refining Company can do it.

Q. And make a reasonable profit?—A. Exactly.

Q. Unless connected with some other business, like the Arbuckles, such as coffee, where the two things would merge in the hands of the consumer, and where what was lost on one could be made up on the other?—A. I would not undertake to go into the refining business in the United States with the idea of refining sugar at a lower cost than the American Refining Company can do it. You ought to keep in mind that the moment the margin between refined and raw sugar gets too large it will admit refined sugar from Europe. You have only one-eighth of a cent a pound in the way of protection. The American refiner has got to do his business cheaper than the European refiner can do it in order to get his profit, or sugars are coming in from the other side. There is an enormous capacity there for refining, and you have only one-eighth of a cent a pound between them.

Q. You consider the countervailing duty as a protection?—A. Certainly; against European refined.

Q. You think that by admitting raw sugars free into this country it would

make no difference in the refining business of the country?—A. It would increase the demand for refined sugar. The lower you can sell refined sugar the larger the demand. The consumption of sugar per capita in England is considerably larger than in the United States, and the reason of that is the lower price.

Q. Considering the amount of capital in the American company, and considering the methods they have of distribution and the markets they command for raw sugar outside of this country—in fact, the power of the American Refining Company—do you think it is possible for any independent companies or association of independent companies ever to come into competition with the American company?—A. It is possible, but not probable.

Q. Why improbable?—A. You may say the improved woolen machinery and yarn machinery have driven out the old spinning wheel in the country towns, and there is no probability of our going back to the old way in which our ancestors spun their wool and made their clothing. It is unfortunate for a certain class of the people, but the consumer, the greater part of the people, have been benefited by it.

WITH RAW SUGAR FREE, GRANULATED SHOULD SELL AT ABOUT 3½ CENTS.

Q. If you could explain to the commission wherein this consumer is going to get cheaper sugar, we should like to hear it.—A. By the removal of the duty on raw sugar granulated sugar ought to sell in New York, and leave a fair profit to the producer and for the refiner, at a range of 3½ to 4 cents a pound; probably 3½ cents a pound would be about the basis of the cost of granulated sugar.

Q. (By Mr. CLARKE.) You mean that as a retail price?—A. No; in speaking of prices I speak of the refiner's price. Of course the jobbers have to get their profit, which is about one-fourth cent a pound.

Q. (By Mr. FARQUHAR.) The grocers make very little?—A. Until the grocers' association was formed they made no profit at all.

Q. That was a concession from the refiners, was it not?—A. The refiners assisted in it. The refiners got out of the retail business and let the jobbers make their profits.

Q. (By Mr. SMYTH.) These jobbers are making their profits out of the consumer?—A. Exactly. But the consumer can not come with his pail to the refiner and get his 10 pounds of sugar. All these things have to be distributed by some middle party; that is unavoidable.

THE REFINER'S MARGIN HAS VARIED. ON THE WHOLE, THE CONSOLIDATION HAS REDUCED THE COST TO THE CONSUMER.

Q. (By Mr. CLARKE.) Based on the relative cost of raw sugar, how does the price of refined sugar to the consumer compare, at the present time, with what it was before the American Sugar Refining Company was formed?—A. You are speaking of to-day's price, or the current average ruling prices?

Q. Average ruling prices is what I mean.—A. I want to be a little cautious about answering that question, because the market has fluctuated so. After the formation of this company the margin between raw and refined sugar was considerably larger than it was before the combination. For 6 months or a year past, perhaps, while this strong competition has been in force, the margin has been considerably smaller than it was previously.

Q. What strong competition do you refer to?—A. The Arbuckles, Mollenhauer and 2 or 3 other houses. The margin was brought down as low as 32 or 33 cents a hundred pounds. Taking into consideration the fact that the raw sugar contained 96 per cent and the granulated sugar 100 per cent; that they furnish packages for delivery, and the freight to the grocery or railroad for shipment; the brokerage and the interest on money; insurance; and that they have to keep the refineries in the best possible condition of repair—taking all that out of the difference between the cost of the raw and the price at which they sell the refined sugar, it is astonishing to me that they are able to keep the average margin as low as they do.

Q. You think the general effect of the consolidation has been to improve the process of manufacturing, reduce the cost of refining, and enable the refining company, if it chooses, to reduce the cost to the consumer?—A. Undoubtedly, sir. And I think, as a whole, that they have done so.

Q. You are not able to give the figures?—A. I would not attempt to give a definite statement, but they have been running at 32 to 33 cents margin and giving the benefit to the consumer. They do not do it as a matter of charity. They did that for quite a period; some weeks.

THE WHISKY COMBINATIONS (RESUMED).

WASHINGTON, D. C., *October 20, 1899.*

TESTIMONY OF MR. EDSON BRADLEY,

President of American Spirits Manufacturing Company and vice-president of The Distilling Company of America.

The commission met at 11.10 on Friday, October 20, 1899, Representative Livingston presiding. Mr. Edson Bradley, after being duly sworn, testified as follows:

Q. (By Mr. JENKS.) Will you give your name?—A. Edson Bradley.

Q. Your address?—A. 802 Fifth avenue, New York City.

Q. Your occupation?—A. I am president of a distilling company, and merchant in my private business.

Q. How long have you been engaged in the business of selling whiskies?—A. Twenty-seven years.

WITNESS' CONNECTION WITH VARIOUS SPIRIT COMPANIES.

Q. What position do you hold in the Distilling Company of America?—A. I am one of the vice-presidents, also a director.

Q. And in the American Spirits Manufacturing Company?—A. President.

Q. Are you connected with either of the other three companies that entered into the Distilling Company of America?—A. I am president of the Kentucky Distilleries and Warehouse Company.

Q. Are you connected with the Standard Distilling and Distributing Company?—A. I am a director.

Q. And of the Spirits Distributing Company?—A. I am not connected with it; have no official connection.

Q. We have had testimony here with reference to the development of the whisky industry in this country, and particularly in reference to these larger combinations, that has brought out the facts pretty completely before the formation of the American Spirits Manufacturing Company. Can you tell us what arrangements were made with the preceding organization by the American Spirits Manufacturing Company when it was organized?—A. I am not conversant with the history of these old companies. My coming into this business was comparatively of recent date, at the time of the formation of the Kentucky Distilleries and Warehouse Company last winter. Of course I had a little knowledge from hearsay with regard to these old companies, but no official knowledge.

PRICES—REBATE SYSTEM.

Q. Perhaps as a merchant dealing with the American Spirits Manufacturing Company you can give us some information with respect to the prices of spirits from the time of its formation on, in a general way, if not in detail.—A. I can do that; yes.

Q. Will you be kind enough to tell us about the date of the formation of the American Spirits Manufacturing Company?—A. I can not tell you that; I do not know.

Q. Can you give us an idea, then, of the course of prices for the last 4 or 5 years?—A. What impressed my mind, and the only thing that I could tell you definitely about, was that period during which the rebate system was in operation, when the old officers of that company exacted at times very high prices for their manufacture. The system was this: An agreement was made by the purchaser at the time of every purchase that during the year all articles which he used that were manufactured by the American Spirits Manufacturing Company were to be bought from that company. He was not to buy outside, and in consideration of his so doing he was promised to

be paid at the end of the season or year a certain rebate on his purchases.¹ These rebates were represented by certificates issued at the time of the purchase, and on the indorsement of these vouchers for deposit in bank for collection it was so arranged that this agreement was made a condition over the signature of the indorser. That was in effect for a good long time; I should say for a couple of years, according to the best of my recollection. I am not speaking with any knowledge save as a purchaser. During that time the fact that the trade was somewhat in the power of this company was undoubtedly used to extort very great profits from it.

Q. Were these rebates paid by the American Spirits Manufacturing Company, or by the old Distilling and Cattle Feeding Company, or both of them?—A. Both, to the best of my recollection. I am not, however, sure of this; it is a very indefinite thing in my mind. At the time this was going on I was not connected with these companies at all; and I am speaking very indefinitely, of course.

Q. About what time, as near as you can recollect, was this system of rebates given up?—A. I should think it was something like three or four years ago.

Q. In the last two or three years, then, the American Spirits Manufacturing Company has not been following this rebate system?—A. Not at all.²

PRESENT POLICY: LOW PRICES, CASH.

Q. What is the system of sales now?—A. The system of sales now, since I have to do with it officially, is this: In the first place, we have reduced our selling price to the very lowest possible price consistent with the making of any profit. We believe it is below the cost of manufacture of any other distiller. We make, of course, a very small profit, but as much as we intend to make for a good long time to come. We have settled on this for a definite policy for some time. We are concentrating our manufacture in a very few plants and manufacturing on a great scale. We manufacture much cheaper than formerly, and we introduce every known method of labor-saving economies of all sorts, and we are giving the purchaser the benefit of that. Of course, our object is to do all the business we can, like every manufacturer, and we do it by selling cheaper than other people do. We sell for cash, practically. We sell the high-proof goods, such as alcohol, and our terms are spot cash, sight draft, with bill of lading attached, carload lots. We sell to large buyers; our business is exclusively with them; largely with the branches of the distributing companies; not only with those controlled by the Distributing Company, but also with the so-called outside branches, those that have arrangements with us to sell.

Q. When you say, "We do so and so—" A. I am speaking of the American Spirits Manufacturing Company now.

Q. I did not know but you were speaking of the four?—A. I was speaking of the one alone.

PROPORTION OF THE WHOLE OUTPUT OF THE COUNTRY.

Q. About what proportion of the total output of the country at the present time has the American Spirits Manufacturing Company?—A. About 85 per cent.

Q. What is the difference between the nature of the product of the American Spirits Manufacturing Company and the Standard Distilling and Distributing Company, if any?—A. In the main they are the same, although the Standard Distilling and Distributing Company manufacture some specialties, gin and so-called continuous distilled goods, a cheaper grade of whisky, and they also put up their goods in some cases at proof, instead of alcohol, as trade requirements may dictate.

Q. About what per cent of the output is under the control of the Standard Distilling and Distributing Company?—A. Roughly, I should say about 85 per cent controlled by them. I may not understand your question; I have got this thing confused. I should have said the American Spirits Manufacturing Company and the Standard Distilling and Distributing Company controlled about 85 per cent.

Q. About how is the percentage distributed between the two?—A. The Standard Distilling and Distributing Company produces, I should say, of that 85 per cent probably 50 per cent.

Q. The Spirits Distributing Company is entirely a distributing company, I understand, and is not a producing company at all?—A. It is entirely a distributing company. It owns a rectifying and compounding establishment, but does not produce, as a manufacturer, any spirits and alcohol.

¹ See Mr. Clarke, p. 171; Mr. McNulta, pp. 207, 210, 211; Mr. Cook, pp. 241, 242; Mr. Luyties, pp. 250, 251.

² See Mr. Clarke, p. 181; Mr. Cook, p. 244.

Q. Is that mainly a distributing company?—A. Mainly a distilling company.

Q. In spite of its name?—A. In spite of its name; it has branches of distribution also, but it is doing less in proportion than it formerly did as compared with the Standard Distilling and Distributing Company.

PRESENT PRICES—RECENT REDUCTION—CHIEF COMPETITOR.

Q. You spoke a moment ago of the number of distributing agents that you had. Is the work of distributing the product largely in the hands of any one of these four companies that entered into the formation of the Distilling Company of America?—A. The larger part of the distribution is in the hands of the Standard Distilling and Distributing Company.

Q. You said the prices had been much lessened with the idea of making a small profit and extending the market as far as possible. For what time has this low price been held on spirits?—A. It is about 6 weeks that the present prices have been in force.

Q. How much lower are the prices now than they were for some period before that time?—A. The basic prices, the published prices of the companies, are about 4 cents lower than they were; but for a long time the policy of the Standard Distilling and Distributing Company had been to cut prices in special cases where competition was very severe with the outside dealers.¹ Of course, the natural tendency had been to drift to these lower prices, and a considerable part of the business was being done, before this complete change was made, at these low prices, quite as low as to-day; but within 6 weeks the basis has been put at this very low point, so that all sales are now made at these figures.

Q. What is your price now?—A. \$1.22 per high proof gallon.

Q. How much is tax?—A. \$1.10; 12 cents net for the spirit.

Q. That is the price per proof gallon for high proof goods? Who is the largest competitor in the country now against yourselves?—A. The Merchants' Distillery at Terre Haute, Ind.

Q. Have you knowledge so that you can tell about what proportion of the total output they control?—A. Yes; I think I can tell you, approximately. They are mashing about 5,000 bushels a day out of a total of 45,000, practically; 47,000 perhaps I should say.²

Q. A trifle over 10 per cent?—A. Something over that. Of course I give that from mere hearsay again.

Q. Could you furnish the commission a list of the prices of corn at Peoria, running back, we will say, for two years? Corn is your chief raw material, is it not?—A. Yes.

Q. Of corn, and of your finished product?—A. Certainly.³

¹ See Mr. Clarke, pp. 178, 181, 182; p. 189, bottom.

² See Mr. Rice, p. 836.

³ The following table gives:

Average prices received by the "trust" per gallon of proof spirits.

The same less United States internal revenue tax.

The same less tax and rebates when rebates were given.

Net amount received by the "trust" for the spirits obtained from 1 bushel of corn.

Average price of corn per bushel at Chicago.

Difference between the value of 1 bushel of corn and the value of the spirits obtained from 1 bushel.

The estimated amount received for the spirits obtained from 1 bushel of corn is based upon the average yield per bushel reported by the "trust" for its distilleries for each year. This differs from the average yield for all distilleries in the United States as reported by the Commissioner of Internal Revenue. The figures reported by the "trust" and here used are as follows:

Year.	Proof gallons per bushel.	Year.	Proof gallons per bushel.	Year.	Proof gallons per bushel.	Year.	Proof gallons per bushel.
1884..	4.10	1888..	4.58	1892.....	4.62	1896..	4.68
1885..	4.45	1889..	4.64	1893.....	4.67	1897..	
1886..	4.55	1890..	4.67	1894.....	4.77	1898..	4.8
1887..	4.62	1891..	4.71	1895.....	4.66		4.6

The prices of spirits are those reported by the "trust." The prices of corn are those of the Chicago Board of Trade, on which the price of spirits is based; see Mr. Rice, p. 847. Both these series of prices are taken for the most part from the reports of the Peoria Board of Trade, the principal distilleries of the "trust" being situated at Peoria.

(Footnote continued on p. 816.)

Q. Peoria is your chief manufacturing point, is it not?—A. That is our chief point.
 Q. Have you had any information with reference to the method of organization of the Standard Distilling and Distributing Company—the capitalization, the cost of the plants, etc.?—A. No; that was before my time.

NUMBER OF ALCOHOL PLANTS RUNNING.

Q. You say that of late you have been concentrating the industry in comparatively few plants?—A. Speaking only of alcohol.

Q. Speaking of alcohol, how many distilleries has the American Spirits Manufacturing Company running now?—A. We are operating 5 at the present.

Q. Where are these 5 located?—A. There are 4 of them in Peoria and one of them at Terre Haute, Ind.

Q. How does the output of these 5 distilleries at the present time compare with

(Continuation of footnote from p. 815.)

Prices of spirits.

Year and month.	Proof spirits per gallon.	Spirits per gallon, less tax.	Spirits per gallon, less tax and rebates.	Spirits from 1 bushel of corn.	Corn per bushel.	Spirits from 1 bushel, less price of the corn.	Year and month.	Proof spirits per gallon.	Spirits per gallon, less tax.	Spirits per gallon, less tax and rebates.	Spirits from 1 bushel of corn.	Corn per bushel.	Spirits from 1 bushel, less price of the corn.
1884.							1888.						
Jan	\$1.159	\$0.259		\$1.062	\$0.544	\$0.518	Jan	\$1.09	\$0.190		\$0.862	\$0.487	\$0.375
Feb	1.169	.269		1.102	.535	.567	Feb	1.09	.190		.862	.472	.390
Mar .....	.117	.270		1.108	.520	.588	Mar	1.09	.19		.862	.475	.387
Apr	1.164	.274		1.122	.501	.621	Apr	1.09	.19		.862	.519	.343
May	1.12	.220		.908	.547	.856	May	1.103	.203		.920	.572	.348
June	1.09	.190		.780	.539	.241	June	1.14	.240		1.088	.512	.376
July	1.074	.174		.714	.528	.186	July	1.14	.24		1.088	.479	.600
Aug	1.05	.150		.615	.530	.085	Aug	1.14	.24		1.088	.453	.635
Sept	1.105	.205		.841	.694	.147	Sept	1.14	.24		1.088	.433	.655
Oct	1.11	.210		.862	.502	.360	Oct	1.14	.24		1.088	.436	.652
Nov	1.118	.218		.895	.401	.494	Nov	1.14	.24		1.088	.363	.725
Dec	1.12	.220		.908	.374	.529	Dec	1.14	.24		1.088	.347	.741
1885.							1889.						
Jan	1.122	.222		.988	.372	.616	Jan	1.052	.152		.706	.343	.363
Feb	1.14	.240		1.068	.372	.606	Feb	1.04	.14		.650	.345	.305
Mar	1.14	.240		1.068	.392	.676	Mar	1.04	.14		.650	.345	.305
Apr	1.14	.240		1.068	.447	.621	Apr	1.036	.136		.632	.344	.288
May	1.14	.240		1.068	.468	.600	May	1.08	.13		.604	.345	.259
June	1.14	.240		1.068	.466	.602	June	1.08	.13		.604	.345	.259
July	1.14	.240		1.068	.466	.602	July	1.08	.13		.604	.360	.244
Aug	1.14	.240		1.068	.452	.616	Aug	1.03	.13		.604	.347	.257
Sept	1.05	.150		.668	.430	.238	Sept	1.03	.13		.604	.322	.282
Oct	1.05	.150		.668	.422	.246	Oct	1.03	.13		.604	.320	.284
Nov	1.09	.190		.846	.482	.414	Nov	1.03	.13		.604	.458	.146
Dec	1.095	.195		.868	.396	.472	Dec	1.03	.13		.604	.321	.283
1886.							1890.						
Jan	1.10	.200		.910	.366	.544	Jan	1.03	.13		.607	.291	.316
Feb	1.10	.200		.910	.372	.538	Feb	1.03	.13		.607	.277	.330
Mar	1.10	.200		.910	.371	.539	Mar	1.03	.13		.607	.287	.320
Apr	1.10	.200		.910	.347	.563	Apr	1.03	.13		.607	.313	.294
May	1.10	.200		.910	.355	.555	May	1.053	.153		.715	.339	.376
June	1.10	.200		.910	.347	.563	June	1.10	.200	\$0.136	.635	.339	.296
July	1.082	.182		.828	.347	.581	July	1.109	.209	α .145	.677	.402	.275
Aug	1.098	.198		.902	.420	.582	Aug	1.138	.238	α .174	.812	.480	.332
Sept	1.114	.214		.975	.387	.588	Sept	1.142	.242	α .178	.831	.507	.324
Oct	1.14	.240		1.092	.349	.743	Oct	1.142	.242	α .178	.831	.497	.334
Nov	1.14	.240		1.092	.362	.730	Nov	1.15	.250	α .186	.869	.515	.354
Dec	1.14	.240		1.092	.369	.723	Dec	1.15	.250	α .186	.869	.504	.365
1887.							1891.						
Jan	1.14	.240		1.108	.365	.743	Jan	1.15	.250	α .186	.876	.488	.388
Feb	1.14	.240		1.108	.347	.771	Feb	1.15	.250	α .186	.876	.524	.352
Mar	1.14	.240		1.108	.357	.751	Mar	1.63	.263	α .190	.937	.620	.317
Apr	1.14	.240		1.108	.365	.743	Apr	1.178	.278	α .214	1.008	.799	.299
May	1.064	.164		.753	.379	.879	May	1.178	.276	α .212	.998	.612	.388
June	1.05	.150		.739	.371	.868	June	1.17	.270	α .206	.970	.581	.389
July	1.05	.150		.693	.365	.828	July	1.17	.270	α .206	.970	.615	.355
Aug	1.05	.150		.693	.402	.291	Aug	1.174	.274	α .210	.969	.632	.367
Sept	1.05	.150		.693	.419	.274	Sept	1.18	.280	α .216	1.018	.584	.434
Oct	1.05	.150		.693	.417	.276	Oct	1.18	.280	α .216	1.018	.552	.466
Nov	1.05	.150		.693	.442	.251	Nov	1.18	.280	α .216	1.018	.685	.388
Dec	1.05	.150		.693	.458	.205	Dec	1.18	.280	δ .199	.927	.462	.445

α Rebate, 6.4 cents.

b Rebate, 8.14 cents.

(Footnote continued on p. 817.)

the output of the American Spirits Manufacturing Company 2 years ago? Is it greater or less?—A. It is larger.

Q. Do you know how many distilleries were running at that time?—A. I could not tell you; I think, though, about 12.

Q. About how many distilleries are running for the production of proof spirits in the country at the present time?—A. I know of but 4 outside of our distilleries.

Q. So there are only 9 or 10 in the whole country?—A. There may be other small ones, but I do not know of them.

BEVERAGE WHISKIES—TOTAL OUTPUT—PROPORTION CONTROLLED.

Q. What is the nature of the product of the Kentucky Distilleries and Warehouse Company?—A. Exclusively Bourbon and rye whisky for aging; beverage whiskies—whiskies to be used as a beverage.

*See Mr. Clarke, p. 168; Mr. Luyties, p. 256.

(Continuation of footnote from p. 816.)

Year and month.	Proof spirits per gallon.	Spirits per gallon, less tax.	in let tes.	of	Corn per bushel.	Spirits from 1 bushel, less price of the corn.	Year and month.	or gall tax.	ta per ax and	ts from: cu	Corn	spirits from 1 bushel less price of the corn.
1892.							1896.					
Jan.....	\$1.173	\$0.273	a. 192	\$0.898	\$0.383	\$0.505	Jan.....	\$1.215	\$0.115	\$0.538	\$0.269	\$0.269
Feb.....	1.142	.243	a. 161	.745	.405	.340	Feb.....	1.217	.115	.538	.285	.243
Mar.....	1.133	.233	a. 152	.703	.395	.308	Mar.....	1.215	.115	.538	.286	.252
Apr.....	1.13	.233	a. 152	.703	.406	.297	Apr.....	1.215	.115	.538	.290	.242
May.....	1.14	.240	a. 159	.735	.403	.292	May.....	1.215	.115	.538	.285	.253
June.....	1.155	.255	a. 174	.805	.508	.297	June.....	1.215	.115	.538	.274	.264
July.....	1.15	.250	a. 169	.781	.497	.284	July.....	1.206	.106	.496	.200	.236
Aug.....	1.15	.250	a. 169	.781	.518	.283	Aug.....	1.196	.096	.450	.227	.223
Sept.....	1.15	.250	a. 169	.781	.462	.319	Sept.....	1.192	.092	.431	.209	.222
Oct.....	1.15	.250	a. 169	.781	.425	.356	Oct.....	1.185	.085	.398	.244	.154
Nov.....	1.15	.250	a. 169	.781	.415	.366	Nov.....	1.185	.085	.398	.241	.157
Dec.....	1.256	.356	a. 275	1.271	.413	.858	Dec.....	1.185	.085	.398	.231	.107
1893.							1897.					
Jan.....	1.331	.431	a. 350	1.635	.426	1.209	Jan.....	1.17	.070	.328	.225	.102
Feb.....	1.17	.270	a. 189	.888	.420	.468	Feb.....	1.165	.065	.305	.225	.080
Mar.....	1.17	.270	a. 180	.888	.408	.480	Mar.....	1.165	.065	.305	.237	.068
Apr.....	1.143	.243	b. 160	.747	.407	.340	Apr.....	1.182	.082	.385	.242	.143
May.....	1.125	.225	b. 142	.653	.420	.243	May.....	1.187	.087	.408	.242	.166
June.....	1.12	.22	b. 137	.640	.395	.245	June.....	1.187	.087	.408	.244	.164
July.....	1.12	.22	b. 137	.640	.389	.251	July.....	1.187	.087	.408	.264	.144
Aug.....	1.12	.22	b. 137	.640	.382	.258	Aug.....	1.192	.092	.432	.294	.138
Sept.....	1.12	.22	b. 137	.640	.399	.241	Sept.....	1.203	.103	.483	.296	.187
Oct.....	1.135	.235	b. 152	.710	.390	.320	Oct.....	1.187	.087	.408	.265	.141
Nov.....	1.15	.250	b. 167	.780	.372	.408	Nov.....	1.184	.084	.394	.267	.127
Dec.....	1.15	.250	b. 167	.780	.354	.426	Dec.....	1.182	.082	.385	.262	.123
1894.							1898.					
Jan.....	1.15	.25	b. 167	.797	.349	.448	Jan.....	1.182	.082	.385	.271	.123
Feb.....	1.15	.25	b. 167	.797	.347	.450	Feb.....	1.186	.086	.413	.289	.124
Mar.....	1.15	.25	b. 167	.797	.357	.440	Mar.....	1.192	.092	.442	.289	.153
Apr.....	1.15	.25	b. 167	.797	.379	.418	Apr.....	1.197	.097	.466	.321	.145
May.....	1.15	.25	b. 167	.797	.376	.421	May.....	1.219	.119	.501	.347	.234
June.....	1.154	.254	b. 171	.817	.399	.418	June.....	1.224	.124	.575	.324	.271
July.....	1.21	.310	b. 227	1.083	.435	.648	July.....	1.243	.143	.682	.336	.340
Aug.....	1.254	.354	b. 271	1.298	.451	.787	Aug.....	1.242	.142	.682	.317	.305
Sept.....	1.33	.430	b. 071	.330	.531	.188	Sept.....	1.242	.142	.682	.302	.380
Oct.....	1.24	.340	b. 147	.702	.530	.172	Oct.....	1.242	.142	.682	.308	.374
Nov.....	1.23	.330	c. 120	.572	.507	.096	Nov.....	1.245	.145	.696	.331	.365
Dec.....	1.228	.328	c. 110	.525	.500	.025	Dec.....	1.252	.152	.730	.356	.374
1895.							1899.					
Jan.....	1.229	.329	c. 109	.508	.430	.078	Jan.....	1.247	.147	.666	.367	.322
Feb.....	1.29	.400	c. 100	.406	.421	.045	Feb.....	1.240	.140	.656	.352	.304
Mar.....	1.237	.337	.....	.592	.444	.148	Mar.....	1.240	.140	.656	.346	.310
Apr.....	1.203	.303	.....	.470	.469	.001	Apr.....	1.240	.14	.656	.347	.309
May.....	1.223	.323	.....	.573	.518	.057	May.....	1.240	.140	.656	.344	.312
June.....	1.243	.343	.....	.662	.500	.162	June.....	1.240	.140	.656	.329	.327
July.....	1.237	.337	.....	.636	.446	.192	July.....	1.240	.140	.656	.317	.339
Aug.....	1.212	.312	.....	.532	.404	.118	Aug.....	1.210	.110	.518	.331	.185
Sept.....	1.19	.290	.....	.415	.389	.076	Sept.....	1.220	.120	.568	.330	.343
Oct.....	1.191	.291	.....	.419	.304	.115	Oct.....	1.226	.126	.581	.31	.376
Nov.....	1.195	.295	.....	.438	.282	.166	Nov.....	1.225	.125	.587	.305	
Dec.....	1.196	.296	.....	.438	.256	.179	Dec.....	1.225	.125			

a Rebate 8.14 cents.

b Rebate 8.23 cents.

c Rebate 2 cents.

d No rebate.

Q. About what proportion of the output of companies of this kind does your company control?—A. That is a very difficult question to answer.

Q. Will you explain why?—A. We have been in operation such a short time that we have not demonstrated what part of the trade we can control. We have 53 distilleries, whose previous output, as shown by the tax payments on whiskies at these distilleries during the past 5 years, warrants us in believing we may manufacture there and sell 9,500,000 gallons. In addition to that we are operating 2 very large cheap-whisky distilleries, the output of which is dependent upon trade demands. Our assumption is we shall make there 5,000,000, making a total of 14,500,000 gallons this year. It would appear that the consumption of Kentucky whiskies for an average of 5 years was in the neighborhood of 20,000,000 gallons. So we shall possibly make about three-fourths of it.

Q. When you speak of Kentucky whiskies, do you include under that name rye whiskies made in the East also?—A. Oh, no; only those made in Kentucky.

Q. You control also some large distilleries that manufacture a somewhat similar product in the East?—A. We do; yes.

Q. What are they?—A. The Hannis Distillery, the Mount Vernon Distillery, the Monumental Distillery, and the Philadelphia Pure Rye Distillery, all in the East, and one, the St. Paul Distillery—rye-whisky distillery also—in the West.

Q. Is this St. Paul Distillery the same one that was formerly owned by the American Spirits Manufacturing Company?—A. The same; yes.

Q. It was owned, also, earlier by the Distilling and Cattle Feeding Company?—A. That was back of my time again. I think that is so.

Q. Has it, in your knowledge, been used for the production of rye whisky, or was it used for the production of alcohol earlier?—A. For the production of alcohol.

Q. With reference to the production of these distilleries you have mentioned in the East, can you give us an estimate of their output, so that we can form a pretty definite idea of the proportion it bears to the total output in this country that is manufactured for aging?—A. We shall make about one-sixth of the output of the Eastern ryes; that would be about 2,000,000 gallons.

Q. So far, then, as the production of rye whisky is concerned, you come a long way from having a monopoly of the product?—A. We come a long way from monopolizing anything.

Q. At the same time, so far as the output of spirits is concerned, you come well on toward 90 per cent of it?—A. Yes.

KENTUCKY DISTILLERIES AND WAREHOUSE COMPANY AND OTHER SUBORDINATE COMPANIES.

Q. You are familiar, I understand, with the details of the organization of these different companies into the Distilling Company of America. Will you tell us, to begin with, what the nature of this organization—the Distilling Company of America—is, and what its relation is to the different organizations that came into it? Tell us, in the first place, your general plan of organization.—A. You would like me to begin with the Kentucky Distilleries and Warehouse Company?

Q. I would.—A. The Kentucky Distilleries and Warehouse Company was organized about February last for the purpose of purchasing the Kentucky distilleries—solely Kentucky distilleries. I should like to refresh my memory with figures as I go along, if you will permit me.

Q. Certainly.—A. (Referring to memorandum.) It was organized with an authorized capital of \$12,000,000 of preferred stock and \$20,000,000 of common stock.

Q. What was the nature of the preferred stock?—A. Seven per cent cumulative. \$10,500,000 of the preferred stock and \$18,500,000 of common stock was issued by the company for property purchased and for a working capital of \$1,500,000; and the properties acquired by the company through the issue of said stock were and are the Kentucky distillery properties now owned by that company, together with about 90 per cent of the standard brands of Kentucky whisky.

Q. Do I understand the distilleries cost in cash \$10,500,000?—A. The distilleries and brands cost the company, together with the working capital of \$1,500,000, \$10,500,000 preferred and \$18,500,000 of common stock, as I have stated. A proposition was made to the company to transfer the various Kentucky distilleries now owned by the company, together with \$1,500,000 of cash-working capital, for the full-paid stock as stated. This left in the treasury unissued \$1,500,000 of preferred stock and the like amount of common stock. Of the other subsidiary companies I have, as I have stated, no knowledge in their beginning. When I came into this matter they were in existence and operating. Their capitalization is as follows, or was at that time: The American Spirits Manufacturing Company, \$7,000,000 of preferred and \$28,000,000 of common; the Spirits Distributing Company, \$1,250,000 of first preferred and \$1,575,000 of second preferred and \$3,675,000 of common.

Q. Will you give, in connection with the amount of the preferred, the nature of it; for instance, the first preferred, what was the per cent?—A. I think that is 6 per cent.

Q. You have not the figures?—A. No. The Standard Distilling and Distributing Company, \$8,000,000 of preferred and \$18,000,000 of common.

DISTILLING COMPANY OF AMERICA.

The Distilling Company of America was incorporated about 3 or 4 months ago. It was created for the purpose of purchasing the stocks of the 4 companies I have mentioned, and it has purchased on an average 95 or 96 per cent of these stocks and is to-day the owner of them. The capital of that company is \$55,000,000 preferred, \$70,000,000 common, of which \$23,750,000 remains in the treasury of the company. The balance was paid for the stock of the underlying companies and for the Philadelphia Pure Rye Distillery, for the money subscribed for the purchase of the Hannis Distilling Company's distilleries, and \$1,500,000 for treasury working capital. The Distilling Company of America is not an operating company; it is simply a majority stockholder in these subsidiary corporations; incorporated under the laws of New Jersey.

ADVANTAGES OF CONSOLIDATION.

Q. What was the purpose of bringing these 4 companies together into this new company, which should not be an operating company but which should simply control the majority stock of each one of them?—A. It was believed that by securing harmonious operation in this way they would all be much more effective, as they certainly are, than operating separately. For example, the business is very much furthered by preventing the manufacture of spirits in the State of Kentucky and the manufacture of whiskies outside the State of Kentucky—outside of the territory where the alcohol is made; both companies benefit largely from that fact. Also, it was possible to use, of course, more harmoniously the great distributing machinery of the distributing companies for the selling of Kentucky whiskies, and thereby make a great saving in the expenses; and the benefits are endless. Any great business of that order controlling every branch of the business naturally works to the advantage of all. Through all these houses we supply a wholesale dealer with everything he uses in domestic goods, and with the sale of one of course we get the trade of the others; so they are all benefited.

CONTROL OF CONSTITUENT COMPANIES—PERSONAL POWER OF DIRECTORS.

Q. The officers of the Distilling Company of America are in a position to direct, as much as they think wise, the action of each one of these separate companies?—A. They naturally, as majority stockholders, control the board of directors of underlying companies; that is to say, they have men who are guided by their policy and advice in the board of directors.

Q. You spoke of the officers of the Distilling Company of America being majority stockholders in the company?—A. I mean officially so, of course.

Q. Is it true that the directors have personally a majority of the stock?—A. They do not own it personally, but do control it. The directors have a very large percentage of the stock, and their friends have a great deal, and they have a very large following. They are men who understand the business thoroughly and have the confidence of the stockholders, and, of course, control a majority of the stock in that way; but they do not own it in person.

METHOD OF CONSOLIDATION.

Q. Will you explain more in detail than you have done the plan by which the stocks of these different companies were purchased with stock of the Distilling Company of America?—A. The Central Trust Company of New York received as trustee, or whatever the relation might be, the stocks of these merger or underlying companies in exchange for the stock of the Distilling Company of America, upon a basis which you have there, I believe, which was offered through the public press, giving a certain percentage such as they deemed best for these different stocks. Of course they purchased them not upon an equal basis, because the earning capacity of these different companies was not equal. They tried to do it as equitably as possible, and offered as equitable prices as possible upon the basis of their earning capacity. For example, the Kentucky Distilleries and Warehouse Company received 85 per cent of preferred and 15 of common for its preferred stock, and 70 per cent of common for the common stock. That is, 70 per cent of the common stock of the Distilling Company of America for the common stock of the Kentucky Distilleries

and Warehouse Company. The others were proportionate, as their earning capacity was estimated.¹

Q. In order to carry out this plan of combining these different organizations into one you had a committee on organization appointed to attend to the work?—A. Yes.

Q. This committee on organization was appointed by whom?—A. It was largely influenced by those men who owned a great deal of stock. This thing was gotten up, of course, for the purpose of carrying through the combination of these entire properties for the trade reasons I have given you, and these men who were very heavily interested in the stock were naturally the movers in that thing.

Q. In selecting a committee?—A. Yes.

PROMOTERS' PROFIT.

Q. I notice that in the proposition made here, it is stated that there was put into the hands of these organizers \$31,250,000 preferred and \$46,250,000 of com-

¹ The following is the deposit agreement under which the consolidation was effected:

Whereas P. Lewis Anderson and Henry D. Macdonia, both of the city and State of New York, hereinafter called organizers, propose to create under the laws of the State of New Jersey, or of some other State to be approved by the counsel of the organizers, a corporation, to be known as The Distilling Company of America (or some other name satisfactory to the organizers), hereinafter called the corporation, the object of which corporation shall be, among other things, the manufacture, sale, distribution, and warehousing of whiskey, spirits, and alcohol, which corporation shall have an authorized capital stock of one hundred and twenty-five million dollars (\$125,000,000.00), consisting of fifty-five million dollars (\$55,000,000.00) preferred stock, evidenced by five hundred and fifty thousand (550,000) shares of seven per cent. (7%) cumulative preferred stock, and seventy million dollars (\$70,000,000.00) common stock, evidenced by seven hundred thousand (700,000) shares of common stock. The charter of the corporation shall contain such other provisions as the organizers and their counsel may approve; and

under the law
five per cent. (5%) noncumulative preferred stock and twenty-eight million dollars (\$28,000,000.00) common stock;

(b) Kentucky Distilleries and Warehouse Co. (hereinafter called Kentucky Co.), organized under the laws of New Jersey, having an issued capital stock of ten million five hundred thousand dollars (\$10,500,000) seven per cent. (7%) cumulative preferred stock and eighteen million five hundred thousand dollars (\$18,500,000.00) common stock;

(c) Spirits Distributing Company (hereinafter called Distributing Co.), organized under the laws of New Jersey, having an issued capital stock of one million two hundred and fifty thousand dollars (\$1,250,000.00) six per cent. (6%) cumulative first preferred stock, one million five hundred and seventy-five thousand dollars (\$1,575,000) two per cent. (2%) noncumulative second preferred stock, and three million six hundred and seventy-five thousand dollars (\$3,675,000.00) common stock, all of said common stock being now owned by the Standard Distilling and Distributing Company, hereinafter referred to;

(d) Standard Distilling and Distributing Company (hereinafter called Standard Co.), organized under the laws of New Jersey, having an issued capital stock of eight million dollars (\$8,000,000.00) seven per cent. (7%) cumulative preferred stock and sixteen million dollars (\$16,000,000.00) common stock; and

Whereas the organizers contemplate that the corporation shall acquire and become the owner of at least a majority of the entire issued capital stock of the Manufacturing Co., of the Kentucky Co., and of the Standard Co., and of each of them, and shall also acquire and become the owner of at least a majority of the entire issued preferred stock of the Distributing Co.; and

Whereas the organizers contemplate that the corporation shall acquire and become the owner of either the rye properties hereinafter named or of the entire capital stock (less such nominal number of shares as shall be necessary to qualify directors thereof) of a certain other company which may be organized (which other company is hereinafter called Rye Co.), and which Rye Co., if organized, shall acquire by purchase or otherwise become the owner of the following rye distilling properties:

(a) At least ninety-five per cent (95%) of the entire capital stock of Hannis Distilling Company of Philadelphia and Baltimore; and

(b) St. Paul Distillery; and

Whereas the organizers further contemplate that the corporation shall be furnished with a cash working capital of at least one million five hundred thousand dollars (\$1,500,000.00); and

Whereas the organizers contemplate that the corporation shall retain in its treasury enough of its preferred and common stock with which to enable it to acquire, if in its discretion it should so desire (but without any obligation so to do), by exchange or purchase, or otherwise, all of the remaining stock of the Manufacturing Co., of the Kentucky Co., of the Standard Co., and of the preferred stock of the Distributing Co., upon the same or a similar basis to that herein provided for the acquisition of said majority stock of the Manufacturing Co., of the Kentucky Co., of the Standard Co., and of said majority preferred stock of the Distributing Co.; and

Whereas the organizers further contemplate that in addition to so much of its preferred and common stock that is to remain in the treasury of the corporation for the acquisition by the corporation of the remaining stock of the Manufacturing Co., of the Kentucky Co., of the Standard Co., and of the preferred stock of the Distributing Co., as hereinbefore recited, the corporation shall also retain in its treasury for future purposes twenty-three million seven hundred and fifty thousand dollars (\$23,750,000.00) of its preferred stock and twenty-three million seven hundred and fifty thousand dollars (\$23,750,000.00) of its common stock; and

Whereas it is further contemplated that the organizers shall, as a purchase price, receive from and be paid by the corporation thirty-one million two hundred and fifty thousand dollars (\$31,250,000) of its preferred stock and forty-six million two hundred and fifty thousand dollars (\$46,250,000.00) of its common stock for all of the said issued capital stock of the Manufacturing Co., for all of the said issued capital stock of the Kentucky Co., for all of the said issued capital stock of the Standard Co., and for

mon stock, for the purchase of the entire stock of all these four companies, which on the basis laid down in the plan makes \$20,540,000 of preferred and \$32,890,000 of common stock. That leaves a surplus in the hands of these organizers of \$10,710,000 of preferred and \$13,360,000 of common; what use was to be made of that surplus left in their hands?—A. That was to pay as far as it was required for the stock of the underlying companies not yet deposited with the Central Trust Company. Of course there is still outstanding stock of these companies.

Q. The \$20,540,000 of preferred and \$32,890,000 of common stock is made up on the basis of taking in all of the common and all of the preferred stock of these com-

all of the said issued preferred stock of the Distributing Co., and for said one million five hundred thousand dollars (\$1,500,000.00) cash working capital, and for said rye properties or the entire capital stock of said Rye Co., less the directors' qualifying shares aforesaid, and that for every said share of said stock of the Manufacturing Co., the Kentucky Co., the Standard Co., and the Distributing Co., not turned over and transferred by the organizers to the corporation, there shall be deducted and retained by the corporation from said purchase price an appropriate amount of the preferred and common stock of the corporation, calculated upon the basis hereinafter specified; and

Whereas for the purpose of carrying out this agreement the Central Trust Company of New York (hereinafter called Trust Company) is hereby designated and made the depository hereunder; and

Whereas the undersigned are respectively the holders and owners of the certain number of preferred and common shares of said Manufacturing Co., of the Kentucky Co., of the Standard Co., and of the preferred stock of the Distributing Co., set opposite their respective names; and

Whereas the undersigned are willing and desire to sell, transfer, and assign their said respective shares to the organizers, for and in consideration and upon the basis of the exchange hereinafter specified;

Now, therefore, in consideration of the premises and in further consideration of the sum of one dollar (\$1.00) to each of the undersigned by the organizers in hand paid, the receipt of which by each of the undersigned is hereby respectively acknowledged, the undersigned do hereby severally, but not jointly, agree to and with the organizers as follows:

I. The undersigned do hereby severally agree to sell to the organizers and do deposit with the Trust Company, properly indorsed in blank, and bearing the proper revenue stamps, certificates representing certain of the preferred and common shares of the Manufacturing Co., the Kentucky Co., the Standard Co., and of the preferred shares of the Distributing Co., the amount of which is designated opposite their respective names. The Trust Company shall issue appropriate temporary negotiable receipts evidencing such deposits.

II. For each of said preferred shares and each of said common shares so deposited hereunder the undersigned respectively shall be entitled to receive from the Central Trust Company, when this agreement shall have become operative and when and as the new securities shall have been received by said Trust Company, the following:

For every said preferred share of the Manufacturing Co. fifty per cent (50%) thereof in preferred stock of the corporation;

For every said common share of the Manufacturing Co. twenty-five per cent (25%) thereof in common stock of the corporation;

For every said preferred share of the Kentucky Co. eighty-five per cent (85%) thereof in preferred stock and fifteen per cent (15%) thereof in common stock of the corporation;

For every said common share of the Kentucky Co. seventy per cent (70%) thereof in common stock of the corporation;

For every said preferred share of the Standard Co. eighty-five per cent (85%) thereof in preferred stock and fifteen per cent (15%) thereof in common stock of the corporation;

For every said common share of the Standard Co. sixty per cent (60%) thereof in common stock of the corporation;

For every said share of the first preferred stock of the Distributing Co. eighty per cent (80%) thereof in preferred stock and twenty per cent (20%) thereof in common stock of the corporation.

For every said share of second preferred stock of the Distributing Co. twenty per cent (20%) thereof in preferred stock and twenty per cent (20%) thereof in common stock of the corporation.

III. This agreement shall not become binding, operative, and effective unless there shall have been deposited hereunder with the Central Trust Company or under similar agreements certificates representing a majority of the entire issued capital stock of the Manufacturing Co., Kentucky Co., Standard Co., and of each of them, and of the preferred stock of the Distributing Co.

The Central Trust Company may, in its discretion, in lieu of the actual deposit with it of certificates for shares, accept an agreement in writing to make such deposit upon five days' notice from the Trust Company so to do; and the deposit when made shall be deemed to have been made within the time limited or extended as herein provided. In computing a majority of stock to render this agreement operative there shall be included any and all shares as to which obligations to deposit the same shall be accepted by the Trust Company.

IV. When this agreement has become binding, operative, and effective the Central Trust Company shall deliver to the State Trust Company all of the stock deposited hereunder upon the Central Trust Company receiving from the State Trust Company shares of stock of the corporation adequate and sufficient to pay the said purchase price of the stock so deposited hereunder.

V. June 30th, 1899, is hereby designated as the date of the expiration of the time for the deposit of the shares hereunder, but such time may be extended, not exceeding thirty days thereafter, by agreement between the organizers, the Central Trust Company, and the State Trust Company; and in case the State Trust Company shall not within thirty days after said June 30th, 1899, or after the expiration of any extended time, notify the Central Trust Company that the organizers are ready to complete the purchase of the shares so deposited hereunder, the shares deposited hereunder shall be returned by the Central Trust Company without charge to the depositors of the same respectively or to the holders of said receipts upon the surrender to the Central Trust Company of said receipts duly endorsed.

VI. For purposes of convenience copies of this instrument may be signed, and when so signed all of such copies shall be considered as originals, and signatures thereto shall be considered the same as though appended to one copy hereof.

VII. The deposit with the Central Trust Company of shares hereunder shall have the same force and effect as though the one making such deposit signed this instrument.

Dated New York, June 21, 1899.

panies on the basis suggested.—A. There was a certain amount of this stock which went to the subscribers for the \$3,500,000 that was used to purchase the Hannis properties and this \$1,500,000 working capital. That stock was divided. I can not tell how that was done. There was a bonus given with the stock, as is always given in these matters, to those who subscribed that \$3,500,000. There was \$3,500,000 of cash paid into this Distilling Company of America proposition, and the subscribers got the preferred stock and a bonus of common stock.

Q. I had understood from the statement you made before there was about \$1,500,000 paid in?—A. No; \$1,500,000 of working capital, and about \$2,000,000 was paid for the Hannis properties.

Q. Do you include in that the St. Paul property?—A. The Hannis and the St. Paul.

Q. That was \$2,000,000?—A. That was \$2,000,000.

Q. That was paid in cash?—A. That was paid in cash.

Q. Was there any other obligation left upon these organizers of the companies besides turning over this stock, and turning over the Hannis and St. Paul distilleries?—A. No.

Q. That discharged their obligation?—A. Yes.

Q. After they have turned over all this stock of these different companies with these two distilleries the rest is their profit as promoters?—A. That is right.

ANNUAL REQUIREMENTS FOR PREFERRED STOCK INCREASED.

Q. At about what price is the preferred stock of the Distilling Company of America selling?—A. About 43, I think.

Q. And the common?—A. About 14.

Q. In this organization that was made of these different companies was there a reduction or an increase of the fixed charges for interest, for dividends on the preferred stock, etc., made by the combination?—A. I do not think I quite understand your question.

Q. Taking all the preferred stocks of the original companies, of course, there was a certain interest charge that was required. Under the new company there is a preferred stock of— A. \$31,250,000.

Q. Seven per cent. Now, has the charge upon the company as a whole been increased by the change or decreased?—A. Slightly increased.

Q. Do you recollect the increase?—A. About \$250,000 a year, I think; in that neighborhood. The preferred capitalization has increased from about \$28,325,000 to \$31,250,000—about \$250,000 increase. I can not say exactly, because I do not know exactly the rate of interest on the old preferred stock; but it is about \$250,000, I think.

DIVIDENDS.

Q. Do you recollect whether the American Spirits Manufacturing Company had before paid its dividends on its preferred stock?—A. It had not.

Q. Do you recollect whether the other companies had?—A. The Standard Distilling and Distributing Company had, the Kentucky Distilleries and Warehouse Company had paid one dividend, and the Spirits Distributing Company had paid dividends.

Q. Three had?—A. And the other had not.

Q. Under the new organization either all would have to be paid or none. The point is this: Before, the preferred stock was divided into five different parts; two

¹ See tabular statement as follows:

Stock of companies consolidated and annual requirements of preferred stock.

Companies consolidated. (See deposit agreement, p. 820, footnote.)	Preferred stock.	Annual requirement.	Common stock.	Stock of Distilling Company of America required for complete exchange.	
				Preferred stock.	Common stock.
Manufacturing Co.	\$7,000,000	\$350,000	\$28,000,000	\$3,500,000	\$7,000,000
Kentucky Co.....	10,500,000	735,000	18,500,000	8,925,000	14,525,000
Standard Co.....	8,000,000	500,000	16,000,000	6,800,000	10,800,000
Distributing Co...	1,250,000	75,000			
	1,575,000	21,500	8,675,000	1,315,000	865,000
Total	28,325,000	1,751,500	66,175,000	30,540,000	33,290,000

The annual dividend requirement of \$30,540,000 7 cent preferred stock of the new company is the old preferred stocks.

might and the other three might not pay dividends; but in the reorganization with this added charge, unless all can be paid I assume none can be paid?—A. You must not confuse the subject. The underlying companies are absolutely independent of the Distilling Company of America. These companies will declare their dividends upon their earnings if the directors think right, just as they have done in the past. Of course, it is true the Distilling Company of America will not declare a dividend, except for the benefit of all that part of the holding that was paid for these stocks, but the underlying companies still continue—some to declare dividends, others not.

Q. So far as the minority stockholders are concerned, they are in the same position as before?—A. Absolutely; undisturbed.

Q. The funds from which the Distilling Company of America must pay its dividends, if at all, come from the dividends of these different companies and from the profits of these new companies—the Hannis Company and others?—A. That is right; I will say these rye companies are to be incorporated in the Rye Distilling Company; so that will be a subsidiary branch of this whole organization.

Q. That is something contemplated?—A. A new company will be formed to include these rye distilleries.

Q. Under these circumstances that will stand as another subsidiary company, all of whose stock will be held by the Distilling Company of America?—A. That is right.

ADVANTAGES OF NEW JERSEY CORPORATION LAW.

Q. You said a moment ago that this new company, the Distilling Company of America, was organized under the laws of New Jersey. Where were the other companies that have gone into the combination organized?—A. The Kentucky Distilleries and Warehouse Company is also organized under the laws of New Jersey. I can not say positively, but my impression is that the Spirits Distributing Company and the Standard Distilling and Distributing Company are also New Jersey organizations; but the American Spirits Manufacturing Company is organized under the laws of New York.

Q. We have had some testimony in the last 2 or 3 days with reference to the reasons why these larger organizations in so many cases incorporated under the laws of New Jersey; what, in your judgment and the judgment of the other men in this organization, were the reasons for your organizing in the State of New Jersey instead of New York or Kentucky?—A. Less taxation for one thing, and immunity from liability on the part of the stockholders and officers under certain conditions. We do not have to publish reports, for instance, as we do in New York and some other States. These are the reasons, so far as I understand them.

Q. With reference to the publishing of reports that you have just spoken of, there are, I believe, under the statutes of the State of New Jersey, certain annual reports with reference to officers that are to be filed?—A. The report to which I referred is the annual report filed in New York, which if not filed makes the officers liable for the existing indebtedness. No such report as that has to be filed in New Jersey. We do have to file a report giving the names of the officers, etc., but the failure to report does not, as I understand it, subject the officers or stockholders to any debts of the organization. I may be wrong; I am not a lawyer.

COMPLIANCE WITH NEW JERSEY LAW.

Q. Do you know whether these annual reports have, as a matter of fact, been filed in the State of New Jersey?—A. Of our companies?

Q. Of the four companies?—A. Yes; I think they have all been filed; that is my understanding.

Q. Have you kept for each one of these companies a regular transfer office in the State of New Jersey?—A. Yes.

Q. Can you give the name and address of your New Jersey agent?—A. The Kentucky Distilleries and Warehouse Company, and the Standard Distilling and Distributing Company, and the Distilling Company of America have as their agent Mr. A. Q. Garretson, whose office is at No. 1 Exchange place, Jersey City, N. J. The Spirits Distributing Company is represented by Mr. George P. Vickers, 243 Washington street, Jersey City, N. J.

Q. Are the certificate and transfer books of these three companies you have mentioned as represented by Mr. Garretson kept in his office?—A. It is my understanding that duplicates of them are kept there, and that the stock is received there when presented. The general transfer books are kept in New York City, but at any moment, if required, they would be sent over there if needed for any purpose. They are kept there merely as a matter of convenience. We keep duplicates there at Garretson's office.

Q. The stock has been received there and stock has been transferred there?—A. Yes.

Q. Is there kept in Mr. Garretson's office a list of the stockholders, with address and amount of holdings?—A. Yes.

Q. Kept posted up to date?—A. I understand so.

Q. Has that been true?—A. In the past?

Q. Yes.—A. So far as I know since I have had anything to do with the matter; yes.

Q. Since you have been an officer?—A. Since I have been an officer. I have not personally seen the books, but it is my understanding that has been done all this time.

Q. So with reference to the other special matters required by New Jersey law, has Mr. Garretson kept posted in a conspicuous place the names of these companies he represents?—A. That has been done continuously.

Q. Can you make the same statement with reference to Mr. Vickers?—A. Yes.

Q. With reference to the stock and transfer books also?—A. Yes.

INTERNAL-REVENUE RECEIPTS WOULD BE GREATER IF THE RATE WERE LOWER.

Q. If the question were asked about the opinions of those in the spirits manufacturing business in this country as to an abatement of the internal-revenue tax, could you make any statement on that point?—A. Personally I think the tax rate is too high for the greatest revenue to the Government. I think they would get a greater revenue at 90 cents, or even a little less, than they do at the present time. Our companies are not interested in that question particularly; I can not say that we should not be like everybody else, glad to see the tax rate reduced; but I do not think we would ask for it. There are some administrative features of the law we should very much like to see changed, but I do not think we would ever take any action to reduce the tax on whisky.

OBSTRUCTIVE REVENUE REGULATIONS.

Q. What changes would you suggest?—A. In the administrative features of the law!

Q. Yes.—A. That is a very long story. The law is very obstructive and needs many changes. We are terribly hampered, for instance, in our export business. We have not the privilege, for example, of exporting bottled whiskies in bond to foreign countries. We are not permitted to bottle and retain in a bonded warehouse until we have orders for shipment, and consequently our exports are delayed two or three months putting up special lots of export goods. We certainly should have the privilege of keeping these goods in our warehouse, bonded, the same as barrels. We can not detain at seaboard either; we are no better off there; but must send them right out as soon as they are put up. Just to show you how remarkable the law is in many respects, we have the privilege of exporting whiskies on which the tax is paid and obtaining a refund on the whisky. The tax is kept at \$1.10. When we export whiskies that have paid \$1.10 we can only obtain a refund of 90 cents, because the law was not changed to include the change in the tax rates. There are thousands of such things going on every week that are obstructing our business and from which the Government obtains no revenue or protection. There are any number of instances of obstruction of distilleries that are perfectly ridiculous, that have no bearing on the Government's revenues and still hamper us in our business."

ILLICIT DISTILLING; THE RESULT OF TOO HIGH A TAX.

We have found this a very serious matter, one which interests the Government as well as us. In this country to-day there are hundreds of distilleries, little bits of distilleries, making everywhere from 1 barrel to 10, 15, or 20 barrels, that can not be reached by the Government because the expense would eat up the revenue; and they are making whisky illicitly every day in the year. There certainly ought to be some method provided. I would suggest myself a very high license tax, so as to prevent a man from running such a distillery so long as the laws are as they are; and if necessary a man should not be permitted to make whisky unless on a sufficiently large scale to justify putting a Government officer there to watch it and see that the Government got the tax on the whisky. Of course, we are interested in that because we pay our taxes, and the Government is interested because it wants to collect its tax. The reduction of taxation is something that we certainly can not say anything about. I do personally believe that the Government can collect more if

of course, if you reduce the tax to 1

¹ See Mr. McNulta, pp. 229-234; Mr. Cook, p. 243; Mr. Luyties, p. 251.

² See Mr. Clarke, pp. 182, 183; Mr. Luyties, p. 259.

the incentive is not great enough they will stop of their own accord. If you go to 75 cents, they will not make any to speak of. At 90 cents they will make comparatively little.

Q. Your judgment would be that with a tax of 75 cents and a more complete collection of the revenue, the revenue would be as great?—A. In my judgment, it would be greater.

Q. As low as 75 cents?—A. I think so. The statistics of the revenue department show the greatest revenue per capita was at that rate, and every increase has lessened it ordinarily. It does not come, in my opinion, from the increased use. If a man wants whisky, he buys it, whether at \$1.10 or less; but it comes from removing the incentive to illicit distilling and robbing the Government.

Q. (By Mr. FARQUHAR.) Have you any estimate of the whole amount of this illicit distillation—the increase?—A. No; no one can tell that. We only judge from the unlimited opportunity that men have to carry on that traffic, and from the very great number of seizures made of illicit stills, which is only a small percentage of the number of those engaged.¹ Many of them have been running for years before they are caught. The statistics show that every increase beyond 75 cents has lessened the Government's revenue; and that, to my mind, shows how great the illicit distilling is.

ILLICIT STILLs ALL OVER THE UNITED STATES.

Q. How wide is the distribution of these illicit stills? Is it local?—A. Oh, not at all; it is all over the United States.

Q. Over the United States?—A. All over the country; greater, perhaps, in the Atlantic States, in the mountains of the Atlantic coast and in Tennessee than anywhere else. I simply made that statement because there the greatest seizures are made; but the thing is done right along in New York City. Some of the biggest illicit seizures are made in New York City. Only a few months ago one was seized there, making a barrel a day of whisky; and it had been running for two or three years within two or three blocks of the office of the chief of internal revenue—right in the middle of our city. What is to prevent if the incentive is sufficient? I can run a still in my house on Fifth avenue for five years and defy them to catch me.

PROFITS OF ILLICIT DISTILLING.

Q. (By Mr. JENKS.) How expensive is it to put up a still that will manufacture a barrel a day?—A. It could be done for \$100; but the profits are simply terrific. They make a profit of \$30 or \$40 a barrel; even selling at the actual cost of whisky to those who pay the revenue.

Q. (By Mr. FARQUHAR.) How large would the distillery have to be to justify the Government in keeping officers there?—A. It is customary to run a distillery about 200 days in the year. It does not run very satisfactorily in hot weather, especially these little houses where the facilities are poor. The cost of the Government officers would be probably about \$2,500 a year to the Government, and they would have to stay there after the operations had been suspended to guard the whisky that had been made; that would be about \$8 per day, and the Government's revenue would be about \$40 on the barrel at the present rate. They could well afford to put two men there to guard that distillery if they were making a couple of barrels a day—that would be about 25 bushels—but they do not do it. I have a little plantation in North Carolina where I go to shoot quail. I know a man worth \$250,000, and he has no vocation on the earth except running a little still on which by no possible chance could a man make his daily bread if he paid the tax; and he is a very rich man. It is only about a 20-bushel house, but he is the richest man in that section of the country, and owns about 30,000 acres of land. It is not so very valuable land; but he is rich; he is a man very well up—a great politician, by the way, and runs the whole county.

RETAILING AND CONSUMPTION OF ILLICIT WHISKY.

Q. (By Mr. KENNEDY.) Do you know anything about the sale of illicit whisky to the retail trade?—A. I have a good deal of knowledge on that.

Q. Do the illicit distilleries divide their gain with those who sell it?—A. They have to give a little of it, as the stuff is very poor and they have to give a bid for the business. They do not give much. I own two very valuable trade-marks, the Old Crow and the Hermitage. These trade-marks are pirated all over the country, and I have a man seeking constantly for the infringers of them among the retail trade. I got one year in New York City over 3,000 bottles of whisky bearing these labels. At least 80 per cent of that was illicit whisky. Of course, most of these infringements occur in the dives, you know.

Q. How do you know that?—A. It is the simplest thing in the world. It is very

¹ For the number of seizures, see p. 843.

poor, has got a nasty sort of smell, and anybody familiar with it can tell the instant he puts his nose over it. I know, of course, that was supplied by these fellows to the tenement houses all around the city—to these men in small quantities and bottled; and there, of course, the Government officers absolutely lost trace of it. There is no way you can trace it there, and it is a favorite method of distillers of the illicit stuff. I have informed the internal-revenue officers, but they did not seem inclined to take it up. There is no question the country is full of it.

Q. Does it reach the better class of retail places?—A. Very little. The quality is too bad for that. I think the great majority or bulk of it is stored in the locality where it is produced, probably. The difficulty of transportation of that stuff, where it is made in the country, would make it probable that its use is confined to the immediate neighborhood of the stillhouse. This stuff I am speaking about is no doubt made in the big cities, where it is easy to get it into the saloons without discovery; but the thing is going on to an enormous extent; there is no doubt of that. How much, you can not tell, until you reduce the whisky tax. That is the only way you can get at it; but you are offering a tremendous premium now for it. You know, I suppose, that during the civil war, when you raised whisky to \$2, the revenue ceased; the Government got no revenue; practically nothing at all.

Q. (By Mr. JENKS.) Then it dropped back to 50 cents?—A. Then 50 cents, and it went to a tremendous figure; and 75 cents was found to be the greatest revenue-producing rate. This is too great a country to watch that thing, you know; you can do it in England; they do it after a fashion, because they cover every few acres with a revenue officer; but you can not do it here.¹

CHEAP WHISKIES.

Q. You said some time ago that one of your companies, I think it was the American Spirits Manufacturing Company, had one large distillery which manufactured cheap whisky?—A. Well, all these distilleries of the Standard Distilling and Distributing Company make so-called whisky; it is not whisky; it is proof spirits, put up in charred barrels so it is colored, you know, and sold for cheap whisky.

Q. I was going to ask you to explain that.—A. It is not whisky, technically; technically whisky is not rectified; that is to say, it is not run through charcoal, so that all the impurities are taken out of it, all the essential or fusel oil; it is the crude distillation for the fermentation of the grain or mash, and depends upon the aging or oxidation that occurs in time to remove these oils and fusel alcohols. That is, strictly speaking, whisky; the other is spirits, but put up in a shape that causes it to be designated whisky in the trade.²

Q. Is the price such that it pays to make that stuff in any large quantity instead of making the pure spirits?—A. The cheap whiskies you have reference to?

Q. Yes.—A. Those whiskies are usually sold for a very trifle over the spirit price; they do command a little bit higher price; you see they are in condition to be bought by the retailer and used, as he gets them. The high-proof spirits must be rectified under the rectifiers' license, changed into other packages, reduced with water; that a small man is not prepared to do; so it does command a price a very trifle higher.

THE YIELD PER BUSHEL OF CORN.

Q. In connection with the figures you said you would furnish me with reference to the price, the monthly price of corn and spirits, could you add also the average yield per bushel of corn?—A. Yes.³

Q. And I should be glad if you could run that average yield back, say, ten years; the annual average.—A. I can give you the approximate yield.

Q. The average yield from corn made by your distilleries now, I suppose, is higher than the reports of the internal revenue would show?—A. I suppose so.

Q. You can tell us the yield approximately?—A. Yes. The yield in the alcohol distilleries in so-called finished goods, that is, high wines, after it has been rectified in charcoal, is about 4.80 gallons of proof spirits per bushel. The yield of the whisky distilleries of Kentucky, for instance, is about the same, but that is not what corresponds with the high wines of the alcohol distillery, and would be reduced to about 4.60 or 4.65 gallons after the product is rectified; it is now barreled just as it comes from the still, so that the yield in the alcohol distilleries is a little greater.

PRICE QUOTATIONS—HIGH WINES—PROOF SPIRITS.

Your basis for quotation of prices is proof spirits, now, is it?—A. Yes. Some years ago it used to be high wines?—A. Yes.

¹ For table of revenue and apparent consumption at different rates, see p. 843.

² See Mr. Clarke, p. 148.

³ See p. 115.

Q. If a person is to make a comparison between early prices of high wines and the present prices of proof spirits?—A. It makes no difference.

Q. It is substantially the same?—A. The term high wines was more descriptive of a kind of product, and prices were based after all upon proof gallons, so that makes no difference.

Q. The prices were the same although the name is different?—A. They were the same; yes.

COMPOUNDING OF WHISKIES.

Q. In connection with the business of any one of these four companies, do you do any compounding of whiskies?—A. Yes. The Standard Distilling and Distributing Company's branches compound and make up all combinations in which spirits are used for distribution to the trade in such forms as they require them. You see, for instance, in New York, the distilleries "bring down" the high-proof alcohol, as it is technically termed; they reduce it with water, and barrel it half proof or of such strength as desired, sometimes adding some whisky to it. That is done in all our branches.

Q. You make practically any kind of whisky that the trade wants?—A. Anything that is wanted we make.

KENTUCKY WHISKIES.

It might interest you, possibly, a little, to hear about our Kentucky business, prices, etc.

Q. Yes.—A. We acquired, in our purchases of the Kentucky distilleries, as I have said, some fifty-odd distilleries, and among them nearly all of the valuable trade-marks in Kentucky. There are but very few left outside. Now, trade-marks, of course, enable us to obtain a better price for the product than if they were staple goods without a name. To the extent that we manufacture these we are charging prices that are a little lower, but not much, than prices heretofore charged by the previous owners, over a series of years, on the average. In the very large staple whisky distilleries, however, which we have built, and which are now operating, we are producing a very good whisky and selling it at 15 cents a gallon, which is easily the lowest cost ever known of any whisky made in the State of Kentucky; and that we are selling all over the United States to anybody who wants it—a good whisky, but without a trade-mark. It is impossible for any distillery in the State of Kentucky, outside of this company, to produce that for 15 cents; they can not make it. Of course, in doing that we are serving the real purpose that this combination was intended to serve by evolution.

Q. Cheap production?—A. Cheap production; we still make a profit on that whisky.

THE POLICY OF LOW PRICES.

Q. I understood you to say that your prices were now made uniform, under the latest plan?—A. The alcohol prices?

Q. Yes. Would you not, under these circumstances, cut in special localities, to protect your custom against any competitor that came in?—A. No. Our policy now is definite for a year ahead, and we are making contracts a year ahead with anybody who wishes to make them at that price—\$1.23—for high proof, and we propose to adhere to that without any regard to what competitors do. We do not aim to monopolize the business. It is not necessary to do that. You can make all the money you want by simply keeping down to the price where the industry will not be increased as to production.

Q. You are making your prices an absolute price, for a year ahead, of \$1.23, regardless of what the price of corn is?—A. No; that is based upon the corn price—always upon 30-cent corn. Of course, all these prices are based upon a stipulated corn price.

Q. Then, as a matter of fact, this \$1.23 is simply based on 30-cent corn; if the price of corn goes up the price of whisky goes up to correspond, and if it lowers, in the same way?—A. Yes. We believe that alcohol can not be made in the United States by anyone for less than \$1.20, and if they are selling it for less they are selling it at cost. We are making a fairly good profit, good enough, and we propose to continue on that basis indefinitely. If we put it much higher we shall have competition as sure as we are alive. The trust, or so-called trust, is not proof against competition.

RYE WHISKY COMBINATION.

Q. How long has there been a rye whisky combination that has been large enough and complete enough to be really efficient in making economies in the trade?—A. Rye whisky?

Q. Yes.—A. There never was such a thing until we had purchased these few distilleries.

COMPOUNDERS INCREASING—NO DISCRIMINATION.

Q. (By Mr. FARQUHAR.) Is the business of compounding—that is, the business of compounding that is done independent of distilleries—on the increase or decrease in the country?—A. On the increase.

Q. Do your companies give any advantage to the compounders over and above other dealers in proof spirits?—A. Right along, you mean?

Q. Yes.—A. You mean do we in our sales?

Q. Yes.—A. No, sir; no discrimination whatever.

KENTUCKY WHISKIES—OUTPUT—PORTION CONTROLLED.

Q. How far does your combination control the output of Kentucky?—A. We have, as nearly as I can estimate—you see we have not yet demonstrated, because we have only run 6 months; we have about 14½ million gallons out of probably a production in Kentucky of 20 million gallons. Of course, the part that this very cheap whisky of ours is to play in this matter remains to be demonstrated. It may monopolize more of the business than we think. It probably will encroach more upon the business of the distillers as years pass, until we get even a greater percentage of it through manufacturing and selling so cheaply, but my estimate for this year would be what I stated.

FEW PERMANENT FORTUNES HAVE BEEN MADE IN WHISKY.

Q. You said that you had been for 27 years in the distilling business?—A. Yes.

Q. Do you think that a great many permanent fortunes have come out of the distilling business in this country?—A. Very few.

Q. And yet there have been enormous profits?—A. Enormous at times. The whisky business is one of great booms and great depression, due to the law at times and to the fact that it is an article that is accumulated in enormous quantities and stored. That causes tremendous depression and enormous booms, you know. It is a very peculiar business in that regard, and it is only a very few men that have passed through different stages of it and come out with money. I know perhaps half a dozen men in the country who have considerable fortunes.

EXPORT TRADE—UNNECESSARY LEGAL RESTRICTION.

Q. (By Mr. JENKS.) Have you some further general information to give? I notice you have some other notes.—A. I have a table of exports here indicating possibly a stimulation of the export of manufactured products to foreign countries, due to the lessening of cost of production through these combinations. Of course that is familiar to you. I thought you might ask my views on that subject, and I prepared myself to tell what I thought of it.

Q. I should be glad if you would elaborate a little upon the effect of combination in the export trade.—A. In our own peculiar business we have had but little time to demonstrate this thing, but if we had relief in regard to some of these legal obstructions, put in the way of our doing it as it should be done, I have no doubt we could greatly stimulate our foreign business. I know it could be done in alcohol if we had one privilege that was asked for and was refused by Congress—that is the permission to transport alcohol from the distillery to the seaboard in tank cars. There is no possible reason why it should not be granted, but it was refused. It would enable us to dispense with the barrel, which is a very large element of the cost, and ship, as they ship petroleum, in tank cars to the seaboard, and then in tank vessels abroad, to be used in the arts and manufactures. It could be handled in that way without any difficulty. A large quantity is used in the manufacture of smokeless powder, and the amount used is something terrific. We could get into trade with the world in that regard, if we could only dispense with the barrels. Of course, being handicapped by these things, we have not been able to demonstrate what we could do. These other people in their several industries—iron, steel, petroleum, and sugar to a very limited extent—but everything that is made from iron and steel—have shown that by reduction of the cost of manufacture, the business in foreign countries can be increased.¹

WASTES OF COMPETITION.

Of course it needs no argument to you gentlemen to demonstrate that you can make alcohol in a distillery mashing 15,000 bushels of grain a day for less than you

¹ See Mr. McNulta, p. 235; Mr. Cook, p. 245.

can in one of 500.¹ That is too easy; and also you can sell it much cheaper to the foreign buyer if in all the rest of your business you are enabled to dispense almost entirely with the services of salesmen, traveling expenses, advertising, and all these things which eat up profits of manufacture. There is no doubt, of course, that all of these things hurt somebody; somebody is hit. You know the salesman is, but to the consumer, who is a thousand to one of those people, it is a benefit. We are saving probably in our business not less than \$1,000,000 a year in the Kentucky end of it alone in salesmen, in their traveling expenses.

Q. Could you give a definite estimate of the number you have been able to dispense with?—A. About 300 salesmen.

Q. (By Mr. FARQUHAR.) And that goes to the benefit of the consumer in lower prices?—A. We are selling our whiskies at 15 cents that before never could be manufactured for 15 cents. Of course the thing is self-evident. We also make better profits, but we do not take it out of the consumer. We get it out of that great middle class, you know. I have taken a very great interest in this thing, more for amusement than anything else. I do not need it in my personal business, but I have gone very extensively into the figures of this whisky business. There is about \$40,000,000 lost somewhere between the distiller and the consumer in this country. It goes, of course, in trying for trade, for business. You will see about the town here "Hunter Whisky" advertised in the newspapers and everywhere else—electric lights blazing—and all this costs a pile of money. They have salesmen scouring all over the country. All that thing is wrong; it is preposterous; it does not enable the consumer to get better whisky; it only makes him pay a better price. Coming down here I saw on the street two shoe shops; Douglas was one, and the other I do not remember. They are very great shoe manufacturers. They have shoe stores in every village in the United States, and they are selling right to the consumer, for \$2.50 and \$3.50, good shoes. I have a pair of them on now, and they are good enough for me. That is what this thing is accomplishing, gentlemen; it is bringing the manufacturer and consumer closer together every minute, and it will result, just as all labor-saving machinery has resulted, in the saving to the consumer and the widening of his purchasing capacity. It will enable him to use things which he never dreamed of using before, and, altogether, will lift him from a labor animal to an intelligent and happy human being, just as all machinery has done. This is one of the great big machines that have come up in the process of evolution. We are going to do a big export business in our commodities, if we are only permitted to do it. If they will change the law for us and give us facilities for doing it, and not restrict and hamper us, we can supply the world with alcohol, just as all these other people do with their products. Look at the petroleum industry and see what they are doing.

ALCOHOL IN THE ARTS—CAN NOT BE FREED FROM TAX.

Q. (By Mr. FARQUHAR.) You have stated that this matter of transportation was for the benefit of the manufacturers and users in the arts. Do you know about what proportion the consumption in the manufactures and the arts bears to the beverages?—A. No; I do not know that.

Q. Pharmaceutical?—A. Here in this country it is comparatively little. The wood-alcohol people control that branch of this industry, but abroad our sales would be almost exclusively for that use, and they would be very large.

Q. (By Mr. JENKS.) Would it be practicable to remove the tax on alcohol wherever used in the arts?—A. No, sir; you can not do it to save your life. You would have nothing but illicit spirits in this country.

Q. That is attempted in some countries?—A. It is done in England; but you do not want to forget that is a little bit of a country, covered all over by internal-revenue officers. You can not do it in a country like this.

Q. If the tax were reduced to 75 cents, do you think there would be an increase in the consumption in the arts here?—A. There is no question about it; and you will find when that question is in Congress your fight is going to be with the wood-alcohol people.

AN AVOWED MONOPOLY.

Q. (By Mr. KENNEDY.) Is there any added excellence to either of your brands, Old Crow or Hermitage, since your combinations were effected?—A. I will answer that in this way: We are able to exist in my private business and to continue our business at least on a large scale. It has been done, perhaps increasing very slightly, for the reason that we are protected by trade-marks. We have a great protection, and that enables us to get very great profits—enormous profits. Out of these profits we pay enormous advertising bills. We employ skilled salesmen, and we use all

¹See Mr. Clarke, p. 183.

these efforts which have been made to assure this trade, to keep alive and to go on. We can do it yet just as in the past, but it is an artificial thing. The consumer pays for it—every dollar of it—and, while it lines my pockets and I am very glad to go on, it is not a good general policy for any industry in the United States. It is all right in my private business, and if you want to pick out a monopoly, and one that is screwing the people down to the last notch, it is that business of mine.

Q. You mean where there is a special brand?—A. I mean special brands sold on their reputation, and the effort to force sales, the advertising, and pushing and working personally, and all that sort of thing.

Q. Well, as a matter of fact, is that special brand, or either of those special brands of yours, any better now than they were, say, 1 year ago?—A. No; they are just the same.

CONSOLIDATION WILL RESULT IN IMPROVED QUALITY.

Q. Well, you have dispensed with the services of 300 salesmen?—A. Not in my private business; that is in the combination.

Q. That refers to the brands of that company?—A. Yes; they have been enabled to dispense with the services of 300 travelling salesmen who were originally employed by the old owners of these distilleries. I do not mean to say we discharged those men. Most of those men are still working for the old owners, but when that whisky is sold their occupation is gone.

Q. Are those whiskies any better to-day than a year ago?—A. Very much better.

Q. The whiskies have improved in quality?—A. Oh, no, not in quality. I thought you meant in a trade position.

Q. I mean the quality of the whisky?—A. The quality of the whisky under our manufacture will improve, but we have not improved any yet. It will be better, and I will tell you why that is so. Under the old arrangement, where the struggle for existence became so fierce between rival manufacturers that they resorted to every expedient in the world to cheapen their production, they put in Kentucky distilleries what are called "cookers." Properly, they are never used except for the manufacture of alcohol where the product is rectified through charcoal, and all the bad flavors are taken out in that way. They put them in for the reason that they increased their yield by so doing. The quality of the whisky deteriorated tremendously, and of course they did everything in their power in striving to reduce the cost in that way—any old way to get out. We have spent hundreds and thousands of dollars ripping the cookers out of the distilleries that we have bought. We have gone back to the old methods of making fine whisky in every single instance. Even these cheap whisky distilleries have not been benefited to that extent. The product of these distilleries will be very much improved.

HOW THE CONSUMER WILL GAIN.

Q. What I wanted to get at is this: Do not the retailers still sell whiskies of this combination at, say, 10 and 15 cents a glass, and have the consumers received any benefit from this great saving that you have effected by dispensing with these middlemen and middle agencies?—A. They will when the goods we are producing are fit to be used. They are still too new. They must have some age before being consumed.

Q. (By Mr. C. J. HARRIS.) You do not mean to say the saloons will make any difference in price, do you?—A. I beg your pardon; I did not say that. I said the whisky will go toward the consumer at a very much lower price. I do not know what the retailer will do with it when he gets it, but he is still open to competition. He can not escape that altogether. He must, I believe, give some part of that saving to the consumer. And not only that; the great bulk of whisky is not supplied to the consumer through the barrooms. It goes to them through stores in bottles, and there they will largely get the advantage of it. Competition will force it.

Q. (By Mr. JENKS.) The largest proportion goes to them through bottles?—A. Unquestionably. The present concerns in that branch of the business in the past few years have grown up enormously. The business in bottled whiskies has grown to a great extent through branch houses or agents of distilleries. Now, in New York I have such a house, and we are doing an enormous business in this class of whisky.

Q. (By Representative LIVINGSTON.) It is used by persons especially in the cities and counties where they have prohibition?—A. Yes. Now, nine-tenths—more than nine-tenths—of that whisky is sold in grocery stores. You can go into a barroom and get a drink of it if you ask for it. They use a great deal in the grocery stores, and if you go into a grocery store and ask for whisky of any kind you will get a bottle. If the groceryman is selling it he bottles it for himself, and there is where the great dispensation of this stuff is made, and not in the barrooms.

Q. (By Mr. KENNEDY.) When the traveling salesmen place their grievances before

the people they are simply making your argument for you?—A. Well, I do not know. I think we must consider the interest and benefit of the millions and not the interest and benefit of the hundreds. They can seek other occupations. The same arguments could have been used toward the sewing machine or any labor-saving machine, but they are not good ones and never will be.
(Testimony closed.)

WASHINGTON, D. C., November 17, 1899.

TESTIMONY OF MR. SAMUEL M. RICE,

President of the Distilling Company of America.

The commission met at 11.35 a. m., Senator Kyle presiding. Mr. Samuel M. Rice, president of the Distilling Company of America, was introduced, and, being duly sworn, testified as follows:

Senator KYLE. Please state your name, post-office address, and business.—A. Samuel M. Rice, No. 27 William street, New York City; president of the Distilling Company of America.

RECEIVERSHIP OF DISTILLING AND CATTLE FEEDING COMPANY—REORGANIZATION.

Q. (By Mr. JENKS.) We have had some testimony regarding the earlier combinations in the distilling business, particularly with reference to the Distillers and Cattle Feeders' Trust and the Distilling and Cattle Feeding Company. We should like to have you, if you please, explain to us the organization that succeeded the Distilling and Cattle Feeding Company. I should like to have you explain, in the first place, the organization of the American Spirits Manufacturing Company, and the way in which it took the plants and business off the hands of the Distilling and Cattle Feeding Company. Will you kindly speak freely on the matter of that organization?—A. The Distilling and Cattle Feeding Company went into the hands of receivers in the latter part of January, 1895. At that time there were three receivers appointed; two of them resigned later and Gen. John McNulta became the sole receiver. That was some time in the middle of March, 1895, I think. As receiver he continued the operation of the plants under the direction of the court; it was a sort of business that could not be wound up, the lives of cattle depending upon the operation of the distilling industry. So the United States Government continued in that business, practically, through the court. A reorganization committee had been formed in New York City representing practically all the stock of the company. That committee finally succeeded in having the plan of reorganization adopted, and some time in the month of August, 1895, under the order of the United States circuit court, certain properties, 17 in all, were purchased by the reorganization committee from the receiver.

EVENTS WHICH LED TO THE RECEIVERSHIP.

Q. Before this reorganization plan had been perfected, before the Distilling and Cattle Feeding Company had been put into the hands of a receiver, was a committee of holders of rebate certificates organized in order to protect the interests of these holders of the certificates as against the Distilling and Cattle Feeding Company?—Yes; the trade became restless; they feared that the rebate money might be misappropriated, or used for other purposes than the purpose it was originally set aside for. The trade had the impression, it was generally thought, that this was a trust fund, and that it was kept intact for the benefit of the owners of rebate certificates. There was a good deal of criticism at the time, and many dealers throughout the country sought methods of protection. The rebate committee was formed with the intention of getting such information as they could of the condition of the property, and of obtaining some safeguard or protection, if possible, to secure the payment of the money due the rebate holders.

Q. Were you yourself a member of the committee?—A. I was a member of that committee.

Q. Had they had reason to believe that this money, instead of being kept in a trust fund for the payment of rebate certificates, was being used in other ways?—A. There was a suspicion at the time that it was being so used, but there was no real knowledge.

Q. Did the investigation of this committee elicit any facts on the subject?—A. Not in the investigation of the rebate committee.

Q. Did the action of the rebate committee have anything to do with throwing the

company into the hands of a receiver?—A. No; but it rather precipitated the business—hastened it along.

Q. What were the immediate causes of putting the company into the hands of a receiver?—A. The rebate committee was organized, if I recollect right, sometime in June or July, 1894; and the action and investigation and the general information elicited by this rebate committee brought about a protective committee of stockholders. The stockholders then became a little suspicious of the management, and a protective committee was organized either in September or October, 1894—somewhere along there—and this stockholders' protective committee sent notices to the large holders of stock, and asked for proxies. These proxies were very readily given. In the course of a very short time, this committee had proxies for over 300,000 shares of stock, the entire capital being 350,000 shares. The stockholders' committee then placed itself in communication with the officers of the Distilling and Cattle Feeding Company, and informed them that they represented a majority of the stock, and that, having heard of the embarrassment of the company, or the alleged embarrassment, they were prepared to tide over such embarrassment until the next annual election; and they said they desired a meeting with the officers of the Distilling and Cattle Feeding Company. This was about the latter part of January, 1895. The officers then agreed to meet the committee; but instead of meeting the committee, the president went to Chicago, and made application for a receiver, and was himself, upon the application of holders of 1,700 or 1,800 shares of stock, I think, appointed receiver, together with, I think, Edward F. Lawrence, who was a director of the First National Bank of Chicago. Those gentlemen were appointed receivers, about the 28th, or somewhere along there, of January, 1895. Two or three days thereafter, upon action on the part of the stockholders' committee, Mr. Greenhut, who had been appointed one of the receivers, was removed, and in his place was substituted John J. Mitchell, of the Illinois Trust and Savings Bank; the court itself appointed Gen. John McNulta to represent the court. That brings us down to the triple receivership.

Q. What reasons were advanced by the stockholders' committee to the court for the removal of Mr. Greenhut and the appointment of Mr. Mitchell?—A. That there was general knowledge that Mr. Greenhut had been speculating in stock of the company.

Q. Was that proved as a matter of evidence before the court?—A. I was not present at the court proceedings. I do not know that any evidence was introduced before Judge Grosscup. He acted instantly and removed Greenhut and appointed Mitchell.

Q. Representations were made beforehand which caused them to believe it to be true?—A. Judge Grosscup believed it.

Q. So that it was really on that basis that he was removed; that he had been speculating in the stock of the company himself?—A. We presumed so; I have no doubt of that fact myself.

Q. That was a generally understood matter by the stockholders, was it—a matter of general belief?—A. It was generally suspected.

PROPERTY AND CAPITALIZATION OF THE DISTILLING AND CATTLE FEEDING COMPANY AND THE AMERICAN SPIRITS MANUFACTURING COMPANY.

Q. You say the American Spirits Manufacturing Company took over 17 plants. About how many plants did the Distilling and Cattle Feeding Company own?—A. The Distilling and Cattle Feeding Company was the outcome of the Distillers and Cattle Feeders' Trust. The Distillers and Cattle Feeders' Trust commenced with about—that is, did not commence, but commanded about 80 plants; that is, 80 plants became the property of the succeeding corporation—the Distilling and Cattle Feeding Company—but the plants purchased by the American Spirits Manufacturing Company numbered 17.¹

Q. Seventeen of the largest and best plants?—A. Seventeen practical plants.

Q. What was the capitalization of the Distilling and Cattle Feeding Company?—A. Thirty-five million dollars.

Q. And the American Spirits Manufacturing Company?—A. Seven millions of preferred and twenty-eight millions of common; the same amount.

Q. And still they took over very much less than half of the plants, although the capitalization remained the same. What proportion of the value of the plants did they take over?—A. The explanation of that is this: The 17 plants represented the value, and the remaining plants represented burden. In other words, the only thing of value that the company owned were these 17 plants. The others had been dismantled; they were badly located, and had been simply taken in by this Distillers and Cattle Feeders' Trust because they were disturbing elements, and it was thought wise to take them out of the way.

¹ See Mr. Clarke, p. 175.

Q. So that they were taken in really to remove them from the competitive field?—
A. I would hardly say that. They were not well situated for competitive purposes. But a man can manufacture goods and lose money and naturally be a party to over-production, and thus cause general demoralization to business.

EXCHANGE OF NEW STOCK FOR OLD.

Q. About what was the value of the stock of the Distilling and Cattle Feeding Company at the time it went into the hands of the receivers?—A. It was about \$8 a share.

Q. The American Spirits Manufacturing Company, in organizing with the same capitalization, was then organizing with its stock very decidedly below par, was it?—
A. It had nothing to do with the stock; it was simply an exchange. The reorganization committee simply issued its certificates against the stock of the Distilling and Cattle Feeding Company, and had nothing to do with fixing the capitalization. It simply became the agent, and merely gave as much stock as received. It never fixed the capitalization, and in fact had nothing to do with it.

Q. You spoke of there being seven millions of preferred stock and twenty-eight millions of common stock. On what terms was the stock of the Distilling and Cattle Feeding Company received in exchange for this preferred and common stock?—A. Twenty per cent was given in preferred stock and 80 per cent in common stock, which makes seven millions preferred and twenty-eight millions of common.

Q. Had there been, before the appointment of the receivers of the Distilling and Cattle Feeding Company, other suggestions and other plans of reorganization proposed?—A. Plans had been proposed by the management and submitted to the stockholders; but they were not well received, and that, of course—the managers not being able to carry through their own plans of readjustment—naturally lost the confidence of the stockholders.

Q. (By Mr. FARQUHAR.) Was it on account of loss of faith in the officers of the company?—A. Naturally supposed. I can not go into the thoughts of the stockholders.

MARKET VALUES OF OLD AND NEW STOCKS.

Q. (By Mr. JENKS.) What was the average value of the stock of the American Spirits Manufacturing Company for a year succeeding the reorganization?—A. The preferred stock varied, since the organization, from—this is not accurate—I should say, roughly, from 15 to 40.

Q. And the common?—A. And the common from 5 to about 15, or something of that sort.

Q. What had been the value of the stock of the Distilling and Cattle Feeding Company earlier than that, before these troubles arose? Had the stock ever sold very much higher?—A. The stock sold at one time in the neighborhood of 70, and there was great speculation in the stock at various times. That seemed to be the principal business.

Q. When the Distilling and Cattle Feeding Company was organized, how much stock was issued per \$100 of cash value of the plants?—A. I have no knowledge.

Q. Were you yourself in the distilling business at that time?—A. Not as a distiller; I was as a salesman and agent and distributor. I was selling spirits, not manufacturing spirits.

Q. But you say that the stock had varied from 60 and 70 down as low as 8?—A. Yes.

Q. (By Mr. FARQUHAR.) Did that occur from the amount of stock thrown on the market or the shrinkage of the real stock itself?—A. That is a Wall street question; I can not answer that.

Q. Well, your own judgment about the thing?—A. My own judgment is that if there are more sellers than buyers stocks will go down. If there are more buyers than sellers stocks will go up.

CASH VALUE OF PLANTS.

Q. (By Mr. JENKS.) When these seventeen distilleries of the Distilling and Cattle Feeding Company were bought up by the American Spirits Manufacturing Company, was any definite appraisalment made of the value of the plants?—A. No definite appraisalment. The values were as accurately arrived at as possible by experts of the reorganization committee.

Q. About what was the cash value?—A. At the outside, about ten and a half millions represented the real value of these plants.

Q. So that the stock that was issued in payment for them was supposed to be something over 3 to 1 of cash value?—A. No; the reorganization committee had

nothing to do with that whatever; they had to buy the practical operating plants of the Distilling and Cattle Feeding Company, so that they could continue in business—so that the new organization could continue—but the capitalization, or the relative value of one stock as compared with another, can not enter into the calculation. The reorganization committee simply exchanged certificates, and gave as much par value in return as they received.

Q. But your presumption was that there were about ten and a half millions of cash valuation, as nearly as you could get at it, and there were thirty-five millions of stock—rather more than three times the face value.—A. No; it was paid for in stock.

THE REBATE SYSTEM.

Q. You have spoken of the rebate system of the Distilling and Cattle Feeding Company. What was the amount of the rebates that were paid?—A. In a general way the rebate was 7 cents a gallon.

Q. Did that all go to the wholesaler, or was it divided between the wholesaler and distributor?—A. The distributor received 2 cents and the jobber 5 cents.

Q. Did the rebates vary, or was this the one and only rate?—A. There were several forms of rebates. I was not familiar with the business at that time except in a general way; knew very little about it except from general information.

Q. That was the most common form of rebates, as you understood?—A. That was the most common form of rebates.

Q. Did the American Spirits Manufacturing Company continue the rebate system?—A. No.

Q. Has the American Spirits Manufacturing Company employed the rebate system at all?—A. No.

SPIRITS DISTRIBUTING COMPANY.

Q. Besides the American Spirits Manufacturing Company, which has continued to the present time, there are also two or three other companies that united with them in forming the Distilling Company of America, I believe. What other companies?—A. Shortly after the organization of the American Spirits Manufacturing Company, there was formed the Spirits Distributing Company, organized under the laws of New Jersey.

Q. Shortly after the organization of the American Spirits Manufacturing Company?—A. Yes; early in 1896.

Q. Will you describe to us briefly the organization of this Spirits Distributing Company? Tell what connection it had with the American Spirits Manufacturing Company, if any.—A. The American Spirits Manufacturing Company had no facilities for distributing its product, and it was deemed advisable to have an effective channel of distribution; so the Spirits Distributing Company was formed for the purpose of distributing the product of the American Spirits Manufacturing Company. Its capital was \$1,250,000 of first preferred, \$1,575,000 of second preferred, and \$3,675,000 of common; the common belonging to the American Spirits Manufacturing Company.

Q. It was owned by the American Spirits Manufacturing Company?—A. Yes, to continue control.

Q. What were the terms of the preferred stock—the first preferred and second preferred?—A. The first preferred was 7 per cent cumulative; the second preferred was 6 per cent noncumulative.

Q. Were any preferences in the way of voting power given to the preferred stock?—A. None at all. It was intended that the American Spirits Manufacturing Company should retain control through its ownership of the stock.

Q. Was the ownership of the preferred stock largely in the hands of the American Spirits Manufacturing Company?—A. The subscription of the preferred stock was offered to the stockholders; it was underwritten, and such of the stock as was not subscribed was taken by the underwriters, as these things are generally done.

Q. So it was really intended to be, and has since been, a subsidiary company for the purpose of distributing the products of the American Spirits Manufacturing Company?—A. That was the purpose.

STANDARD DISTILLING AND DISTRIBUTING COMPANY.

Q. What other companies were united into the Distilling Company of America besides these two, the Spirits Distributing Company and the American Spirits Manufacturing Company?—A. Along about July, 1898, I think, there was organized the Standard Distilling and Distributing Company, under the laws of New Jersey, with a capitalization of eight millions of preferred stock and sixteen millions of common stock; eight millions of 7 per cent cumulative.

¹ See Mr. Bradley, p. 814, and footnote.

Q. That was organized for the purpose of buying up distilleries in different sections of the country, was it?—A. It was organized for the purpose of purchasing distilleries and distributing plants.

THE DISTRIBUTING OF SPIRITS MORE PROFITABLE THAN DISTILLING.

Q. What do you mean by distributing plants?—A. I say distributing plants. Distilleries and distributing plants.

Q. I beg your pardon?—A. The distributing business being the more profitable—the distilling business is practically a business of raw material; is a business which depends absolutely upon the price at which the product is sold. There is no such thing as brand of spirits and alcohol. It is, as I say, practically raw material, although it is a finished product. It is a basis for the entire whisky business; so that the distributing channel, when controlled by distilleries, became valuable, not only for the actual distribution of spirits and alcohol in their original form, but for the distribution of profitable blends, wines, and rectified goods, and so on.

Q. That is to say, these distilleries that were owned by the American Spirits Manufacturing Company and the Standard Distilling and Distributing Company were for the manufacture of spirits; and the distributors, using these spirits as base, compounded the liquors of various kinds that went into the trade for the purpose of consumption. This second part—the compounding part of the business—has for the last few years proved more profitable than distilling?—A. It always was more profitable. It was profitable because of the valuable trade-marks and brands.

PROPORTION CONTROLLED, OF THE WHOLE OUTPUT OF SPIRITS.

Q. What proportion of the output of spirits of the country did the American Spirits Manufacturing Company control at the time of the organization of the Standard Distilling and Distributing Company?—A. I should say, roughly, about 55 per cent.

Q. About what proportion did the Standard Distilling and Distributing Company succeed in controlling in the course of a year—say from its organization?—A. Roughly, about 35 per cent.

Q. So that the two companies together controlled somewhere about 90 per cent?—A. Ninety per cent at that time. Since that time one distillery has been built at Terre Haute, Ind.

Q. What company owns that?—A. The Merchants'.

Q. What is the capacity of that distillery?—A. I suppose about 4,000 barrels per day.¹

Q. Does that represent substantially the other 10 per cent?—A. The companies, the American Spirits Manufacturing Company, and the Standard Company, to-day are "mashing"—that is the technical term—about 40,000 barrels per day.

Q. And besides this Merchants' Distilling Company, and the plants represented by the two companies you have spoken of, there are no other large distilleries?—A. Oh, there are several smaller ones. There are five or six small distilleries, all of which are practically limited to local markets. There are several in Cincinnati, small plants, which supply the local trade; but so far as they may be regarded as competitive factors in spirits, the one plant in Terre Haute is practically the only one.

THE DISTRIBUTING BUSINESS; PROPORTION CONTROLLED.

Q. When this Standard Distilling and Distributing Company organized, was it organized through the efforts of men who were largely interested in the American Spirits Manufacturing Company?—A. I can not say that from personal knowledge, but no doubt it was. I had nothing to do with that.

Q. The thought being that the organization of this outside company and that of the American Spirits Manufacturing Company together would very largely control the output of the country?—A. It was deemed advisable, as I said before, to control more of the distributing branches; to get hold of the profitable part of that business. The Standard Company, when organized, and to-day, controls sixteen of the largest distributing plants in the United States, situated in all large cities.

Q. How many of the large distributing plants are left outside?—A. I can give you the method of doing it, which will explain it to you. The spirits produced by the Standard Company and by the American Spirits Manufacturing Company are distributed through an association called the United States Spirits Association. The United States Spirits Association is composed of 54 large distributors. They were made members of the association because they were the largest distributors and had practically control of the business of this country. I would not say all, but very nearly all. Out of the membership of the United States Spirits Association the

¹ See Mr. Bradley, p. 815.

Standard branches numbered 16. While they numbered only 16, the branches of the Standard Company distributed, I should say, roughly, 66 per cent of the entire output, and the remaining 38 distributors distributed 34 per cent. That refers to the product of the American Spirits Manufacturing Company and the Standard Company, which, roughly, this year, will be about 40,000,000 gallons. That gives you about the way the business is being done.

Q. The product of the Merchants' Distilling Company is distributed, I suppose, by themselves, or by their own distributors?—A. Distributed as best they can. Of course it is much more difficult where you have no organized methods of distribution to find a profitable market. Spirits can not be sold, as I have stated to you, like corn, like raw material; and naturally the channels of distribution are very valuable. If you are running a distillery of 4,000 barrels per day capacity, you must have salesmen, must have methods of selling goods, and if you must sell to small trade you must be prepared to furnish them with a little capital; to carry your customers. You must give them credit; and while it is a very easy matter to manufacture 4,000 barrels per day, and as easy to sell it, there is some difficulty about making profit.

TO STOP OVERPRODUCTION—PROMOTERS NOT KNOWN.

Q. You said that the Standard Distilling and Distributing Company was organized (although you yourself were not actively engaged in it, you have knowledge that it was so organized) by men who were large stockholders in the American Spirits Manufacturing Company, and that it was organized as an allied association?—A. Well, it was part of a general plan to practically control the entire whisky business, as far as control is desired in any business; not a monopoly, but control of the business, so that you may control the production; so that you can stop overproduction.

Q. Overstocking the market?—A. So as to stop overproduction.

Q. Who were the chief promoters of that Standard Distilling and Distributing Company?—A. I can not tell you.

Q. You do not know?—A. No. Those matters are never known, but the underwriters are generally found among financial men of Wall street. They do not advertise themselves as a general thing.

Q. Are you acquainted with any of the details of the purchase of the different distilleries, prices paid, and so on?—A. Nothing whatever. I know nothing about it, excepting what I know from general information.

KENTUCKY DISTILLERIES AND WAREHOUSE COMPANY—THE KENTUCKY WHISKY BUSINESS A BUSINESS OF BRANDS.

Q. There was a fourth company that united in forming the Distilling Company of America. What was that?—A. The next company that organized was the Kentucky Distilleries and Warehouse Company.

Q. Will you explain that organization?—A. The Kentucky Distilleries and Warehouse Company is capitalized at ten and a half millions of 7 per cent cumulative preferred stock, and eighteen and a half millions common stock.

Q. When was that organized?—A. In February, 1899. It purchased 90 per cent of all these standard brands of what are known as Kentucky Bourbon whisky, and took over, I think, and became the owner of 56 or 57 plants.

Q. Plants?—A. Yes, distilleries.

Q. You say it bought about 90 per cent of the brands. It bought also, I suppose, 90 per cent of the output of that kind of product?—A. No. This Kentucky whisky business is a business of brands. The real value of this business is in its ownership of one class of brands. There is a vast amount of capacity which has no value except for the production of cheap whisky, which might come into competition more or less with spirits; but the real value of the Kentucky whisky is the value of brands, not capacity. There was no intention to buy capacity. The intention was to buy good brands. Now, these 56 plants control more than 90 per cent of all the standard brands of Kentucky Bourbon whisky.

Q. Do the establishments that control these brands do largely a compounding business, or a distilling business?—A. Absolutely distilling. They are not compounders. They are manufacturers of straight whisky; that is, what is called also aging or maturing whisky.¹ These whiskies are manufactured, and are then placed in bonded warehouses connected with the distilleries, and are kept there for aging purposes. These whiskies are not fit to use until they are four years of age. The period in which they can remain in the warehouse is eight years.

Q. You were yourself an officer of this Kentucky Distilleries and Warehouse Company?—A. I was president. I became president of the company at its organization.

¹ See Mr. Clarke, p. 168; Mr. Bradley, pp. 817, 818, 827, 828.

Q. That company was organized also, I infer then, as a subsidiary in aiding to get all those interests together?—A. Yes.

THE RYE-WHISKY BUSINESS.

Q. Now, after those four companies had been organized in this close association, what was there left outside in the whisky business of the country that was valuable?—A. These small distilleries that I have referred to, these small separate distilleries, and the Merchants' Distillery, and a few, very few, brands of any value in the State of Kentucky.

Q. Was there left also outside the rye whisky?—A. That is another field.

Q. Yes; that is why I asked. Will you explain about that other field?—A. The production of what are called rye whiskies is centered in Pennsylvania and Maryland. Rye whiskies are practically identified with those States, the same as New England rum is identified with New England. No one knows why, but it is so. Rum made anywhere else would not have the same value as that coming from New England. So that rye whiskies, while they are made in Kentucky and also in Peoria, have no value as rye whisky. There are seven or eight standard brands of rye whisky.

Q. (By Mr. SMYTH.) Owning all these brands, do you have the opportunity of placing them on any whisky you please?—A. No; that is, we could do that, but that would not be good business. A brand has its value and retains the value much from the location in which the whisky is made. Those are very valuable things in a brand. It has frequently been done. It has frequently happened that a good brand was not, perhaps, profitable during times of demoralization; the prices would go down; and the owner of the brand, catching at a straw, would say "Well, I might make this brand somewhere else," and in that way he killed his brand. Locality, sentiment, is what makes the brand.

Q. More than quality?—A. Well, all whisky is good; there is no bad whisky.

Q. (By Mr. JENKS.) There are differences in whisky?—A. The trade says so.

Q. Now, about what proportion of the value of the output of whiskies—I am not referring to spirits, but to whiskies particularly—was there left outside in this rye-distilling business?—A. The rye distilleries belonging to this concern are the Mount Vernon and the Hannisville; Maryland pure rye, Philadelphia pure rye. In that field that represents about 25 per cent, not more. That is, these rye distilleries represent about 25 per cent of the value of the total rye whisky of the country. Twenty-five per cent of the output of Eastern ryes is represented by these distilleries. This refers to Eastern ryes.

Q. Was it contemplated in the general plan of organization that some of these rye distilleries be brought in also?—A. It was important, for this purpose: The different companies were in a position, through distributing houses, to sell a man everything he wanted except rye whisky. It was then deemed important to secure the best brands of rye whisky and the best blending establishments of rye. That is a very profitable business, and is a very important adjunct. In other words, one of our salesmen goes to a man and says, "Here are your spirits, here are your rectified goods, here is your wine, here is your gin, and here is Kentucky straight whisky," and there we had to stop. It became important to get rye whisky—a rye-whisky plant; so the Hannis Distilling Company was acquired. That company controlled two of the best brands of rye whisky, Mount Vernon and Hannisville, and controls the largest blending business of rye whisky in the world; the intention being that this concern should be able to supply the jobber everything he needs in his business.

DISTILLING COMPANY OF AMERICA OWNS STOCKS, NOT PLANTS.

Q. Now, will you kindly from this point take up the organization of the Distilling Company of America, and tell us how the different organizations were brought together into one?—A. I think you have the whole thing right before you.¹

Q. I have the general figures here.—A. That is the whole story, if you have that. A proposition was simply made to the stockholders of the different companies, under which the organizers of the Distilling Company of America agreed to purchase their stock for stock of the Distilling Company of America, as stated in this deposit agreement. I have forgotten the exact percentages, but they are given in the plan.

Q. The general plan being that the Distilling Company of America should buy up as much of the stock as possible of these different companies, and should in itself simply control stocks?—A. The Distilling Company of America is merely an owner or stockholder in these various companies.

Q. It did not itself buy up the plants of these four different companies?—A. No plants; it merely owns stocks.

Q. With reference to the rye-whisky companies that were brought in, did the Distilling Company of America really buy plants or stock?—A. Stocks altogether. It

¹ See Mr. Bradley, pp. 818-822.

is simply the owner of stocks. It is not in the whisky business. Its only source of dividend is the stocks. You may call it the clearing house for the stocks.

EXCHANGE OF STOCKS.

Q. In buying up the stocks of these different companies, did it exchange its own stock, generally speaking, for par or less than par?—A. The percentages are given here, I think. Can I refer to it?

Q. Certainly.—A. The organization made the following proposition: For every preferred share of the American Spirits Manufacturing Company, 50 per cent of preferred stock of the Distilling Company of America, and for the common stock 25 per cent. For every share of the Kentucky Company, common stock, 70 per cent; preferred stock, 85 per cent in preferred and 15 per cent in common. Standard Company, 85 per cent in preferred and 15 in common for the preferred, and for common stock, 60 per cent in common. The Spirits Distributing Company first preferred, 80 per cent in preferred and 20 per cent in common stock; for the second preferred, 20 preferred and 20 common.¹

Q. The common stock of this Spirits Distributing Company, being all owned by the company, did not need to be provided for?—A. No.

Q. In all of these companies, then, there was some scaling down of the capitalization?—A. Yes; the capitalization was scaled down.

Q. In the scaling down of the capitalization, were the fixed charges (that is, what was required to pay the dividends on preferred stock), lessened or, on the whole, was that increased?—A. No; the Distilling Company of America, as I explained, acquired the stocks of other companies, and of course paid for them, so that the total of preferred stock issued to-day is \$31,250,000 of the Distilling Company of America that is entitled to a cumulative dividend of 7 per cent.

Q. Does the cumulative dividend of 7 per cent on this preferred stock amount to more or less than the dividends on the preferred stock of the companies that were acquired?—A. I will take a pencil and we can get at that very quickly. The preferred stock of the constituent companies amounts to \$26,750,000.

Q. And part of this preferred stock of the other companies bore a quite low percentage, did it not—some at 5, and some even at 2?—A. The preferred stock of the American Spirits Manufacturing Company was 5 per cent. The preferred stock of the Spirits Distributing Company was 7 per cent. After some time there was a change made in that contract, under which the holders of first preferred were to take 6 per cent in lieu of 7. The second preferred stock was originally 6 per cent noncumulative; under this special arrangement the stockholders agreed to take 4 per cent of that off. They changed to 6 per cent on the first, and to 2 per cent on the second.

Q. If we take the amount that was to be paid on the preferred stocks of the old companies each year, and compare it with the amount that is to be paid on the preferred stock of the present company, is there an increase or a decrease?—A. It is difficult to figure that way, because the Distilling Company of America owns much more valuable property in addition to these stocks that it exchanged its stock for. It owns these rye corporations of which I told you, and there was a large amount of cash, \$3,000,000, supplied by the organizers of the Distilling Company of America.

Q. That is to say, owing to the fact that they acquired these rye distilleries, and also that they have acquired considerable cash in the exchange, they would be justified in assuming the additional amount?—A. The common stock that was exchanged amounted to a total of \$67,750,000. Of Distilling Company of America the present issue is \$46,250,000.

Q. Of this \$46,250,000 that was issued—?—A. (Interrupting.) That represents the exchange of \$67,750,000 total common stocks of the companies for which these exchanges were made.

THE ORGANIZERS' BARGAIN.

Q. This \$46,250,000, as I understand, was what was given to the organizers in order to make the exchange.—A. Yes, to the organizers for the purpose of making the exchange.

Q. If you figure up the amount that was required in accordance with the terms that were offered to the stockholders of the different companies to make the exchange, would it have used up all of this \$46,250,000, or was there some left over?—A. I have not figured that up. I can figure it, if you like. There was undoubtedly some left over for the organizers, after supplying the cash and the purchase of the rye plants, of the stocks. It is easily ascertained. I think I can figure the thing out.

Q. That is the purpose of the question. This \$46,250,000 of common stock and \$31,250,000 of preferred stock paid to the organizers was, if I understand, for the purpose of acquiring all the stocks of these four different companies, and what else?—A. For cash.

Q. How much cash?—A. Three millions in cash and for the acquisition of the stocks of the rye-whisky companies.

¹ See p. 821, footnote.

Q. You said for three millions of cash. The agreement as printed here provided for a million and a half.—A. Well, that is right. It provided one million and a half additional cash working capital, and other cash which was given for some of these stocks of rye-whisky companies.

Q. Yes.—A. In addition, of course, to the stocks of those. How much stock those organizers paid for those things of course I do not know. I have no knowledge of that.

Q. As regards the rye-whisky plants that were brought in, you said the Hannis Distilling Company was brought in. What was paid for that?—A. I could not tell you; I do not know.

Q. And what other was brought in? The St. Paul distillery, I think it was, that was mentioned.—A. I did not mention the St. Paul distillery, because that was part of that agreement, and, as I say, it was not what I call a distinctively Eastern rye-whisky plant, and it was not a part of the explanation I was giving, because we did not get to that point.

Q. But was the St. Paul— —A. (Interrupting.) The St. Paul was a part of the properties that were agreed to be turned over by the organizers; agreed to be turned over to the Distilling Company of America.

Q. Do you know what was paid for that?—A. I do not know. The organizers undertook to do so many things for so much stock. In other words, in that case they undertook to do these things for \$31,250,000 of preferred and \$46,250,000 of common; and they undertook to procure the exchange of at least a majority of all these stocks, and so much of the stock as was not turned over so much of that stock had to be retained or returned to the Distilling Company of America. In other words, \$31,250,000 of preferred and \$46,250,000 of common provided for all the outstanding stock of the four different companies; it provided for the acquisition of the St. Paul Company; it provided for the acquisition of the Hannis Distilling Company, and provided for \$1,500,000 cash working capital.

Q. If one figures out, as I have had done here, what it would take of the preferred and common stock of the Distilling Company of America to acquire all these stocks of these four different companies at the rate laid down in the deposit agreement here— —A. Exactly.

Q. It amounts to \$20,540,000 of preferred and \$32,890,000 of common, if we take them all?—A. Precisely.

Q. In accordance with the terms of the agreement. If we take that from the \$31,250,000 of preferred stock and the \$46,250,000 of common which were given to the organizers, it would leave in their hands \$10,710,000 of preferred stock and \$13,360,000 of common stock?—A. Whatever those figures show. As I say, I have not figured that. I have no doubt that is correct.

Q. That is correct.—A. I have no doubt that it is.

Q. On the basis that it is figured out. The point of the question is this: Leaving in their hands this \$10,710,000 of preferred stock and \$13,360,000 of common stock, the burden that was upon them was to furnish these two distilling plants and \$1,500,000 in cash? You said that a moment ago.—A. And the St. Paul distillery.

Q. The two; the Hannis and the St. Paul?—A. No, the Hannis Distilling Company owned two plants, the Mount Vernon and the Hannis.

Q. Both were in the Hannis Distilling Company?—A. Yes, and a large blending works.

Q. That was all included in the Hannis Distilling Company?—A. That was all included in the Hannis Company stock purchased.

Q. Then for the Hannis Distilling Company and the St. Paul and a million and a half in cash, you said a few moments ago that there was three million in cash that they had to supply.—A. I was mistaken in that; I should have said one million and a half.

Q. I understood you to say afterward that you spoke of the three millions because you thought there was that amount to be furnished. I was going to ask you if you thought that the acquirement of the Hannis Distilling Company stock and the St. Paul distillery was represented by a million and a half?—A. I can not tell you; I have no idea. I do not know what they cost. I have no doubt that the Hannis and Mount Vernon were the two most valuable brands of Eastern rye whisky; they were of very large earning capacity; and they were brands of whisky that we were very desirous to own. How much was paid for them I can not tell.

Q. How much do you estimate their value at to-day?—A. I should not like to sell them for five million in cash; I think we could get that for them.

Q. It was the understanding, I suppose, that after the organizers had furnished these plants, any surplus stock that they had in their hands was theirs?—A. That is their business; that is not mine. They didn't do this thing simply for luck or for their health.

Q. Were you one of the organizers?—A. I was not, absolutely not. They undertook to bring about a very important piece of work.

¹ See p. 822, footnote.

Q. Of course.—A. And it was questionable in my mind and questionable in the minds of men who knew a good deal about this sort of business whether it could be done. They undertook to do it, and they succeeded in doing it. As a matter of fact, the Distilling Company of America to-day controls on an average 92 per cent of all the stocks of these four operating companies. It was a most valuable thing for the stockholders of the operating companies, if it could be brought about, because it made it easy and made it practicable to operate all these companies on the most economical lines, to reduce the cost of production by concentration of plants and concentration of manufacturing and concentration of distributing charges and all that sort of thing. It was a valuable thing for these stockholders to bring about. They could well afford to pay well for doing that work. I have no idea what the organizers made, but whatever they did make I think they were entitled to.

Q. The question was as to whether it was in any way easily possible to see what they did make; and with reference to the price that was paid for the Hannis Distilling Company, that, of course, is a matter of common rumor. I thought perhaps you had definite information on it.—A. I have no definite knowledge, as I say.

STOCKHOLDERS NEARLY UNANIMOUS FOR CONSOLIDATION.

Q. Was there any serious objection on the part of the stockholders of any of these four companies to going into the combination?—A. It was the most remarkable phenomenon that ever came under my observation, the unanimity with which this thing was done.

Q. It was reported in the papers in July, after this deposit agreement had been published, that there were meetings of the stockholders of the American Spirits Manufacturing Company, at any rate, in opposition to the plan, and it was thought by some of them apparently, if one may judge from the papers, that it would be unwise for them to go in?—A. There was most vigorous denunciation of the plan and the scope of it and the people connected with it on the part of this committee—the American Spirits Manufacturing Company protective committee. I read columns upon columns.

Q. Yes. What proportion of the stocks of the American Spirits Manufacturing Company were, as a matter of fact, deposited under this agreement within the time limited?—A. I can not say exactly, but I think over 90 per cent.

Q. So that this opposition, you would say, came from only a very small minority of the stockholders?—A. My understanding is that they represented 1,700 shares of the common stock.

Q. Out of how many?—A. Out of 350,000. It was practically unanimous. It was the consensus of opinion almost unanimously that this was a good thing for the stockholders to do, as is evidenced by the fact that they deposited in such overwhelming numbers.

NO UNDUE SECRECY ABOUT THE AMERICAN SPIRITS MANUFACTURING COMPANY—IT WAS A WRECK.

Q. Statements were made at this time by some of these people that they wished a report of the business of the American Spirits Manufacturing Company, inspection of books, and a financial statement, and they declared that no financial statement had ever been made to the stockholders?—A. No public financial statement. It has always been the custom of the management of the American Spirits Manufacturing Company to invite the stockholders to its offices. The books have always been open to those stockholders, bona fide stockholders; in fact, they have invited the stockholders to come there and get all the information that the officers themselves had. So long as I was president of the company we were very glad to have the stockholders come in and to see them. The only difficulty was that too few of them took any interest in it. We were always glad to see the stockholders. Of course, in a case where we questioned the good faith of their application for information, we simply declined it absolutely.

Q. Were you in the habit at the annual meetings of making any report at all to the stockholders?—A. We always made a general statement of the affairs of the company. I never made a secret of the fact that the American Spirits Manufacturing Company was not a flourishing institution. It was the wreck of the old Distilling and Cattle Feeding Company, as you know, and was used simply as the means of bringing about all of these things that have been brought about; it was practically the method employed.

Q. And it was practically contemplated, as I understand you to say, almost from the time of its organization, that through the working of it, these other companies should be brought together into this larger organization?—A. That was the intention, and they simply took this wreck, as I told you, and used it for that purpose. It always was a wreck.

INTERNAL-REVENUE TAX, AT \$1.10 PER GALLON, IS EVADED BY ONE-FOURTH TO ONE-THIRD OF THE PRODUCT.

Q. I would like to have you give us your opinion, if you will, with reference to the present revenue laws of the United States as regards spirits.—A. Well, that is a pretty broad subject.

Q. And any suggestions you may have to make with reference to changes in the law.—A. I have had no time to make any preparation, I have been so busy and so occupied. There is only one thing that I did jot down; perhaps it may be of some interest if you will read this.

Q. You will be kind enough to read it to us?—A. Very well. It is a very rough draft. (Witness reads as follows:)

"The rate of tax to the legitimate distillers is not so important as the fact that such tax should be uniform.

"As it is to-day, the Government collects \$1.10 per proof gallon from such distilleries as are operated under its supervision and conducted as legitimate enterprises. It collects about one-half the tax on goods actually produced in from four to six thousand small registered stills located in six or seven Southern States. It of course collects nothing from illicit stills.

"It is estimated by good authorities that under the \$1.10 tax, from thirty to forty millions of gallons of spirits are annually consumed in this country, from which the Government derives no revenue.

"The question as to how much the tax on spirits should be is not one of sentiment; that is, it is not a question for the Government to consider what particular rate of taxation would please the distiller, or the dealer, or the consumer, but it is simply one of revenue, and the question is, 'What rate of tax per proof gallon will produce the largest revenue to the Government?'

"AS THE TAX GOES UP, THE AMOUNT REACHED BY IT GOES DOWN.

"In the fiscal year of 1893, the last year of normal business under the 90-cent tax, the Government collected the tax on 97,458,347 gallons.

"In the fiscal year of 1899, a year of unexampled prosperity, during which the per capita consumption of whisky had largely increased all over the United States, the Government collected the tax on 83,819,314 gallons.

"These figures refer to spirits distilled from materials other than apples, peaches, grapes, pears, and other fruits.

"It is thus shown that while it can be demonstrated that the consumption of spirits has largely increased during the past six years, the Government collected tax on almost 14,000,000 gallons less in 1899 than in 1893."

Those are very startling facts.

WHISKY AT 3 CENTS A GALLON.

Here is a price list, a published price list, issued June 24, 1899, offering among other things single-stamp 100-proof North Carolina corn whisky, at \$1.19, f. o. b., Reidsville, N. C. The cost of the package is 6 cents, and that leaves 3 cents for the whisky. That is the open price; and I will say to you, gentlemen, that you can buy all the whisky you want down there for about 85 cents a gallon, and the tax is \$1.10.

Q. (By Senator KYLE.) This is from Baltimore—Baltimore published schedule of what?—A. Published price list issued by brokers broadcast.

Following is a copy of the price list offered by the witness:

[Long-distance phone 1473-2. The A. C. Schmidt Company, whisky brokers and commission merchants, 1320 and 1322 Light street, Baltimore.]

To wholesale trade only:

DEAR SIR: We beg to call your attention to the following lots of whiskies. Quotations are subject to sale or advance. Owing to the unsettled condition of the market it will pay you to wire us your order, and be to your interest to correspond with us in relation to whiskies not herein quoted.

Kindly send us a list of your holdings.

JUNE 24TH, '99.

Bridgeport:		
25 bbls. December	91	\$0.75
50 bbls. Spring	95	.65
Bridgeport pure malt:		
July	92	1.00
July	95	.92½
August	96	.90
July	98	.72½

Dillinger:

25 bbls. Spring	95	\$0.58½
25 bbls. June	96	.56½
15 bbls. December	97	.50
45 bbls. November	98	.45
50 bbls. Spring	98	.47½

Dougherty:

50 bbls. August	93	.80
15 bbls. May	94	.80
25 bbls. September	94	.78½
20 bbls. January	95	.78½
25 bbls. June	95	.77½

Finch:

50 bbls. April	94	.86
25 bbls. May	96	.83½
50 bbls. February	99	.56

Guckenheimer:

10 bbls. May	93	.77½
25 bbls. Fall	93	.77½
50 bbls. Spring	94	.77½
50 bbls. February	96	.72½
25 bbls. October	97	.65
50 bbls. January	98	.62½
25 bbls. November	98	.54

Gibson:

50 bbls. April	93	.78½
50 bbls. September	94	.78½
15 bbls. February	95	.78½
50 bbls. Spring	96	.77½

Hannisville:

50 bbls. April	95	.85
50 bbls. December	95	.82½
50 bbls. Spring	96	.80

G. W. Jones, Mononghela:

25 bbls. June	95	.55
25 bbls. June	96	.52½

Melvale:

8 bbls. May	95	.85
-------------------	----	-----

Mount Vernon:

25 bbls. Fall	93	1.05
---------------------	----	------

Monticello:

10 bbls. Spring	95	.80
20 bbls. June	96	.88
50 bbls. Spring	99	.47½

Overholt:

50 bbls. September	97	.56½
50 bbls. January	98	.50
50 bbls. December	98	.47½
50 bbls. February	99	.42½

Penwick:

15 bbls. Spring	95	.56
50 bbls. Spring	98	.45
50 bbls. Fall	97	.46

Sherwood:

5 bbls. November	93	.90
50 bbls. November	94	.88½
15 bbls. March	95	.86½
15 bbls. November	95	.85
25 bbls. Spring	96	.78½
5 bbls. Fall	97	.70
10 bbls. Spring	98	.67½

Special.

Make offer on 8 bbls. Dec. 91, Normandy rye in bond.

We offer single-stamp 100 per cent North Carolina corn whisky, at \$1.19, f. o. b., Reidsville, N. C.

Redistilled single-stamp gin 100 per cent, at \$1.28½, f. o. b., Camden, N. J.

Samples on application.

We also offer 10 bbls. apple brandy, 94, Rochester, N. Y., at \$2.05.

Yours, truly,

THE A. C. SCHMIDT CO.

Wire orders subject to confirmation.

ILLICIT STILLS SEIZED.

Here is a statement. I suppose you have all these things because they are taken from the reports of the Commissioner of Internal Revenue. This is a statement of the illicit stills seized.

Q. (By Mr. JENKS.) It would be very convenient for us to put this in our record. (The following is a copy of the statement of seizures of illicit stills submitted by the witness.)

Illicit stills seized during the fiscal years ending June 30.

1889	466
1890	583
1891	795
1892	852
1893	806
1894	1,016
1895	1,874
1896	1,905
1897	2,273
1898	2,891
Total	12,961

Q. Two thousand three hundred and ninety-one in 1898?—A. But, of course, for every 1 seized there are 10 in operation; and every time you seize 1, the fellow loads up with another and goes ahead into another settlement, and in 2 weeks he is in business again.

Now here is a statement showing the consumption per capita of distilled spirits since the first tax, since 1860. That is an interesting thing. I presume you have that also.

Consumption per capita of distilled spirits from materials other than fruit, and tax thereon and revenue therefrom.

Year.	Tax per gallon.	Population.	Aggregate of population.	Aggregate gallons consumed.	Per capita consumed.	Revenue.
1860.	None.	31,443,321	31,443,321	83,904,285		None.
1864		34,046,000	34,046,000	85,295,393		\$17,059,792
1865		34,748,000				
1866 ..		35,469,000	125,575,875	37,979,104		75,958,208
1867...		36,211,000				
1868...		36,973,000				
1868...		36,973,000				
1869...		37,756,000				
1870...		38,558,000	154,652,000	278,099,810		139,049,905
1871...		39,555,000				
1872...		40,596,000				
1872...		40,596,000				
1873...	.70	41,877,000	102,000,000	168,444,000	1.05	117,900,800
1874...		42,796,000				
1875...		43,951,000				
1875...		43,951,000				
1876...		45,137,000				
1877...		46,353,000				
1878...		47,998,000				
1879...		48,866,000				
1880...		50,155,783				
1881...		51,316,000				
1882...		52,495,000				
1883...		53,693,000				
1884...		54,911,000				
1885...	.90	56,148,000	1,101,336,832	1,412,097,777	1.27	1,271,697,907
1886...		57,404,000				
1887...		58,680,000				
1888...		59,974,000				
		61,289,000				
1890.		62,622,000				
1891.		63,975,000				
		65,403,000				
		66,826,000				
1894.		68,275,000				
1895.		69,753,000				
1895.	1.10	69,753,000	110,615,275	115,104,612	.95	121,676,802
1896..		71,268,000				

INTERNAL-REVENUE RECEIPTS.

Here are the internal-revenue receipts from 1889 to 1899. I presume you have that.

Internal-revenue receipts from spirits during the fiscal years ending June 30.

1889.....	\$68,281,803.93
1890.....	75,181,685.90
1891.....	78,528,601.16
1892.....	83,776,252.86
1893 (97,458,347 gallons)	87,712,513.08
1894.....	78,612,150.22
1895.....	¹ 73,741,380.57
1896.....	² 73,743,018.60
1897.....	75,706,513.17
1898.....	86,188,630.91
1899 (83,819,314 gallons)	92,201,245.77

The above gives internal-revenue receipts from spirits distilled from materials other than apples, peaches, grapes, pears, and other fruits.

REGISTERED STILLS—UNTAXED SPIRITS FROM THEM.

Q. (By Mr. JENKS.) Have you any suggestions yourself to make with reference to a change in our revenue laws? The present tax is \$1.10. What would you think the effect on the revenue would be of lowering that somewhat?—A. The question from the revenue standpoint alone is, From what point can you stop the manufacture of whisky in the small stills over which the Government has no supervision? You never can stop illicit distillation. That is like counterfeiting or forgery. You can get after the fellows and put them in jail, but you never will be able to stop the commission of the crime. There are from 6,000 to 7,000 stills in the 7 Southern States licensed by the Government. They are called registered stills. It is utterly impossible for the Government to supervise the operations of these stills. The Government simply says, "We expect you to pay a tax on so many gallons from a bushel of grain." Then the pressure brought on the Commissioner is very great indeed, so that he is induced to make the estimated number of gallons as low as possible on this plea, which certainly has some justice. The Congressman from that district says, "Here, this is my friend John Jones. He has got a little still. He is mashing 5 bushels a day. Now, he operates that still himself, and the way he operates this still it is impossible for him to get as much from a bushel of corn as these big corporations that operate 5,000 and 10,000 bushel houses. If you want him to pay as much tax as these great monopolies or corporations, it is doing him an injustice, and it is driving him out of business." That is the argument that is made. The Commissioner says, "How much do you think John is producing?" and the reply is, "Well, he can not make more than 2½ gallons from his business." He is taxed on 2½ gallons. The fact is that these fellows are becoming so expert that they are producing 4 and 4½ gallons from a bushel of corn.³

Q. How much do you produce from a bushel in your distilleries?—A. We are improving all the time; we are producing in high wines a little over 5.

WOULD PUT A HIGH-LICENSE FEE ON EVERY STILL.

Q. You think they are producing over 4?—A. I think they are producing over 4. The fact is that these stills pay taxes on about half of what is produced, and the other half is practically illicit whisky. The remedy for that is a very simple one, but still it is a very difficult thing. The remedy is to charge a license fee for every still, charge them in proportion to the capacity. Of course it would cost our company a great deal of money, but it would assist the Government in the proper collection of the tax. If you charge every still in the country a license, say, on stills under 10 bushels so much, and from 10 to 100 bushels so much, and from 100 to 500 so much, and from 500 to 1,000 so much, a license from all, and make the license pretty heavy, that would be one remedy for wiping out a good deal of what is practically illicit distillation. It would cost our company a great deal.

Q. You say it would cost your company a great deal. Do you think it would require you to advance any more money than you do now?—A. What do you mean?

Q. You know that you pay a tax on the amount that you sell, and I suppose you recoup yourselves in the price to the consumer?—A. We simply add the tax. So far as we are concerned, it makes no difference.

¹ Includes \$36,706,331.11, at 90 cents per gallon.

² Includes \$3,973.57, at 90 cents per gallon.

³ See Mr. McNulta, p. 231.

THE PRICE OF STANDARD BRANDS CAN BE PUT UP INDEFINITELY, BUT IT IS BEST TO SELL SPIRITS NEAR COST.

Q. In this other form you would of course add the tax in the same way substantially?—A. Yes, if we could get it.

Q. Is there any reason why you could not get it?—A. We try to get what we can in safety. But one of the natural results of these great combinations is cheapening the cost of production and cheapening the products in cost to the consumer. The consumer does not care how much he pays for a fancy brand of whisky. If a man wants Old Crow he does not care whether you charge him \$2.50 a gallon or \$3; he wants Old Crow. Or if a man wants Mount Vernon he does not care if the price of Mount Vernon is \$5; he has it, and is going to have it, because he can make a profit on it everywhere. But when you come to a product like raw proof spirits it is a question of getting such a cost of production that you can make a profit; that you can market your product at a profit on the cost. In other words, no control of the spirits business is possible unless you keep your price very close to the cost of production. But when it comes to brands of whisky, anything in reason. The purchaser cares nothing about the price so long as you do not overproduce the brand. If there is an actual consumption of 3,000 barrels of Mount Vernon always, and we do not make any more than that, and every man that gets 5 barrels knows that it is going to be used, and somebody is going to drink up that 5 barrels, he had just as soon pay \$5 a gallon as 50 cents. But when you produce more than that by 500 barrels the overproduction of that whisky fixes the value of the 3,000 barrels; and the whole secret of making money out of the standard brands of whisky is the secret of keeping production down.

Q. You would say, then, that the chief advantage of your combination is that you can control your output, especially of those brands?—A. We absolutely control the output of the standard brands; that is absolutely within our own hands. We will not produce 1 gallon more of whisky than the country will take—than the actual consumption shows. But we mean to control the output of spirits by selling spirits at a price very close to the cost of production.

Q. The control of the output of spirits comes from the fact of keeping the price low rather than from the fact of controlling so large a proportion of the capacity?—A. That is all; nothing else. Anybody can make spirits.

MORE WHISKY AND ALCOHOL USED IN GOOD TIMES.

Q. Are you exporting any spirits?—(No answer.)

Q. (By Mr. FARQUHAR.) What is your practical observation in respect to the consumption of stimulants by the people in good times and hard times?—A. There is more whisky consumed as a beverage in good times than in hard times, naturally. The great consumer of liquor as a beverage is the laboring man. He is the great consumer, and when he has money he spends it for whisky and beer and cigars and tobacco and luxuries. When he has not, he can not get it on credit easily. He has no credit for whisky. He may have credit for dry goods, but he has no credit in a barroom. That applies not only to the consumption of spirits as a beverage, but also to its consumption as an article entering largely into manufacturing and the arts and sciences. When all the mills of the country are working full time the consumption of alcohol is very markedly increased. When hard times come, down goes the consumption. A very large quantity of alcohol is used, I should say, notwithstanding the obsolete laws of the Government.

Q. (By Mr. SMYTH.) Have you any statistics of the consumption of whisky in cities and in the rural districts?—A. No; I have not at hand, but I should judge there are such statistics in existence, and they show a constant increase in cities where you can get such statistics with some degree of accuracy. I have found, for instance, that the greatest consumption of whisky per capita is in the cultured city of Boston. I hope this will not get into the press. But no fellow is supposed to take a drink in Boston. They all go up the alleys, etc. But the consumption of spirits per capita is greatest in the New England States. That is due absolutely to the climate.

Q. (By Mr. JENKS.) You say of spirits; that is, not whisky?—A. When I say spirits in this connection I mean all that comes from spirits; spirits is the great basis for it.

Q. (By Mr. RATCHFORD.) Have you any statistics showing the consumption of whisky by the laboring classes as compared with other classes?—A. I could not give that, possibly.

Q. I understood you to say that the great consumer of whisky was the laboring man. What do you base that statement on?—A. On the fact that there are more laboring men than any other men in the country. They are about 6 to 1. That is all.

IF THE PRICE GOES UP, A DRINK COSTS THE SAME, BUT THERE IS LESS WHISKY AND MORE SPIRITS IN IT.

Q. You said that as far as the price of whisky to the consumer was concerned, the consumer cares little whether it was \$2.50 or \$3 a gallon. Are we to infer from that, that the laboring man does not care what he pays for it?—A. Oh, it does not cost him any more. He pays 10 cents for his drink.

Q. Regardless of the cost originally?—A. It does not make any difference, and really the retailer pays little more in proportion.

Q. Have you not seen 15 cents paid for it?—A. I am speaking of the ordinary drink in the ordinary barroom; but of course we are accustomed to pay 15 and 20 cents straight, and in periods of great prosperity I have paid as high as 25 cents when I wanted it very badly. The ordinary price of a drink is 10 cents. But say the ordinary retailer buys 5 barrels of whisky at \$1.50 per gallon. Now, if there is a variation of 2 or 3 cents in the cost of spirits, he still pays \$1.50 for the whisky; he may not have as much rye whisky in that whisky—he gets more spirits and less whisky, that is all. But the jobber or distiller is the man who really suffers, if anybody does, from the increase in price, and he recoups himself by reducing the quality. In other words, instead of putting 5 gallons of rye whisky in the \$1.50 whisky, he will simply put in 4.

Q. (By Mr. JENKS.) When the price of spirits goes up, practically no one loses except the consumer in the quality?—A. Practically no one loses except the fellow who drinks it. In the end he gets a little more spirits and a little less whisky, that is all.

Q. In the case of the brands of whisky that are bottled, the consumer pays it there directly in the higher price per dozen— A. (Interrupting.) No; the price for cased goods—in the first place, it is a question very much of brands. Very popular brands command anywhere from \$12 to \$18. It makes very little difference if whisky has gone up 15 or 20 cents a gallon. It simply means an additional cost of 20 or 25 cents on that case of goods which is sold from \$18 to \$20. And there again the retailer does not pay any more and the jobber does not pay any more.

CONSUMPTION GREATEST IN NEW ENGLAND.

Q. (By Senator KYLE.) Your statement was that the per capita consumption of spirits was greatest in Massachusetts?—A. I say in the New England States.

Q. The New England States?—A. I say I think it is due to the climate.

Q. Greater than it would be in North Carolina, for instance?—A. In North Carolina there is a great deal of corn whisky consumed, but we can not get at any statistics.

EXPORTS HAMPERED BY GOVERNMENT REGULATIONS.

You were talking about the matter of exports. We have the greatest corn-producing country in the world. We make alcohol cheaper than any other country on the face of the globe. There was a time, 20 years ago, when we exported as much as 150,000 barrels of alcohol in one year. Germany was losing that trade, and seeing her disadvantage, gave an export bounty, which took away the trade from this country. But, notwithstanding that bounty that was given by the German Government, we could easily compete—the distillers in this country could easily compete—if we had equal facilities for shipping. What keeps the trade away from us now is the high rate of freight, because we have got to put this stuff into barrels at once, into cooage, ship it from Peoria to New York, and from New York to the distributing points, Hamburg and Marseilles. What we have been trying to bring about in the last 3 or 4 years is a regulation permitting us to store alcohol in tanks, and ship it in tank cars, and then in tank compartments or tank steamers to the other side. That, practically, would give us control of the export business of the world. It is scarcely understood what that means to the agricultural interests of the country. It means that—General McNulta has gone into that; he was very familiar with that—in times of great surplus corn crops, when the price of corn is cheap, the ability to manufacture alcohol and keep it would permit the distilling companies to purchase so much corn for that purpose as to appreciably affect the market, and they could make the alcohol at such times as the market for corn was appreciably lower than the average times. It would be a great benefit for that reason alone, not taking into consideration the new industry created by the manufacturing of new alcohol, the railroads getting the advantage of that business, the steamers employed for that purpose, at no loss to anybody. It is simply a change in the existing regulations, and it has been delayed, I think, by the Government. The Treasury Department

¹ See Mr. McNulta, pp. 225-230.

acknowledges the embarrassment and the harassing of the proper conduct of this business simply for need of some slight change in the present laws, simply a modification.

PRICE OF SPIRITS BASED ON PRICE OF CORN—NO CUTTING.

Q. (By Mr. JENKS.) You spoke some time ago with reference to the cheapened cost of manufacture of spirits on account of the organization. Is your company in the habit of meeting competition in special localities by special cuts in prices in those localities?—A. No; I have dropped all that sort of business absolutely.

Q. You used to?—A. That was the method heretofore; that was the method employed by people heretofore connected with the business, but since I have been connected with it we have adopted the present policy.

Q. What is the method now?—A. We make prices for spirits at which we make a small profit, and anybody is welcome to sell at that price. We do not care where they come from.

Q. That price is based, I suppose, on the price of corn?—A. Absolutely, corn being the great factor in the production of spirits.

Q. What is the general market price to-day?—A. The price to-day is \$1.23.

Q. And does that fluctuate with the corn fluctuations?—A. We make a fluctuation of half a cent a gallon for each fluctuation of 2 cents per bushel of corn.

Q. You take as a basis No. 2 white corn?—A. We take as a basis No. 2 cash corn at Chicago.

Q. The Chicago price being your basis?—A. Yes.

Q. Instead of the Peoria price?—A. Yes; Chicago No. 2 cash, for the reason that we have a daily and almost a minute quotation of corn in Chicago, and we have not in Peoria.

Q. Then all your agents throughout the country are instructed to sell at those rates regularly, regardless of what your competitors may do?—A. Our instructions, as I explained to you heretofore, are to sell the products of the American Spirits Association at the price of \$1.23. This price is given by the United States Spirits Association to their salesmen, and they are instructed what the price of spirits is, f. o. b. That simply forms the basis for the different articles sold by these distributing houses—blends, compounds, rectified goods, gins, whiskies, brandies, and so on. They are notified that the basis of these is \$1.23, and then all these things are sold at so much over the base. Is that clear?

Q. That does not still make it quite clear as to whether they are permitted to cut prices, or whether they are instructed to cut prices in order to meet rivals.—A. We have given absolute and strict instructions to all of our people not to cut prices.

Q. Your prices are fixed regardless of what your rivals do?—A. That is right; in other words, it is the policy of running our company. The policy of driving a man out of Boston and following him to New Orleans has been proved to be a reckless policy, because you drive him out of Boston and he only sets up somewhere else. We do not want to drive anybody out of business; we want to see him make money.

Q. You put your price where he can make some?—A. Our price is satisfactory to us, and is put at a price and kept at a price where we make a profit.

Q. But at the same time you calculate that, owing to the advantages you have in production, you keep the price where you are not likely to encourage or increase competition?—A. What we think we accomplish by this is that we do not tempt new competition. Existing plants run and they will run; it is human nature to run. A man says, I am not making any money now but I will make money next year; and he will stay in the business.

Q. (By Senator KYLE.) I understand this, of course, is because, according to your plan, you can make money in your plants if anybody can?—A. Yes.

PRACTICALLY NO EXPORTS—THE FOREIGN CONSUMPTION.

Q. (By Mr. RATCHFORD.) I should like to hear the export trade question followed a little further as to the amount of whisky exported now by your company.—A. Practically none. When I say practically none, there are times—it has happened within the last 20 years twice or three times, when the potato crop in Germany has been a failure—that we have been able to get some of that business. Last year we had some business with the Japanese Government. We have built up quite a business in Japan. But the business that we are looking for is the very large business in alcohol—that is, the great consumption of alcohol, of German alcohol—that is used for the fortification of the ordinary wines; for instance, the Italian and the Spanish wines, the production of which is something stupendous, something between 800,000,000 and 900,000,000 gallons a year. That is rather startling. For the fortification of these wines about 10 per cent of alcohol is used—that is, from 80,000,000 to 90,000,000 gallons. The alcohol which is required now is supplied by Hungary and Germany. If we could have distributing points, if we could ship in tank cars to

the seaboard and in tank steamers across to Hamburg, which is a free port, and to Marseilles, which are the distributing points, that business would go to this country.

NO WHISKY EXPORTED FOR SALE; ONLY TO BE REIMPORTED, AVOIDING THE TIME LIMIT ON THE TAX.

Q. In gauging the number of barrels to produce, upon the basis of the consumption of the previous year, is it not a fact that an excessive amount is sometimes produced—an amount of a certain brand in excess of the market requirements?—A. You are speaking of spirits?

Q. Yes. And in that case it is exported, is it not, generally?—A. There is no overproduction of spirits and there is no such thing as brand in spirits.

Q. Is the same true of whisky?—A. There have been periods of overproduction of whisky. The Government permits whiskies to remain in a bonded warehouse, you understand, for eight years. This law has been changed since 1894, so that we have not faced any period of overproduction up to now, but we are just getting at it now, so that it will be a new phase in the business in 1900. That will be the maturity of the 1892 whisky. The Government, through another one of its very sensible regulations, says: "You must pay the tax on this whisky in 1900, but if you do not pay the tax we will give you the right to export it." In other words, if a man does not want to pay the tax at the end of the 8 years, he exports it to Bremen. The German merchants are very sharp merchants, and they see a point quicker than we do, I think. They have established warehouses in Bremen for that purpose. A man in Kentucky can export his whisky to Bremen; he can leave it there as long as he pleases; he pays the warehouse charges, and pays the freight, and he can leave his whisky in Bremen until there is a demand for it in this country. Then, when that demand comes, he brings it back and pays the tax on what is left in the barrel, and then, of course, finds the market. Now, of course, the natural way and the sensible way—and all other countries have it—is that the man pays the tax when he uses it, and pays the tax on so much of the stuff as he uses.

Q. When whisky, alcohol, and spirits are exported, are they usually sold in foreign markets for the same prices that they command in this country?—A. You want to separate them. When whisky is exported it is simply exported to get it out of the country, not to find a market. The intention is to bring it back. There is an affidavit required by the Government here, which says that this whisky is bona fide exported in that way and intended for such a market and not intended solely for export. Well, the fellow simply means to export it and says, "Yes; I expect to sell it," with the mental reservation that he knows that he can not sell and does not expect to. That is all there is about it. There is a small amount of whiskies sold in foreign countries, but they are simply consumed by Americans over there.

INJURIOUS GOVERNMENT REGULATIONS.

Q. (By Mr. JENKS.) Why do you put your alcohol and spirits so largely into barrels—wooden barrels—instead of storing them in metal?—A. The law does not permit us to store them in metal.

Q. Do you think it would be wise to have the law changed in that particular? Is there any reason, as regards the quality of the goods, for keeping them in wood?—A. Absolutely none; it is detrimental to keep them in wood.

Q. Besides the waste?—A. Waste and coloring. As regards coloring, the quality of alcohol depends on the coloring. It must be white to be merchantable; and when it has been barreled up in wood for two or three weeks, it is liable to color, which makes it less valuable.

Q. (By Mr. FARQUHAR.) Have these recommendations in respect to spirits been made to the Government in any form?—A. There was a bill introduced in 1897, both in the House and the Senate.

Q. 1-97?—A. I think it was in 1897. It was introduced in the House by the Congressman from our district, Mr. Graft, and in the Senate, I think, by Senator Pettigrew; a bill which covered this particular matter.

Q. (By Mr. RATCHFORD.) Your company has, no doubt, a great many laboring men employed?—A. We have a great many, but the element of labor is not an important factor in our business. These plants are almost operated automatically. Labor is not a very large item with them; it is a very small one.

Q. You have no difficulty with strikes or anything of that sort?—A. Nothing of that sort; never have had a strike. I don't remember any strike in a distillery. Testimony closed.

THE TIN-PLATE COMBINATION.

WASHINGTON, D. C., *October 16, 1899.*

TESTIMONY OF MR. W. T. GRAHAM,

Second vice-president of the American Tin Plate Company.

At a meeting of the United States Industrial Commission held at its offices in the Bliss Building October 16, 1899, Mr. W. T. Graham, second vice-president of the American Tin Plate Company, after being duly sworn at 3.15 p. m., testified on the subject of trusts.

Q. (By Mr. JENKS.) Will you kindly state your name and address?—A. W. T. Graham, Chicago, Ill.

Q. You are the vice-president of the American Tin Plate Company?—A. Second vice-president.

Q. Do you hold any official position in the National Steel Company?—A. No, sir.

Q. In the American Steel Hoop Company?—A. No, sir.

Q. Are you a director in these companies?—A. In both of them.

Q. How long have you been engaged in the tin-plate business?—A. Well, I think since about 1895 I have been to some extent in the tin-plate business; in a very small way.

DETAILS OF TIN-PLATE BUSINESS.

Q. I wish, to begin with, that you would tell us something about the business itself, in order that we may understand what you are saying. What is your finished product?—A. The finished product is tin plate, or finely finished steel plate coated with tin or a mixture of tin and lead.

Q. You have simply the one quality in the main?—A. No, sir; we have different qualities.

Q. What is terne plate in distinction from tin plate?—A. Roofing plate coated with a mixture of tin and lead.

Q. What is the ordinary basis for the quotation of prices of tin plate?—A. 14 by 20, a box containing 112 sheets; that is, the size of the plate is 14 by 20.

Q. Is it your custom in quoting prices to quote New York prices or prices f. o. b. at the mill?—A. Delivery prices, at New York or anywhere else—the destination of the plate.

Q. You usually quote in that way?—A. Yes.

Q. And you pay the freight yourselves?—A. Not necessarily. Sometimes the customer pays the freight and deducts it.

Q. What are the chief raw materials that you use?—A. The chief ones are steel and pig tin.

Q. In what form do you consider the raw material—the steel? Is it the steel plate itself?—A. Steel billets, steel slabs, and steel bars. We use steel in all these shapes.

DIPPING WORKS.

Q. In the manufacture of tin plate is it customary at some manufacturing establishments to buy the black plate and then simply coat it by dipping it? Are there any dipping works?—A. There are dipping works; yes.

Q. What is the difference between that method of manufacturing and yours?—A. They do not roll the black plate; they do not roll the steel.

Q. In your establishments you roll the steel into these plates and then dip the plates also?—A. Yes.

Q. These other establishments simply have the second process?—A. Yes.

Q. How many dipping works are there in the country now?—A. Really I could not answer that.

Q. You do not remember how many dipping works there are in the country?—A. I do not remember.

Q. Do you know whether there are as many in the country now as there were when the American Tin Plate Company was organized?—A. I think practically the same number. It may have varied one or two.

SIZE OF PLANTS—COST OF MILLS.

Q. What is the basis of the estimate of the output of a tin-plate plant? Can you estimate the size of an establishment by the number of hot mills or anything of that kind?—A. You can estimate that a given mill is in the habit of turning out so much per day; that is, it will do it on the average. That is about the only way.

Q. Can you give us an estimate as to the cost of putting up a tin-plate mill now compared with what it was at the time the American Tin Plate Company was organized?—A. I can not give you an estimate of it. I only know in a general way that the cost of construction has vastly increased; in some lines of work over 100 per cent, some less.

SELLS BLACK PLATE TO ALL DIPPERERS THAT WANT TO BUY.

Q. Do you yourself ever sell black plate?—A. Yes.

Q. Have you refused at any time to sell black plates to dipping works when they wanted to buy them?—A. No, sir.

AMERICAN TIN PLATE COMPANY—HISTORY OF ORGANIZATION.

Q. At what time was the American Tin Plate Company organized?—A. In December, 1898.

Q. Will you give us briefly the reasons for the formation of the American Tin Plate Company?—A. Well, the American Tin Plate Company was organized at the instigation originally of the manufacturers of tin plate. They had frequent meetings to consider the condition of their trade, and they were the instigators of the organization.

Q. Had there been any attempts at organization for some time before the Tin Plate Company was finally organized?—A. Well, what do you mean by "some time before?"

Q. Say 2 or 3 years before.—A. I do not know of any. The first move of that kind resulted—although it was perhaps dormant for a little while—in the organization of the American Tin Plate Company.

Q. The efforts that were spoken of, for example, in the papers for some months before were substantially the same movement, delayed somewhat in completion?—A. Yes; it began a year before.

PREFERRED AND COMMON STOCK.

Q. What is the capitalization of the American Tin Plate Company?—A. \$46,000,000, I think, is the issued capital.

Q. And what is the authorized capital?—A. \$50,000,000.

Q. What proportion of this stock is common stock and what proportion is preferred?—A. \$18,000,000 is preferred and \$28,000,000 common.

Q. What is the nature of the preferred stock; what special advantages does it have?—A. I think that that question might be answered by someone else better than by myself.

Q. What rate of interest is paid on that, and is the interest cumulative?—A. It is 7 per cent cumulative stock.

Q. Does the preferred stock have any preference in voting over the other?—A. As I understand it, all stock has an equal right to vote.

BUYING THE PLANTS—SUBSCRIBING TO THE STOCK.

Q. There seem to be ten millions more of common stock issued than preferred. Why is it arranged in that way? In the purchase of the different plants that came into the combination, what was the general mode of organization? What was the general mode of purchase of the different plants?—A. The option, we might call it, was for cash. They simply bought our mill, or any other manufacturer's mill, at a price payable in cash.

Q. You, for example, when you sold your mill, sold it at a cash price?—A. Yes.

Q. Then when the organization was made and this stock was issued you were at liberty to subscribe for stock instead of taking cash?—A. To a certain extent; I do not know that we were at liberty. We will put it this way—I was allowed to take some stock.

Q. Who was it that determined how much stock you could take?—A. I can not say who it was that allowed it. Whoever it was that presented the subscription paper would say that if you desired to take cash for the property you could have it, or you could have that much stock. I do not know anything about that. I simply said I wished to take that much stock, and it was given me. Really, who presented the paper I can not tell you now.

FOR \$100.

Q. At what rates were those shares of stock offered as compared with the cash price offered for your plant?—A. For each \$100 of cash consideration you were the recipient of \$100 in preferred stock and \$100 in common.

Q. Do you know whether there were any variations made from these rates or not?—A. No, sir.

Q. (By Representative LIVINGSTON.) Do we understand you to say you got 100 common and 100 preferred for \$100?—A. For \$100 cash consideration we had the option of taking the cash or \$100 each of the 2 classes of stock, preferred and common.

Q. That is, you got 200 for 100?—A. Yes, 100 common and 100 preferred.

EACH CONCERN MADE ITS OWN BARGAIN.

Q. (By Mr. JENKS.) In selling the different individual plants that went into the combination, what was the basis of estimation of the value? Was it the earning capacity of the plant as its earning capacity would be after the organization was formed, or was it the cost of building the plant, or was it the cost of putting up a new plant, or what was the basis of estimate?—A. I do not know. We were dealt with as a separate company. Our option was taken at a separate price.

Q. That is, you were asked what you would take, and you fixed the price?—A. Yes.

Q. Do different individuals who sold know what was given to other individuals?—A. They do not, so far as I know.

Q. Each one was dealt with separately?—A. Each one was dealt with as a separate individual.

Q. As regards the way in which the company is now organized for doing business, could you furnish the commission with copies of the articles of incorporation and by-laws?—A. I could not. I have not got them.

Q. Could they be furnished by the company?—A. They might be. I do not know whether they have copies of them.

Q. I suppose a copy could be made without very great difficulty?—A. My position is not such that I usually notice those things.

Q. So far as you are concerned you can not agree to furnish a copy?—A. I can not; no, sir.

Q. Under what State laws were you organized?—A. New Jersey.

Q. Does your company keep in the State of New Jersey its transfer books and its stock books?—A. Really, I do not know; mine is the commercial end of the business.

Q. That is outside of your range of the business, then?—A. That is outside of my range of the business. I do not know anything about it, do not worry about it, and do not know anything about it.

NO SALES TO RETAILERS. NO DISCRIMINATION BETWEEN JOBBERS.

Q. In your dealings with the trade do you deal directly with retailers, or do you deal with jobbers or wholesalers?—A. We deal directly with the wholesale dealers or jobbers and the large consumers. We do not sell the retail trade.

Q. You sell only to the wholesalers?—A. Only wholesalers and large consumers.

Q. Have you, since you have engaged in the business, refused to sell to any of these jobbers?—A. No, sir; we have not.

Q. You make no discrimination between jobbing houses at all?—A. No, sir; we do not.

Q. And there have been no exceptions to that?—A. We do not refuse to sell to any of them; there is no discrimination whatever.

JOBBER'S BRANDS AND CONTRACTS.

Q. Have any of the dealers to whom you have been selling had any special brands that they were in possession of before your organization?—A. Yes.

Q. You have acquired those brands?—A. Some of them.

Q. Where you have acquired brands do the former owners have the use of those brands?—A. They do.

Q. Under what conditions?—A. We simply make the plate under their brands and make these brands exclusively for their use. For instance, we will not sell to one jobber what is called the private brand of another jobber.

Q. Do you make any contract with that jobber himself that he shall buy his tin plate exclusively of you, or anything of that kind?—A. No, sir.

Q. Do you make any special written contract with these jobbers to whom you are furnishing special brands?—A. Yes; where we have an assignment of the brand we have an agreement with them that we will furnish them their plates of a particular quality under that brand, and that we will not sell that brand to any other jobber.

Q. Is there any statement made in your contract with reference to the price at which they shall sell that brand?—A. I believe there is a clause in the contract which guarantees to them that the price which they pay for that brand shall not be higher than the price on the same quality of plate—that is, if we were making a brand of the same quality and selling it, we could not sell the jobber under that agreement at a higher price than we were selling our own.

Q. He could not get the benefit then of any added price for that special brand beyond what he could get for any other tin plate of that same quality?—A. Yes; because he gains for the brand prestige by distributing it in a territory, whether small or large; a brand gains prestige, and an unknown brand of the same quality will not sell at the same price.

Q. Do you put in any of the agreements with these dealers such an article: this: "The obligation of the company to continue the manufacture of any brand shall be made contingent on buyers restricting all purchases of tin andterne plat to its products, and the company shall have the right to discontinue the manufacture of such brands on evidence satisfactory to its sales department that buyer has not so restricted purchases?"—A. The agreement that is in force, as I recollect it, does not contain that clause.¹

Q. Have you had previously any agreements that did contain any clause like that?—A. I think never, that were executed.

Q. You think that such plans as that were under consideration, but not carried out?—A. That is my recollection of it, that no agreement of that kind was signed.

OUTSIDE TIN-PLATE MAKERS (DIPPERS.)

Q. What proportion of the tin plate manufactured in the country at the present time has the American Tin Plate Company?—A. I can not say. These dippers make quite a large product. I never attempted—

Q. To tell what per cent of the total product you have?—A. I never did.

Q. Could you mention as many as half a dozen plants outside of your organization?—A. Yes, I think I could. There is Norton Brothers & Co., Chicago; Follensbee Brothers & Co., Pittsburg; Merchant & Co., Philadelphia, and a number of others. There is one in Cincinnati, I can not think what it is—the American Tin Plate and Galvanizing Company, I think it is called; John Hamilton, Pittsburg, and N. & G. Taylor, Philadelphia.

EXCLUSIVE CONTRACTS WITH MACHINERY MAKERS.

Q. That is sufficient. The statement has been made at different times that it is impossible now for an independent manufacturer of tin plate to secure machinery to manufacture tin plate on account of some contracts that your company has. Have you enforced them, or have you had any contract or any compact with founders and machinists not to furnish any independent plant or contemplated plant anything to go into the business with?—A. I think that is outside of my position; as I say, mine is in the commercial end of the business, the business of selling the product. I have charge of the sales agencies.

Q. Do you know with reference to this: has your company had any such contract?—A. I know of an arrangement or compact that was talked of by which we were to buy the entire output of some certain foundries.

Q. Well, by buying the entire output that would shut out any others from buying at that time?—A. But we got with that the benefit of the engineers of each of those companies, and any new thing they might develop we would get by virtue of it.

Q. Have you had also arrangements by which they would refuse to furnish even sheet mills machinery for making sheet iron?—A. I do not know of any such.

Q. Has the Tin Plate Company had any arrangements with the manufacturers of mills to build sheet mills only when a lease for 2 years was signed by the parties who bought them and turned over to the American Tin Plate Company, so that in that way you could control them?—A. I am not familiar with the details of any contract of that kind.

Q. You do not say that contracts of that kind have not been made?—A. I do not know that contracts of that kind have not been made. I am not familiar with the details of any such contract.²

¹ See Reid, p. 874; Mr. Griffiths, pp. 890-893.

² See Mr. Wheeler, p. 884; Mr. Reid, p. 875; Mr. Griffiths, pp. 888-890.

Q. (By Representative LIVINGSTON.) Can you make the general statement of what the contract contains without the details?—A. I can not.

Q. (By Mr. JENKS.) What officer of the company would be likely to know the details in reference to such a contract?—A. I hardly know.

PRICE OF TIN PLATE HAS NOT INCREASED MORE THAN COST.

Q. What has been the course of prices of the finished products since the American Tin Plate Company was formed?—A. They have been advanced.

Q. How much? You can give us the figures definitely enough to show us what the advance has been.—A. The first price we made was \$2.75 per box; the last price we made—that is, the base price—was \$4.65.

Q. Has the price of the finished product advanced more than the price of the raw material?—A. I think not, sir.

Q. The prices both of the steel and the tin have advanced in proportion?—A. Very heavily.

Q. Do you say that the prices of the steel and of the tin have advanced proportionately?—A. I do not know what you mean by proportionately. I would say that the cost of making tin plate, by reason of the advance in steel and pig tin and labor and supplies, has increased quite as much as the selling price.

Q. Then if we were to take, let us say, a full-weight box, you would think that the increase of the sheet steel and the tin and the increase in the cost of labor would make up all of this difference?—A. Yes. I will put it a little bit differently. That the cost of the steel and pig tin, and of the labor and the general supplies that go into it and that are necessary to the operation of a plant, have increased as much as the price has increased.¹

Q. Will you explain a little more in detail what are the general supplies that go into this?—A. Well, there is acid, there are rolls, there are castings that wear out and are broken and have to be replaced, and there are lubricants, and fuel, and many other smaller items. I have perhaps named the more important ones.

ADVANCE OF WAGES—STRIKE.

Q. What has been the relation of the Tin Plate Company to the laborers that have been working for it? Have you increased their wages?—A. Yes.

Q. How much?—A. Well, it has varied. I think the increase will run from 15 per cent as a minimum to probably, in some cases, as much as 50 per cent.

Q. What class of laborers have had their wages advanced 15 per cent, and what class of laborers have had their wages advanced 50 per cent?—A. The laborers represented by what is known as the Amalgamated Association of Iron and Steel Workers were advanced 15 per cent.

Q. And what classes were advanced 50 per cent?—A. Some isolated cases where workmen in certain factories were not paid so much as was paid in others; where wages were considerably below the average, they were brought up.

Q. Will you give us some of the details with reference to the increase in wages of the workers of the Amalgamated Association? Was there any strike or any formal demand on their part for an increase in wages?—A. They presented a demand for more wages, and a conference was agreed upon. When they met our people they presented their reasons for an advance of so much.

Q. What was it they asked for?—A. Twenty per cent.

Q. And then, as the result of a compromise, you advanced them 15 per cent?—A. We advanced 15 per cent after discovering that 15 per cent was the least figure that would be satisfactory.² That was the result of the compromise.

PLANTS DISMANTLED.

Q. Have you, since the American Tin Plate Company was organized, closed any of the plants that were brought in and dismantled them?—A. Yes.

Q. How many have been dismantled?—A. I can not say—1 plant in Baltimore, or 2; 1 in Brooklyn, New York. Those are the only ones, I believe, that have been dismantled.

Q. What was the special reason for that?—A. They were inefficient plants, badly located.

TIN PLATE PRICES IN ENGLAND.

Q. Go back for a moment to the question of prices again. Do you know whether the prices of tin plate here have advanced more in proportion than prices in Wales

¹ See Mr. Reid, p. 874; Mr. Griffiths, p. 902.

² See Mr. Reid, pp. 869, 879; Mr. Griffiths, p. 903.

and England?—A. You would have to fix the date for the comparison, because, you know, there are fluctuations in both countries.

Q. Yes. Say from the time the American Tin Plate Company was organized, up to date, has there been a greater increase in prices here than in England?—A. I can not say that without consulting some newspaper or trade report as to the price of tin plate on the other side.

Q. You have not kept track of that?—A. I have not kept track of it definitely in my mind.

SOME EMPLOYEES OWN STOCK.

Q. Do the wage earners in your establishment have stock in your company?—A. I have no doubt they have. I have known of 3 cases personally, and I imagine there are a great many of them.

Q. You know there are several cases of that kind?—A. I know of several cases where the workmen had stock in my old company, and these I remember; that is the way I happen to know it. And I presume that they have it yet.

Q. Is it the policy of the company to encourage the buying of stock by its employees?—A. As far as I know, the company does not encourage anybody to buy stock.

Q. A person buys it if he wants it and pays the price?—A. He can buy it if he wants to. They do not buy it from the company.

ALL JOBBERS TREATED ALIKE.

Q. You said some little time ago that you sold your output regularly to jobbers and large wholesale dealers?—A. Wholesale dealers.

Q. Are there any preferences shown to the large jobbers, in special prices?—A. There are none.

Q. They are all treated alike?—A. They are all treated alike.

KNOWS OF NO EXCLUSIVE CONTRACTS WITH STEEL COMPANIES.

Q. You said that you were a director in two or three companies; the American Steel Hoop and the National Steel Company? What are the relations existing between the American Tin Plate Company and the National Steel Company?—A. The National Company is the maker of material which we buy. We buy a part of our material from them.

Q. About what proportion of your material do you buy of the National Steel Company?—A. Really I can not answer that.

Q. Do you know what proportion of their output you take?—A. No, sir; I do not. We buy a considerable part of our material outside of the National Steel Company.

Q. Could you mention some other company from which you buy?—A. I think we buy from 3 or 4 others. We buy from the Carnegie Steel Company; we buy from the Illinois Steel Company.

Q. In buying from any of these other companies, do you have any contract giving you the exclusive right to purchase? Do they agree not to sell to others?—A. The contracts that are in existence, that I know of, have no conditions to debar them from selling to anybody else. I see the contracts because I sometimes have some questions to settle on them.

Q. Please repeat that.—A. I say the contracts that I have consulted for purposes of my own have no such conditions.

Q. You do not know that contracts of that kind have not been made by the company?—A. I can not testify negatively to that question; I do not know; but I made some of these contracts myself, and I know there is no condition of that kind in them.

THE TARIFF.

Q. The question of the tariff has frequently come up in connection with the Tin Plate Company. What, in your judgment, has been the effect of the tariff on tin plate, upon the industry in this country?—A. It has certainly been to encourage it, to build up the industry to the extent to which it exists to-day.

Q. What, in your judgment, would be the effect if the tariff on tin plate should be removed?—A. I think, at present, it would stop the manufacture of it if the tariff is removed. I think it would kill the American tin-plate industry, absolutely.

Q. (By Representative LIVINGSTON.) Could you have organized the tin-plate combination without the tariff?—A. There would not have been anything to organize.

CONDITION OF THE INDUSTRY BEFORE THE COMBINATION.

Q. (By Mr. JENKS.) What was the condition of the tin-plate industry just before the organization of the American Tin Plate Company? Was it in a flourishing con-

dition?—A. No; it was not. There was a condition of excessive competition, which simply meant that the strongest people, financially, and the best plants, physically, would continue in existence, and some of the weaker ones would go into bankruptcy.

Q. Had there been before the organization of the company, to your memory, any cases of bankruptcy in the tin-plate industry within a year or two?—A. If you include the dippers, yes. I do not know now of any mills that have gone into bankruptcy.

Q. But your opinion is that the condition of the business was such that some would have gone into bankruptcy soon if it had not been for some effort like this, made to relieve it.—A. Yes.¹

IMPORTS AND EXPORTS.

Q. Is there any tin plate imported at present? Has there been any within the last 2 or 3 years?—A. Yes; some.

Q. Can you give a definite estimate as to how much?—A. Well, no. Those figures are published frequently and I look them over usually when they come out, but I haven't them in mind.

Q. Do you do any exporting of tin plate?—A. No. We might ship some little tin plate into Canada and down into Mexico.

Q. You have practically no export trade at all?—A. We have practically no export trade at all.

BENEFITS OF CONSOLIDATION.

Q. You have spoken of the unfavorable condition of the business before the organization was made. Will you sum up for us what you consider to be the chief advantages of combination as it has worked out in your establishment?—A. Well, I think it prevents absurd and suicidal cutting of prices. I think there are conditions under which goods are sold very much under cost. I have done that myself. Then we, of course, naturally expect some betterment in our companies, better equipment of our plants, bringing them up to a better physical condition.

Q. How is the combination going to build your plant up to a better physical condition?—A. I would illustrate it by referring to some old-fashioned mill, built in the earlier days of the tin plate industry, with wooden buildings over it, where all of the material and all of the machinery were handled simply by force of muscle; and, on the other hand, to the modern plant, iron buildings, with the floor space served all over with an electric crane to pick up the material in one part of the building and put it in another.

Q. You can simply say, then, that by virtue of the larger capital you can get a better equipped plant than with a smaller capital?—A. Yes.

Q. Is it necessary that there be a capitalization of, say, \$50,000,000, or in that neighborhood, in order to secure these conditions? Could not an establishment of \$1,000,000, we will say, secure these advantages so far as plant goes?—A. With the smaller capital you may build a smaller plant with these appliances, but the appliances in a larger mill result in greater saving and better practice.

Q. You have something like 40 different plants, have you?—A. Between 30 and 40.

Q. Can you not make all of the saving in a vast single plant that you make by these different plants working together?—A. In the production of plates, perhaps that is true.

Q. What advantages have you, then, from the combination of these 35 to 40 different plants; what added economies?—A. The cost of the expense in operating those plants is reduced.

Q. Can you show how it is—where you save—the cost of superintendence, the cost of labor; or in what way do you save?—A. The cost of management; there would be a saving in that. There would be a very great saving in the cost of shipping the goods from the most convenient mill; the one having the lowest rate of freight.

Q. Can you recall any other?—A. In selling the goods there is unquestionably a large saving.

Q. How does the saving come about?—A. Each plant in the business requires a selling department, and all that that means in the way of agencies and traveling men and officials at home to direct that particular branch of the business.

Q. After the American Tin Plate Company was organized, were you able to dispense with the services of a goodly number of traveling men?—A. Traveling men, or people in the same place; commission men, or agents working for commission.

Q. So that was quite a material source of saving?—A. Yes.

Q. Can you tell how many men there were whose services you saved?—A. I can not; but each separate plant necessarily had some means of disposing of its output. Some of them had more elaborate organizations and others rather slender ones, or sold their goods through commission people and paid others for selling them.

Q. And there was quite a material saving along that line?—A. Yes.

¹ See Mr. Reid, pp. 886, 887, 882; Mr. Moore, p. 965; Mr. Griffiths, pp. 898-899, 900; Mr. Taylor, p. 941.

FREIGHT RATES AND REBATES.

Q. You have spoken of the saving that you make in freight rates by virtue of the fact that you can ship from nearer plants. Because you are a much larger shipper, can you get special advantages in freight rates over the railroads?—A. No, sir; what I meant was the old way of doing business—the Pittsburg mill might ship to Chicago and the Pacific coast and the Indiana mill to the Atlantic coast. Now the orders for the Atlantic coast are filled from the Pittsburg mills at a lower tariff rate of freight and the Western business is done from the Western mills.

Q. Yes. I had understood that; but I asked you a further question, whether from the fact that you are so large a shipper you can get better rates.—A. I do not know that we can get any better rates.

Q. You have no knowledge of any better rates that you do get?—A. No, sir.

Q. (By Representative LIVINGSTON.) Any rebates?

Mr. JENKS. The question is asked whether you get any rebates.—A. I have not any personal knowledge of any instances in which we get rebates.

Q. You do not deny that there are special advantages given?—A. I do not know. A good many of these people, companies, might have a man that would be engaged to route shipments, for the purpose of getting them through quickly and by the cheapest route. What he would do outside of that I do not know.

BONDS—DIVIDENDS—EARNINGS.

Q. The question is suggested whether the American Tin Plate Company has any bonded indebtedness.—A. I believe not, sir.

Q. What dividends have been paid by the company on the preferred stock?—A. I think the one maturing the last of this month is the third.

Q. And they have been paid regularly at the rate provided for?—A. Yes.

Q. Have you paid any dividends on the common stock?—A. No, sir.

Q. (By Representative LIVINGSTON.) Do you anticipate paying any?—A. We did not pay any in October.

Q. That is not the question. I asked if you anticipate paying any dividends on common stock?—A. Really I can not answer the question. I have not any knowledge as to what the company may do, or what the policy may be in that regard. It is a matter for the board of directors to determine, sir, whether they shall pay that or not, and I have no more knowledge than any director who is not an officer of the company.

Q. Do you earn money enough to pay any dividends on that common stock over and above dividends paid on preferred stock?—A. I think so.

CONCERNS CONSOLIDATED, AND THEIR CAPITALIZATION.

Q. (By Mr. JENKS.) Can you furnish the commission with a list of the different organizations that came into the American Tin Plate Company?—A. I could secure one.

American Tin Plate Company, Elwood and Montpelier, Ind.

Atlanta Steel and Tin Plate Company, Atlanta, Ind.

Beaver Tin Plate Company, Lisbon, Ohio.

Cincinnati Tin Plate Company, Cincinnati, Ohio.

Crescent Sheet and Tin Plate Company, Cleveland, Ohio.

Ellwood Tin Plate Company, Ellwood City, Pa.

The Falcon Tin Plate and Sheet Company, Niles, Ohio.

Great Western Tin Plate Company, Joliet, Ill.

Humbert Tin Plate Company, Connellsville, Pa.

Irondale Steel and Iron Company, Middletown, Ind.

Marshall Bros. & Co., Philadelphia, Pa.

Monongahela Tin Plate Company, Pittsburg, Pa.

The Morewood Company, Gas City, Ind.

Morton Tin Plate Company, Cambridge, Ohio.

National Tin Plate Company, Anderson, Ind.

National Tin Plate Company, Monessen, Pa.

Neshannock Steel and Tin Plate Company, New Castle, Pa.

New Castle Steel and Tin Plate Company, New Castle, Pa.

Pennsylvania Tin Plate Company, New Kensington, Pa.

Pittsburg Tin Plate Works, New Kensington, Pa.

Star Tin Plate Company, Pittsburg, Pa.

United States Iron and Tin Plate Manufacturing Company, Demmler, Pa.

Wallace Banfield & Co., Irondale, Ohio.

Washington Steel and Tin Plate Mills, Washington, Pa.

Baltimore Tin Plate Company, Baltimore, Md.

Blairsville Rolling Mill Company, Blairsville, Pa.

Hamilton & Co., West Newton, Pa.

Johnstown Tin Plate Company, Johnstown, Pa.

Ohio River Sheet and Tin Plate Company, Rochester, Pa.

In the above cases the entire property of the company was purchased.

In the following cases only that portion of the company's property which was used for the manufacture of tin plate was purchased.

Ætna Standard Iron and Steel Company,
Bridgeport, Ohio.

Cumberland Steel and Tin Plate Com-
pany, Cumberland, Md.

La Belle Iron Works, Wheeling, W. Va.

Langhlin Nail Company, Martins Ferry,
Ohio.

Reeves Iron Company, Canal Dover, Ohio.
Shenango Valley Steel Company, New
Castle, Pa.

Britton Rolling Mill Company, Cleve-
land, Ohio.

Somers Brothers, Brooklyn, N. Y.

Stickney Iron Works, Baltimore, Md.

Q. Could you furnish a list of corporations that came in, and the amount of the capital stock that each one of them had before?—A. I could not do that; no, sir.

Q. That information is not accessible?—A. It is not accessible.

Q. (By Mr. FAUQUHAR.) Why?—A. Because the properties were bought for a given price without any regard whatever to their capital stock; bought at the price they were supposed to be worth.

Q. How do you avoid the New Jersey law that declares that each one of your companies there shall show the capital stock?—A. Really, I do not know anything about it.

Q. (By Mr. JENKS.) These different plants were bought without any reference to their capitalization?—A. The capital was not bought.

Q. The plants themselves were bought. In asking the question whether you could furnish the capitalization there was no reference, of course, to what they were bought for. The question was as to whether that information is accessible. I suppose the information is not difficult to get?—A. I think it would be very difficult to get by anyone.

Q. Were the different plants that were bought regularly the property of corporations?—A. Some of them were not and some were.

Q. Some of them were owned by firms or individuals?—A. Some by firms, and if I am not mistaken, some plants were owned by individuals. There were plants in which a part of the property was sold, where the capital stock of the company from which the purchase was made would not represent the capital stock, or capital invested, in the tin-plate business.

THE COMPANY'S RECORDS.

Q. (By Senator MALLORY.) I understood Mr. Graham to say that he did not know whether there were any of the books of the American Tin Plate Company kept in the State of New Jersey. Am I right in that?—A. You are right, sir.

Q. Your function, as I understand it, as second vice-president, is to attend to the sales?—A. I have general charge of the selling department.

Q. Whose function is it to keep the records of the books of the concern?—A. I presume it would be the auditor's; the auditor is the general accountant.

Q. Who is the auditor?—A. Mr. Heaver.

Q. Where does he reside?—A. Chicago. The general accounts are under his supervision; that is, the charging of invoices and keeping of accounts with customers.

Q. Who has charge of the books—for instance, the stock book of the concern?—A. I do not know.

Q. Do you know any officer who has?—A. I do not know.

Q. Are you a director of the concern?—A. Yes.

Q. You do not know anything, then, about who keeps the books in his custody for the American Tin Plate Company?—A. I have never inquired about it.

Q. (By Representative LIVINGSTON.) Does that officer make any reports to the board of directors in your presence?—A. We have not been in business for a year, and we have not had any regular report made up.

BETTER MANAGED SINCE CONSOLIDATION.

Q. (By Senator MALLORY.) In your opinion, how do the plants, so far as the money-paying quality is concerned, the individual plants now in the American Tin Plate Company, compare with their money-making qualities before they went into that organization? In other words, do they pay now individually, plant for plant, as much as they did before?—A. I think they make their products for less money, and I think they are better managed than they were before, on the average. Better management means they do better under the same conditions.

Q. (By Representative LIVINGSTON.) Less expensive?—A. Less expensive.

ISSUE OF STOCK.

Q. (By Mr. C. J. HARRIS.) You say that your capital is about \$50,000,000, and you have issued \$46,000,000. What is done with this other \$4,000,000? Is it kept in the treasury?—A. It was never issued.

Q. What is the reason of retaining that in the treasury?—For the purchase of other plants?—A. I do not know what the particular reason was. I presume it was not needed.

Q. Have you, since the first organization, when you issued so much preferred and so much common stock, made any other issues in addition?—A. The plants were not all bought out at one time, so that there was a gradual issue.

THE SUPPLY OF STEEL: OTHER COMPANIES NOT CONTROLLED TO PROVIDE IT.

Q. Did I understand you to say that your tin company, for the sake of protecting its raw materials of plate, and so on, controls the National Steel Company and the Hoop Company?—A. I did not. Please repeat that question.

Q. I asked you if your company controlled these other 2 companies to provide yourselves with the raw material in the business.—A. We do not.

Q. Have you had any trouble in getting your plates for tinning supplied?—A. Our supply of steel at times gives great trouble.

NUMBER OF PLANTS—COMPETITION.

Q. You say that there were some 40 plants taken into this American Tin Plate Company?—A. I think it would be between 35 and 40.

Q. And there are some 6 outside that you attempted to name here?—A. I did not count them, and I am quite sure that I did not name them all. There are others. I thought the question addressed to me was only as to the number of dippers. Now there are a number of mills outside of our company.

Q. Do you find any competition to speak of in this line of business as you have it now organized?—A. Yes; we do.

CAN NOT PROPHECY ABOUT PRICES.

Q. Do you think that this advance of some \$2 per box on tin is a temporary one, due to the shortness of coal or the boom in all sorts of manufacturing, and do you expect in time, through the organization of this consolidation, to more or less cheapen the price to the people?—A. I think an answer to that would be an attempt at forecasting the future, and I should enter on that kind of ground with a good deal of misgiving; I do not know.

Q. Of course, the general public are interested in the price they pay for a product, and we naturally want to know what the tendency of your consolidation is going to be in that line.—A. Well, I can only speak of it as to the influence it has had to the present time.

NUMBER OF WORKMEN.

Q. (By Mr. KENNEDY.) How many workmen are employed in the tin-plate industry to-day?—A. Really I could not answer.

Q. Can you give an approximate answer?—A. Oh, I might give it within a few thousand.

Q. Well, give us that, then.—A. I presume there would be between 20,000 and 25,000.

Q. All those workers receive good wages, do they?—A. Some of them think not.

Q. Some of them think not?—A. Relatively, I think they do.

Q. How many are there in the employ of the American Tin Plate Company?—A. I meant in the employ of the American Tin Plate Company; 20,000 or 25,000.

Q. That does not include all the industry in the United States?—A. Oh, I have no means of estimating those on the outside.

Q. (By Mr. C. J. HARRIS.) Would that include the makers of the iron plate? (No audible response by the witness.)

Q. (By Mr. KENNEDY.) I want to find out how many are employed in the tin industry independent of these other concerns, the Federal Steel, etc., which he speaks about.—A. It would be an impossible thing for me to estimate or attempt to estimate outside of our own company.

Q. All of them have come into this industry within the past nine years, have they not?—A. Yes, I believe they have; less than that.

PRICE NOW AND BEFORE 1890.

Q. What is the price of tin now, as compared with the price prior to 1890?—A. Lower.

Q. How much lower?—A. Well, I could not tell you. Those figures I have seen frequently, but I can not remember them.

Q. Is it very much lower, notwithstanding the recent advance of \$2 a box?—A. Yes, my recollection is, considerably lower.

Q. (By Representative LIVINGSTON.) Is it tin plate or tin that is cheaper?—A. Tin plate.

Representative LIVINGSTON. Not tin.

Q. (By Mr. KENNEDY.) Is not tin cheaper, too?—A. Pig tin?

Q. Yes.—A. I do not know what it was in 1890. Tin plate is.

THINKS PROFITS HAVE DECREASED WITH THE ADVANCE OF MATERIALS.

Q. (By Representative LIVINGSTON.) Are you making more money now on your contracts than you did prior to July 1?—A. Contracts of what nature?

Q. I suppose that you make your contracts to furnish tin plate, and that you do not keep up with those orders; you are sometimes 3 or 4 or 5 or 6 months filling those orders?—A. Yes.

Q. You took orders of that kind in the early part of this year; and you took others in the middle of the year, and are running on them now. I want to know if you are making more money on the latter contracts than the former.—A. Our contracts are made every day in the year. Sometimes, made for immediate shipment, they do not extend over any period beyond that in which we can make shipments according to the specifications which come in the contract. Others may call for deliveries extending over 6 months or possibly 12 months. I should like to answer the question intelligently, if I could.

Q. Well, I might put it in a more direct way. Is your percentage on your capital increasing or decreasing as you go along in your combination?—A. I think it would depend upon what you count the cost of the product we are making now.

Q. I tried to do that in an explicit way, but you did not seem to understand it.—A. I do not know what you consider the cost.

Q. Your materials were at one price last January; they are very different to-day, are they not?—A. They were not at one price last January; they varied.

Q. Your steel and tin cost you about the same last January as now?—A. Of course not; steel has advanced since last January; it has advanced 100 per cent.

Q. That is what I supposed. Now, on that advance are you making more money or less money?—A. I think we are making less with the advanced cost of material.

Q. That was the point I wanted to bring out, whether you were keeping up with the advanced cost of material, or whether you were making a greater profit or a less profit.—A. Those conditions are continually changing. I think we are not making so much money on the present cost of material as we were making last January.¹

SOURCES OF TIN, AND CHIEF MARKET FOR IT.

Q. (By Mr. FARQUHAR.) From what country does your pig tin come?—A. It comes from Cornwall, some of it; some little from South America, some from Australia, and some from China and the Straits of Malacca.

Q. What city or center in the world makes the price for pig tin?—A. I do not know that any city makes it or any country.

Q. What city is the main market?—A. You mean where it is consumed?

Q. I mean the market.—A. Where it is bought and sold?

Q. Relatively the same as Liverpool for wheat. What other city is there for pig tin?—A. London is the city where pig tin is traded in more than in any other.

Q. Is there any production of pig tin in this country?—A. I do not know of any.

AS TO A TABLE OF PRICES.

Q. In your position of second vice-president you are quite conversant, of course, with prices?—A. Yes.

Q. Can you furnish this commission the prices of black plate from 1888 to 1899?—A. I could not.

Q. You have no means to reach that?—A. I have no means to reach that.

Q. How far can you go back?—Our company goes back to last December.

Q. Only your company?—A. That is all. We have no records back of that.

Q. You have no means, then, yourself, in this great company of yours, with \$50,000,000 of authorized capital, to furnish this commission, through any of your officers, with the prices of pig tin and black plate and the finished products and wages from 1888 until now?—A. Only by depending on trade quotations, as anybody might look them up.

Q. Which you depend on as business men?—A. Yes. I would say that no officer of our company has any better opportunity to make a statement of that kind than any one outside of the company.

¹ See Mr. Reid, p. 874; Mr. Griffiths, p. 902.

SALES OF BLACK PLATE.

Q. How extensive have been your sales of black plate to outsiders?—A. Black plate for tinning?

Q. Yes.—A. Quite extensive.

Q. How extensive?—A. I could not tell you.

Q. Give us an average—10 per cent, or anything.—A. I think perhaps it would be 20 per cent.

Q. Are these sales open to all purchasers?—A. What sales?

Q. The sales of black plate.—A. No, they are not open to all. We do not sell to the small consuming trade, and we do not sell to the retailer.

VALUE OF AMERICAN TIN PLATE COMPANY'S STOCK.

Q. Is your stock sold on the New York stock market?—A. Yes.

Q. Common stock and preferred?—A. Yes.

Q. Can you give the commission any idea how it is selling, to-day, for instance?—A. I can come within 2 or 3 points of it—1 or 2 points of it. The last price that I saw, I believe, was 85 and 37 and a fraction. I have not seen the market on it for several days.

AMERICAN STEEL HOOP COMPANY—CAPITAL—DIVIDENDS.

Q. (By Representative LIVINGSTON.) I understood you to say that you are a director in the steel hoop organization also?—A. No.

Q. I thought you said to Mr. Jenks that you were a director in both companies?—A. Yes, I did.

Q. And you are a director in the Steel Hoop Company?—A. Yes.

Q. What is that company capitalized at?—A. At \$14,000,000 of preferred and \$19,000,000 of common.

Q. What is the guaranty of the preferred?—A. It is 7 per cent cumulative.

Q. Has any dividend been paid on the common stock of that company?—A. No; there has not been.

SOLD HIS PLANT FOR THE BEST PRICE HE COULD.

Q. (By Mr. CLARKE.) When these plants were acquired, how was their value estimated or arrived at?—A. It was arrived at between the buyer and the seller.

Q. Well, what was the basis of it? All material property or something for good will?—A. I do not know about any plant but my own.

Q. You sold your plant to this concern?—A. Yes.

Q. Did you exact a price for good will as well as for the material?—A. I got the best price I could for it.

Q. Can you not, without revealing too much of your private business, answer my question?—A. I can not, any more than by saying that in selling an article of that kind, selling property, I got the best price I could.

Q. That would go without saying. I want to ascertain what is the probable basis of the preferred stock and also of the common stock.—A. I could not say to you what any other seller got for his plant; I do not know.

VERY FEW NEW DEVICES—AS MANY MEN TO A MILL AS 25 YEARS AGO.

Q. Are you familiar with the manufacturing part of your business?—A. To some extent.

Q. Is there a great deal of new machinery in use in that business compared with 6 or 7 years ago?—A. There is perhaps better machinery; that is, stronger and heavier.

Q. Are there any new devices that economize production?—A. Very few.

Q. Are there any more than 1 or 2 sizes of tin plate produced now?—A. Yes; the number is indefinite.

Q. How was it before the industry was established in this country?—A. I think there were fewer sizes made.

Q. How does the machinery in use in this country compare with what was used in Wales before the industry was established here?—A. I think it is heavier on the average. Some of the first mills were perhaps as light as the mills built on the other side.

Q. Is it not better in other respects? Is there not more variety to it and more economy gained here in production?—A. There is perhaps economy by reducing the breakage. The number of men in a black-plate mill is the same to-day in Wales and here that it was 7 years ago or 25 years ago.

WAGES OF SKILLED MEN HERE AND IN WALES.

Q. Is the labor employed in your industry organized?—A. Part of it; yes.

Q. You have constant demands for an increase in wages?—A. No; not constant. We settle with a large part of the people we deal with or employ once a year.

Q. Were many of your skilled workmen engaged in the industry in Wales before it was established here?—A. Quite a good many of them.

Q. Do you know how their wages here compare with what they received there?—

A. Two and a half times to 3; some of them 3 times what they were paid there.¹

Q. How does the cost of their living here compare with the cost there?—A. Well, it depends upon how they live.

Q. On the same scale, how does it compare?—A. I have never seen the homes of Welsh rolling-mill workers, but I know how they live in this country.

Q. Do you know how much money has been saved to the American people in the price of the tin plate that they consume since the industry was established in this country?—A. I have not figured it. I think they have saved by the introduction of the industry here.

AMERICAN TIN PLATE BETTER THAN WELSH.

Q. Do you consider that the quality of the goods produced in this country is equal to that produced in Wales?—A. Better.

Q. In what respect is it better?—A. Well, it averages better in uniformity of quality, in the base of the tin plate, which is steel, and in the coating.

Q. Don't they produce steel plates in Wales?—A. Yes.

Q. How can it be that in a very new industry, with so many inexperienced hands employed in it, we can produce a better quality than they can there where they have been at it for so many years?—A. I do not know, unless it is because we learn quicker.

Q. (By Mr. FARQUHAR.) Do all the concerns in your combine pay the Amalgamated scale of wages?—A. Practically; in one sense, yes. We have 1 mill in which they had some little different character of machinery, in which we agreed with the Amalgamated Association that there should be a slight variation. Other mills that have not been paid the same scale were brought up to it.

OUTSIDE MILLS.

Q. (By Mr. JENKS.) When you gave a short time ago a list of some of the mills outside of your organization were you referring to the dippers or the mills?—A. Dippers.

Q. I had understood you were referring to the mills, and I wish to ask you the question in reference to the mills. Can you give a list of half a dozen mills outside of your company?—A. There is the St. Louis Stamping Company, now the National Stamping and Enameling Company of St. Louis; there is a mill at Harrisburg, Pa.; there is a mill at Wheeling, W. Va.; there is a mill at Washington, Pa.; there is one at Avonmore, Pa., and there is a mill at Cincinnati. Those are the more important ones. I think there are perhaps others.

Q. Are they new mills that have been started up within a year past?—A. Some of them.

Q. And some of them were in existence before your organization was made?—A. Yes.

Q. Is the total amount of the output of tin plate in the country greater or less than it was when your organization was formed?—A. I think greater than it was before.

Q. Can you give anything like a definite answer as to how much greater?—A. I can not.

PATENTS ARE OF SMALL IMPORTANCE.

Q. Does your organization control any patents that have been made common to all of the different mills that have come into the combination, which before were held simply by 1 or 2 corporations; do you get any gain in that way?—A. I think there are some few patents.

Q. That were held before by individual plants, but are now used by all of them that are in the combination?—A. Yes.

Q. Can you mention any of them?—A. I think there is a tinning machine.

¹ See Mr. Reid, p. 881.

Q. Would you say that that source of saving was of any special significance in your organization?—A. No, I can not.

MARKET QUOTATIONS.

Q. A number of questions have been asked with reference to the history of prices, and so on, and you have suggested trade papers. You would say, I suppose, that the prices before this organization was made varied somewhat with the different manufacturers, so that there was perhaps no single price for the country as a whole?—A. Yes.

Q. Since the American Tin Plate Company has begun business it would be reasonably accurate to say that their prices are the prices for the country, would it?—A. Yes; I think that would be reasonably accurate.

Q. That they control a large enough proportion so that the others presumably follow very nearly?—A. The others could not afford to sell at as low a price really, but of course they had to do it.

Q. So you would say that the quoted prices of the American Tin Plate Company, which we find in the papers now, could be called the quoted prices of the country?—A. Yes.

Q. If we go back to a time before your organization, would you say it was reasonably accurate for our purposes if we took the prices as given in the New York Metal Exchange or the American Metal Market?—A. I would not like to answer. The New York Metal Market is a paper that I never read until recently, and I do not know much about it.

Q. (By Mr. FARQUHAR.) How is the Iron Age?—A. The Iron Age is, perhaps, approximately correct in its market reports of tin plate.

Q. (By Mr. JENKS.) You would say that the prices we get from the Iron Age would be reasonably accurate?—A. Reasonably accurate.

Q. Of course, we would expect some variations, but for the purpose of comparison that would be reasonably correct?—A. Yes; the Iron Age, as all other trade papers, makes mistakes, and will occasionally publish a price that is incorrect.

Q. But in the main it is substantially correct?—A. Yes.

CAPACITY ENOUGH FOR DEMAND—LARGEST PLANTS.

Q. (By Mr. PHILLIPS.) Do you have sufficient capacity to supply the demand of the United States for tin?—A. We have just now.

Q. What are the large plants in your combine?—A. Elwood, Ind., and New-castle, Pa.

PREFERRED STOCK REPRESENTS VALUE OF PLANTS.

Q. (By Mr. JENKS.) I should like to go back for a moment to this question of capital. You spoke of the knowledge you had of the amount you received for your plant, but said that you had no knowledge of others. You spoke of the common and preferred stock. You said that the option was given that you receive cash or 1 share of preferred stock and 1 share of common stock for each \$100. Was it your understanding that the preferred stock represented, say, the cash value of the plant and the common stock represented good will, or anything of that kind?—A. That was practically it.

Q. That was the general understanding?—A. Yes.

Q. You have supposed that was generally true in reference to all the plants that were brought in?—A. Yes.

Q. So, if we should take the preferred stock, that would fairly represent the cash value of the plants in the organization?—A. Yes.

PLANTS COULD NOT BE REPRODUCED TO-DAY FOR WHAT THE COMPANY PAID FOR THEM.

Q. There has been considerable change in the cost of material, wages, and so on, since the tin-plate organization was formed. Do you suppose at the present time that the plants of the American Tin Plate Company could be reproduced for the amount of their preferred stock or less?—A. The preferred stock represents cash as well as properties.

Q. Yes; how much cash?—A. I could not say.

Q. You do not recall how much was reserved for cash?—A. I do not know how much it is, but I think it would be difficult to rebuild the plants at the cost of those in our organization to-day.

Q. I do not quite understand you.—A. I think it would be difficult to rebuild plants to-day at the same cost as the plants in our company.

Q. That is to say, if we were to take this amount of cash that was put in, then you

would say that you probably could not rebuild your plants now for what was paid for them in preferred stock?—A. Yes.

Q. Or for what the preferred stock would represent?—A. Yes.

Q. (By Mr. FARQUHAR.) And you answered the question that the common stock represented the good will. You multiply your \$18,000,000 preferred stock by 3 and you get \$54,000,000; and that was nearly your entire capital stock?—A. I subscribed to the stock knowing what was to be issued. I did not sell the plant for it.

Q. The curious feature of it is that there was a difference of about \$32,000,000 there unaccounted for, and by some of the answers to your questions here it seems to be good will. There is nothing positive in anything you have stated to show that these plants were worth over \$18,000,000?—A. I will state that I subscribed for the stock the same as any other subscriber who had not any previous interest in the American Tin Plate Company, knowing what the stock was to be.

Q. (By Mr. JENKS.) May I put the question in a little different way? If I understand your answer, you would say that in your judgment the plants of the American Tin Plate Company could probably not be reproduced now for \$18,000,000?—A. Less our cash capital, and all personal assets, including accounts.

Q. But exclusive of the good will. Simply the working capital and the plants themselves; you think \$18,000,000 would about cover it?—A. I would put it this way, that the cost value of the American Tin Plate Company's plants would be less than the cost of reproducing those plants.¹

Q. When you say cost value you mean what was paid for them? You do not mean the cost of building them in the first place?—A. No.

Q. You mean what was paid for them?—A. Yes.

SELLS BLACK PLATES TO ALL DIPPERS WHO WISH TO BUY.

Q. You said a little while ago that you did not sell to retailers. Would you say that some of these dipping plants would come under the head of retailers, so that they would be excluded from your selling black plates to them on that basis?—A. No.

Q. Those are all large enough so that you would sell to them right along and exclude none of them?—A. We do not.

RELATION TO THE NATIONAL STEEL COMPANY.

Q. If I may go back again to the question of the National Steel Company, you said that was an independent organization. Was the National Steel Company organized by men who were members of the American Tin Plate Company, officers, directors, and heavy stockholders?—A. I do not know any more about that than any outsider, and I do not know whom you would call the organizers of the National Steel Company.

Q. It has been commonly asserted in the newspapers and elsewhere that the Tin Plate Company, in order to assure itself of getting steel or raw material when it wanted it, thought it worth while to take the initiative and organize the National Steel Company?—A. Well, I do not know that the American Tin Plate Company ever took the initiative.

Q. Not the company technically, but the men interested in it. It would seem reasonable?—A. Some of them, I presume, were interested in having it organized, but I do not know anything about it. I was interested in it because I had an interest in one of the properties that went into it.

Testimony closed.

TESTIMONY OF MR. F. S. WHEELER.

Treasurer of the American Tin Plate Company.

The commission being in session, at 4.50 o'clock Vice-Chairman Phillips, who was presiding, introduced Mr. F. S. Wheeler, of Chicago, treasurer of the American Tin Plate Company, who, being first duly sworn, testified as follows:

Q. (By Mr. JENKS.) Please give your full name and address.—A. F. S. Wheeler, Chicago.

Q. You heard the testimony that has just been given by the previous witness. So far as your own knowledge goes, do you agree with that throughout?—A. Yes.

Q. There are one or two points that were not cleared up by the previous witness that perhaps you can help on further. What position do you hold in the American Tin Plate Company?—A. Treasurer of the company.

Q. As treasurer of the company are you familiar with the contracts that are made by the company?—A. No; my duties would lie more in the custody of the cash and financial matters.

¹ See Mr. Griffiths, pp. 911, 912.

Q. If money were paid out under those contracts, would you be likely to know in reference to it?—A. I would only pay out on approved vouchers that came to me.

STOCK AND TRANSFER BOOKS.

Q. Have you any knowledge as to where the transfer books of the company are kept?—A. We have a transfer office in Chicago which takes care of the local Chicago exchange, our main office; and the Guaranty Trust Company, of New York, are the transfer agents for New York, and I have always understood that they have looked after our Eastern business entirely.

Q. In what State was your corporation organized?—A. New Jersey.

Q. Do you keep any office in New Jersey?—A. Yes; we have one.

Q. Where is the office in New Jersey?—A. It is in Orange.

Q. Is that office supplied also with the transfer books of the company, a list of the stockholders, etc.?—A. I understand so.

Q. Are transfers of stock made in that office?—A. The transfers are all recorded there, I believe.

Q. Are transfers made there?—A. Well, I think so. The books are kept there and a record of transfers of the stock.

Q. So you think that the transfers are made in that office?—A. I so understand; yes.

Q. Is that office open regularly during all business hours?—A. I presume so.

Q. Do you know whether the records of the company in any of the offices are open to all stockholders, so that any stockholder can find out who his associates are and how much is held by the different stockholders?—A. Why, I think so.

Q. Is there any provision in your by-laws with reference to that matter?—A. I do not recollect the wording of the by-laws on that point.

Q. But you do understand that any stockholder of your company can at any time find out who the other stockholders are?—A. I understand so.

Q. And the amount each holds?—A. Yes.

Q. Do you understand that that can be found out at this New Jersey office?—A. I think so.

EXCLUSIVE CONTRACTS WITH MACHINERY MAKERS.

Q. Have there been any contracts made by the Tin Plate Company with founders and machinists not to furnish independent plants with machinery for plate making?—A. I would not have any record of it.

Q. Have you information of any such contracts?—A. I have not.

Q. Have you information of any contracts with these manufacturers by which they are to refuse to furnish sheet mills with machinery for making sheet steel, unless an agreement is made not to make plate, black plate, for tinning?—A. I would not know anything about that.

Q. You do not know anything about that?—A. No.

Q. (By Mr. FARQUHAR.) Of your board of directors, is any one a resident of New Jersey?—A. Yes.

Q. Is he the owner of a mill there or has he been an owner?—A. There are no mills in New Jersey.

Q. Is he a capitalist or what?—A. Well, he is a capitalist, stockholder in the company.

COMMON STOCK—GOOD WILL.

Q. The question has been asked why there is such an inordinate difference between your preferred stock of \$18,000,000 and your issued stock of \$46,000,000. Can you give an explanation, as the financial man of the concern, what the difference between 18 and 46 represents, either to your stockholders or to the public?—A. Well, it has been stated by my predecessor to be the good will; I think that is as clear an expression of it as can be given.

Q. (By Mr. CLARKE.) Have you been engaged in the manufacturing business yourself before going into this combination?—A. Yes.

Q. How do you think, generally, the good will compares with the value of the plant? Which is the greater in the manufacturing business, good will and the opportunity for business, or the plant?—A. Well, I do not think you could give any fixed ratio; it depends on circumstances.

Q. How do you consider it in your business?—A. Our issue of stock would indicate to a certain extent our estimation of it.

Q. Is that your opinion?—A. I was a subscriber to some of the stock.

Testimony closed.

WASHINGTON, D. C., October 17, 1899.

TESTIMONY OF MR. DANIEL G. REID,

President of the American Tin Plate Company.

The commission met on Tuesday, October 17, 1899, Senator Mallory presiding. Mr. Daniel G. Reid appeared at 10.40 a. m., and, being duly sworn, testified as follows:

Q. (By Mr. Jinks.) Will you state your full name?—A. Daniel G. Reid, Chicago, Ill.

Q. You are president of the American Tin Plate Company?—A. I am.

AMERICAN TIN PLATE COMPANY—TRANSFER AGENTS.

Q. Under what laws is the American Tin Plate Company organized?—A. The laws of the State of New Jersey.

Q. Have you an office in the State of New Jersey?—A. Yes.

Q. Where?—A. 525 Main street, East Orange.

Q. Is it a registry and trust company?—A. The New Jersey Registration and Trust Company.

Q. Have you a special agent in charge?—A. We have. The name of the company is the New Jersey Registration and Trust Company.

Q. You keep your stock and transfer books in the New Jersey office?—A. The stock and transfer books have been there since the organization of the company.

Q. They have been kept there regularly since the organization?—A. That is, except in writing them up.

Q. Your stock and transfer books are now in the office of the company regularly?—A. I am told so.

Q. Do you maintain a transfer office anywhere else?—A. We have one in New York and one in Chicago.

Q. What are the names of the transfer agents you have in New York and Chicago?—A. The Guaranty Trust Company of New York and the Merchants' Loan and Trust Company of Chicago.

Q. Have you also a registrar in New York?—A. The First National Bank of New York.

Q. Any other one?—A. One in Chicago.

Q. The actual transfers of the stock are made in the New Jersey office?—A. They are made in both places.

Q. The stock is actually transferred in Chicago and New York?—A. Transfers are made in New Jersey.

RIGHT OF STOCKHOLDERS TO EXAMINE STOCK BOOKS.

Q. Does your charter contain any restrictions on the right of the stockholders to examine the books and papers and documents of the company?—A. I can not answer that question; I do not remember, but I think they have none.

Q. You think there are no restrictions at all on the rights of the stockholders to examine the books?—A. The stock books?

Q. The stock books and the transfer books?—A. Yes.

Q. Is the right based on any resolution that you know of, or have you taken any action at all that gives the stockholders the right to examine these stock and transfer books; do you know whether they have ever passed a formal resolution?—A. There was a resolution passed.

Q. You can furnish us a copy?—A. Yes; I have a copy of it.

(The witness subsequently submitted to the commission a copy of the resolution as follows:)

[Extract from the minutes of the stockholders' first meeting of the American Tin Plate Company.]

Ordered, (1) That in compliance with the laws of the State of New Jersey this corporation have and continuously maintain a principal office and place of business within the State of New Jersey, and have an agent at all times in charge thereof, upon whom process against this corporation may be served, and therein keep the stock books and transfer books for the inspection of all who are authorized to see the same, and for the transfer of stock.

That the books in which the transfers of stock shall be registered and the books containing the names, addresses, and number of shares, respectively, of the stockholders shall be at all times during the usual hours of business open to the examination of every stockholder at said principal office.

That the name of this corporation be at all times conspicuously displayed at the entrance of its principal office in this State.

And be it further Ordered, until this resolution be duly rescinded,
(2) That such office and place of business be in and at the office of the New Jersey Registration and Trust Company, No. 525 Main street, East Orange, N. J., and that this company be registered with the said Trust Company.

(3) That the New Jersey Registration and Trust Company, being by statute authorized to act in New Jersey as the agent of corporations, be, and hereby is, appointed the agent of this corporation in charge of said principal office, and upon whom legal process against this corporation may be served within the State of New Jersey, and also the transfer agent of the stock of this company."

Q. Does your company at its office in New Jersey keep a complete, full alphabetical list of the stockholders, their residence, and the amount of shares held by them?—A. I understand so.

Q. These books are open to the inspection of any stockholder on demand during regular business hours?—A. Yes.

CAPITALIZATION: \$10,000,000 COMMON STOCK FOR COST OF ORGANIZATION.

Q. What is the amount of capital stock of your company?—A. \$50,000,000.

Q. And there has been issued— A. \$48,000,000.

Q. How is this divided between preferred and common?—A. \$28,000,000 of common and \$18,000,000 of preferred.

Q. What is the special reason for issuing \$10,000,000 more of common than of preferred, if any? For what special purpose was that \$10,000,000 issued?—A. The property of the original tin plate companies was purchased by Judge Moore; he turned the companies over to the reorganized company, for which he received so much money, which was in stock.

Q. The point is this, if I understand your answer, that this \$10,000,000 was turned over to Judge Moore for the purpose of organization?—A. Exactly.

Q. And the \$18,000,000 of preferred stock and the \$28,000,000 of common stock was used in purchasing the plants?—A. It was issued in purchasing the plants.

Q. The extra \$10,000,000 for the cost of organization was put into his hands; that is right, is it?—A. I do not know just the way you put that.

Q. Eighteen million dollars of preferred and \$18,000,000 of common were issued for the purchase of the plants and the supply of any cash that might be needed to run the plants afterwards, and the \$10,000,000 was turned over to Judge Moore to use at his discretion?—A. As a matter of fact, Judge Moore purchased the original plants for cash; so much cash; had a cash agreement. Then he organized this company, and afterwards the mill men who agreed to subscribe for stock had the privilege of coming in and doing so. If a man subscribed for 100 shares of stock, he got 100 shares of preferred and 100 shares of common; otherwise he got cash. But the Judge had the mills bought on a cash basis, and the stock feature was an after consideration so far as the mill men were concerned.

Q. As you understand it, then, \$18,000,000 of preferred and \$18,000,000 of common was used to raise the money to buy the plants directly, and the \$10,000,000 was used for the expenses of organization, and put into the hands of Judge Moore, to be used at his discretion for that purpose. Is that right?—A. Yes; that is right.

CONDITIONS BEFORE CONSOLIDATION.

Q. What was the situation of the tin-plate trade that led to the organization of the American Tin Plate Company?—A. Well, the competition between the old companies had become so strong, the business was fast drifting into a condition where there was little, if any, profit. There were a number of mills losing money and very few of them making any, and it was a matter of the mills getting together. So they appointed a committee to look Judge Moore up and ask him if he would not take charge and arrange this; get them together, in other words.

Q. The initiative was taken by the mills themselves?—A. Yes. The fact of the matter is, the mill men chased Judge Moore for a year to get him to take charge of it, which he finally did.

Q. You say none were making money, and many were losing; had there been any failures among the tin-plate mills that you know of?—A. None at all.

Q. The organization was made in order that they might make larger profits?—A. As a matter of fact, there were a number of tin-plate mills carried by steel companies and people in other lines, and had been for years before. I do not mean to say all the mills were losing money; on the contrary, the majority were making money; nothing great, but a profit. I do say a number of them were being carried by steel companies; one case particularly I know of.

Q. And the competition had been fierce enough so that in the minds of the mill

Q. There was danger of bankruptcy on the part of some of them?—A. I am quite sure if the consolidation had not gone through there would have been 15 companies closed and seven or eight thousand men out of work.

Q. You think there would have been 15 closed down; out of what number?—A. I think there were 30 companies.

Q. That went into the combination?—A. Thirty-nine.

Q. Fifteen of these 30 in that condition?—A. I did not say that. I said a number of them; I believe 15 of them would now be closed down.

COURSE OF PRICES—CONTRACTS.

Q. Will you explain what the course of prices of tin plate has been, say, from 1 year before the formation of the American Tin Plate Company to date?—A. I should say tin plate, full weight plates, were worth a year before \$3.10; from that they drifted down to as low as \$2.60 at the time of the organization. In the last 6 months the larger part of the decline took place.

Q. Between the \$3.10 and \$2.60, the larger part of the decline occurred in the 6 months before the company was formed?—A. Yes.

Q. How has the price been since? Perhaps you had better tell us the course of prices from the formation of the company to date.—A. When the new company took the contracts of the old companies, which they had made for the delivery of plates, they assumed contracts, I presume, amounting to about 4,000,000 boxes of tin plate to be delivered at prices ranging from \$2.65 to \$2.75. During this boom in raw material and all that sort of thing while the ruling market on the other side was \$5.25, delivered f. o. b. New York—

Q. For how long a period did these contracts run?—A. To the 1st of July last.

Q. Are you still working on the basis of these old contracts?—A. No; they are about cleaned up. We have some old contracts yet which we are delivering to customers.

Q. Were the larger part of these contracts for a period of 6 months or a year?—A. Up to the 1st of July; very few for a year.

Q. Up to what time?—A. Beginning January 1. However, there were sales made after the organization of the company, through January and February, at along about \$3, \$3.25, \$3.50, and \$3.75. Lots of these contracts we are still working on.

Q. If I understand you, the regular prices quoted in the markets and the trade papers do not represent the exact condition of affairs with the mills?—A. Not what they were getting for plate.

Q. Will you perhaps explain a little further what the course of the market has been from the time the Tin Plate Company was formed to date—that is, the selling price?—A. It has been upward.

Q. Could you give us the figures?—A. That started, I think, at \$3.

Q. You said the prices were about \$2.60?—A. We sold some for \$2.75 after the company was organized. Then at \$3, \$3.25, \$3.35, \$3.57½, \$4.25, and the present price is \$4.65.

Q. When these prices were put up from \$3.57½ to \$4.25, was that one immediate change made at once?—A. That was at the time of the advance of steel from \$22 to \$37 or \$38 a ton.

Q. As soon as the price in steel was advanced, you advanced the price?—A. Pig tin and steel went up very rapidly in 30 or 40 days.

THE BOX OF TIN PLATE.

Q. When you are speaking of these prices, what are they—the price per box?—A. Yes. 14 by 20—100-pound plates, f. o. b. the mills.

Q. Can you tell us how much steel and how much tin there is in a box of this finished product?—A. In a full weight box there are 106½ pounds of steel and 2½ pounds of tin, making 108 pounds.

Q. So that you make the prices on 106½ pounds of steel and 2½ pounds of tin, and figuring out the cost of that will give substantially the cost of the raw material?—A. That is it.

Q. Subtract the cost of the raw material from the cost of the full weight box, and you will find the cost of production, plus your profit, the profit of the seller or manufacturer?—A. There is something to be figured besides. In rolling steel there is some scrap. There is an allowance for that to be made.

Q. That could be counted in the cost of production?—A. Yes.

Q. Is that an absolute waste?—A. Oh, no; but there is perhaps 20 per cent waste in rolling \$38 steel, and the scrap would sell for \$14 or \$15, perhaps; I do not know the exact scrap market.

Q. So, figuring out the prices in this way to determine the general range of market, there is this waste?—A. Yes.

Q. Could you furnish the commission with the course of prices, monthly prices, of finished product, of steel billets and of tin, for a period running from 1886 to date?—A. I can get them for you.

Q. Will you be kind enough to furnish them to us?—A. Yes.

TABLE 1.—Average price, by months, of billets and slabs sold by Bellaire Steel Company.

[Prices furnished by Mr. Reid.]

Month.	1888.	1889.	1890.	1891.	1892.	1893.	1894.	1895.	1896.	1897.	1898.	1899.
January.....	\$30.31	\$27.65	\$32.01	\$27.51	\$24.50	\$22.71	\$18.66	\$14.86	\$21.19	\$15.14	\$13.93	\$15.53
February.....	28.74	28.13	32.86	26.00	24.62	22.32	17.59	14.85	19.19	15.41	14.02	14.86
March.....	28.49	27.82	33.10	25.95	24.05	22.70	16.68	14.88	17.62	15.61	14.90	14.62
April.....	28.40	27.59	31.01	25.42	24.04	22.53	16.20	14.76	17.65	15.61	14.04	15.24
May.....	28.14	26.41	30.04	26.11	23.45	22.22	16.00	15.02	19.08	15.65	14.16	15.37
June.....	28.08	25.95	28.84	26.11	22.94	22.27	16.91	15.62	20.11	15.46	15.08	15.09
July.....	28.00	26.16	28.06	25.47	20.66	21.80	16.84	17.18	19.00	.....	14.84	17.18
August.....	27.43	26.32	30.36	25.75	23.53	21.13	15.93	18.24	.....	.....	14.78	26.49
September.....	27.98	26.27	30.00	25.71	23.73	20.00	15.98	18.73	20.17	14.71	14.74	24.88
October.....	28.96	26.57	29.68	25.56	23.70	19.47	15.89	20.24	19.45	15.07	14.91	23.97
November.....	27.48	26.88	28.95	25.24	23.67	19.39	15.80	20.05	19.23	14.51	15.10	22.89
December.....	27.55	27.92	28.10	24.49	23.43	18.65	15.90	19.73	16.90	13.82	14.75	.....
Whole year.....	28.24	26.95	30.04	25.75	23.52	21.26	16.49	17.01	19.05	15.09	14.66	20.73

TABLE 2.—Average selling price of pig tin in New York.

[Prices furnished by Phelps, Dodge & Co., at request of Mr. Reid.]

Month.	1888.	1889.	1890.	1891.	1892.	1893.	1894.	1895.	1896.	1897.	1898.	1899.
January.....	\$37.00	\$21.80	\$20.80	\$20.60	\$19.80	\$20.60	\$20.00	\$13.60	\$13.20	\$13.20	\$13.80	\$22.00
February.....	37.00	21.40	20.60	20.00	19.80	20.60	19.40	13.60	13.20	13.40	14.00	23.00
March.....	37.00	21.00	20.40	20.00	19.80	21.00	19.00	13.80	13.40	13.20	14.20	28.50
April.....	31.00	20.80	20.00	20.00	20.20	21.00	19.40	14.00	13.40	13.20	14.40	25.00
May.....	19.20	20.50	20.60	20.20	21.00	20.20	19.80	14.40	13.40	13.20	14.70	25.40
June.....	17.80	20.10	21.40	20.60	22.20	19.60	19.60	14.20	13.40	13.60	15.00	25.80
July.....	19.00	19.80	21.00	20.40	21.90	18.50	19.00	14.30	13.40	13.80	15.40	28.50
August.....	20.70	20.10	22.00	20.00	21.40	19.00	18.20	14.40	13.20	13.80	15.80	31.00
September.....	22.50	20.20	22.80	20.00	20.60	19.80	17.00	14.60	13.00	13.60	16.20	31.60
October.....	22.50	20.50	22.40	20.00	21.40	20.60	15.40	14.70	12.80	13.60	17.00	31.20
November.....	22.50	21.50	21.80	19.80	21.00	20.60	14.40	14.60	13.00	13.60	18.00	28.00
December.....	22.00	21.60	20.60	19.80	20.50	20.40	13.80	13.80	13.00	13.60	18.60	.....

TABLE 3.—Average price of American Bessemer coke tin plates, 14 by 30, full weight, 108 pounds, delivered in New York.

[Prices furnished by Phelps, Dodge & Co., at request of Mr. Reid.]

Month.	1895.	1896.	1897.	1898.	1899.
January.....	\$3.70	\$3.60	\$3.40	\$3.15	\$3.34
February.....	3.75	3.65	3.30	3.15	3.84
March.....	3.75	3.55	3.35	3.15	4.21
April.....	3.75	3.55	3.40	3.10	4.21
May.....	3.70	3.65	3.40	3.10	4.21
June.....	3.70	3.55	3.35	3.10	4.21
July.....	3.80	3.60	3.30	3.05	4.71
August.....	3.75	3.60	3.30	3.00	5.00
September.....	3.75	3.65	3.15	3.00	5.00
October.....	3.70	3.55	3.15	2.90	5.00
November.....	3.67	3.60	3.15	2.95	5.00
December.....	3.65	3.45	3.15	3.10	5.00

¹ Mr. Reid gives the following estimate of the labor cost of tin plate, in a letter dated December 16, 1899: "In regard to the average amount of wages paid per box of tin, based on 14 by 20 size, I beg to say that the figures that I give you herewith are the only ones obtainable at the present time and are from one of the largest works now in the consolidated company. They date back since 1893. At that time the mill was a small one and the cost per box would show higher than when the mill was larger and had a greater output. The average price of labor per box in the year 1893 was \$1.60. This was during the time of small output. In 1894, after the works had been increased somewhat, it was \$1.33. During the years 1894, 1897, and 1898, up to the time of consolidation, the average price about was \$1. This was when the mill had been increased to its present capacity and was getting its maximum output. Please remember these figures were made during the old scale of wages and before the present scale became operative."

TABLE 4.—Average price of imported coke tin plates, 14 by 20, full weight, 108 pounds, delivered at New York, duty paid.

[Prices furnished by Phelps, Dodge & Co., at request of Mr. Reid.]

Month.	1888.	1889.	1890.	1891.	1892.	1893.	1894.	1895.	1896.	1897.	1898.	1899.
January.....	\$4.75	\$4.21½	\$4.06	\$3.32	\$4.35	\$5.35	\$5.05	\$2.70	\$3.00	\$3.84	\$4.05	\$4.22
February.....	4.79	4.20½	4.47½	5.42	4.85	5.32½	5.00	3.62½	3.87½	3.84	4.05	4.40
March.....	4.74	4.22	4.44	5.30	4.85	5.30	4.95	3.60	3.50	3.78	3.99	4.34
April.....	4.69½	4.28	4.37½	5.20	4.85	5.27½	4.95	3.60	3.50	3.78	4.05	4.34
May.....	4.53	4.27½	4.35½	5.25½	4.85	5.25	4.92½	3.62½	3.50	3.78	4.10	4.77
June.....	4.46	4.25	4.41½	5.39	4.85	5.20	4.92½	3.67½	3.50	3.75	4.10	4.76
July.....	4.51	4.25	4.48	5.37	4.82½	5.17½	4.92½	3.75	3.47½	3.72	4.10	5.05
August.....	4.58	4.25½	4.73½	5.46½	4.80	5.15	4.92½	3.75	3.47½	3.72	4.16	5.58
September.....	4.62	4.32	5.15½	5.36	4.80	5.15	4.90	3.75	3.47½	3.72	4.16	5.40
October.....	4.47	4.51½	5.40	5.31	4.85	5.12½	4.90	3.70	3.45	3.72	4.10	5.21
November.....	4.29½	4.73	5.40	5.28½	5.00	5.10	3.90	3.67½	3.45	3.72	4.18	5.31
December.....	4.24	4.62	5.10½	5.28	5.00	5.10	3.80	3.65	3.40	3.72	4.22	5.34

Until July 1, 1891, the duty was 1 cent per pound.

July 1, 1891, to August 28, 1894, the duty was 2½ cents per pound.

August 28, 1894, to July 24, 1897, the duty was 1½ cents per pound.

Since July 24, 1897, the duty was 1½ cents per pound.

WAGES—PAY ROLL—AMALGAMATED ASSOCIATION SCALE.

Q. Will you tell us what the course of wages has been to one or two different classes of workmen in this industry from 2 years before the Tin Plate Company was organized up to date, the same as you did about prices?—A. The wage scale has been advanced since the new company came into existence; the ordinary common labor around the mill about 20 per cent, and skilled labor 15 per cent; but in adjusting scales between different mills there has been an advance greater than 15 or 20 per cent on common labor. The advance in the entire pay roll of the company would amount, I should say, to about \$2,000,000.¹

Q. Annually?—A. Annual pay roll.

Q. What has been the increase in the number of men?—A. I should say we have on 2,000 more mill men than we had.

Q. When you were organized?—A. When the new company was organized; yes.

Q. (By Mr. KENNEDY.) How many more?—A. 2,000; close to it.

Q. Have you an agreement with the Amalgamated Association of Iron, Steel, and Tin Workers in your combination?—A. We have an agreement to pay them a scale of wages, beginning July 1, to the following July 1.

Q. Is that a sliding scale?—A. It is a scale like this: For every increase in the price per box of 10 cents, I think it is, after it reaches a certain price, the increase in labor runs 4 cents a box.

Q. Are you paying them now on the basis of these contracts that you are filling of old organizations that came into your combination?—A. We are paying the new scale on every box rolled in the mill, regardless of the prices the goods are sold at.

Q. So they are not to get an increase when you have finished the old contracts?—A. They are now getting the increase.

Q. (By Mr. JENKS.) When did that begin?—A. The 1st of July.

Q. (By Mr. FARQUHAR.) Does that scale stand for 12 months?—A. It stands for 12 months.

THE SLIDING SCALE SLIDES UP, NOT DOWN.

Q. At the very high price you are selling tin at, are the wages of mechanics commensurate with the prices you are getting from the consumer?—A. They are the best paid men in the country.

Q. Are they sharers?—A. They are getting their full share. In fact, if there was any little change in raw material to bring about a higher cost the only way I see to meet it is to get it off the laboring man. If there was a further increase in the cost of pig tin and steel to the figure that we hear talked of as the probable price next year, the only way the Tin Plate Company could run except at a loss would be to cut the workman.

Q. (By Mr. JENKS.) Cut wages below what they are now?—A. Cut wages below what they are now.

Q. (By Mr. KENNEDY.) Could you not increase the cost of the product to the consumer?—A. We could some; yes.

Q. Would not that be as easy a way as reducing the wages of the men?—A. A 10 advance on steel would mean a good deal.

¹ See Mr. Graham, p. 853; Mr. Griffiths, p. 903.

Q. Could you not share it between the consumer and the workingman instead of taking it all off the workingman?—A. We are tied up with the workingman until next year; we would have to pay them these wages; we could not change; that is what I was trying to illustrate.

Q. (By Mr. FARQUHAR.) So you have a rigid scale for 12 months?—A. For 12 months; yes.

Q. (By Mr. JENKS.) If I understand your contract, if you put up the price of the product, the wages of labor are increased proportionately. Suppose trade conditions are such that the price of the product falls below what it was when the contract was made; does your agreement with the workingmen provide for lowering the wages proportionately?—A. That stands; their wages are fixed for a year. If there is a further increase in price above the price at the time the scale was made, I believe it was \$4.25, then they slide up.

Q. (By Mr. FARQUHAR.) First of all, there is a minimum scale agreed upon; if the prices rise there is an arrangement that they are to share four-tenths of that rise?—A. That is it exactly.

Q. (By Mr. JENKS.) Can you not furnish us with a copy of that scale?—A. Ye

Western scale of prices governing wages in rolling mills for the year ending June 30, 1901 published by National Lodge, Amalgamated Association of Iron, Steel, and Tin Workers

TIN-PLATE SCALE.

When a box of 100 pounds coke tin plates is selling at \$4.25 the scale of prices as appears below shall be paid. On each 10 cents increase in the price per box 2 per cent advance on the prices below shall be paid, and on each 10 cents per box decrease a deduction of 2 per cent shall be made to said base, but it is understood that the wage list below is the minimum for the year ending June 30, 1900.

Gauge.	Roller.	Doubling.	Heating.	Shearing on jaw or crocodile shears and job or sheet work, per ton.	Shearing tin plate on squaring shears, per ton.	Screw boy, per ton.
No. 8 to 11	\$2.35	\$1.07	\$0.98	} \$1.26	} \$0.41	} \$0.40
No. 12 and 13	2.45	1.10	1.03			
No. 14 and 15	2.82	1.25	1.23			
No. 16 and 17	3.73	1.68	1.52			
No. 18 to 20	4.16	1.87	1.70	} 1.44	} .21	} 46
No. 21 to 24	4.62	2.14	1.87			
No. 25 and 26	4.92	2.27	2.06			
No. 27 and 28	4.97	2.39	2.22			
No. 29 and 30	5.64	2.51	2.68	} 1.01	} 47	} 48
No. 31	5.75	3.05	2.80			
No. 32	6.00	3.21	3.01			
No. 33	6.37	3.37	3.10			
No. 34	7.06	3.59	3.39	} 1.20	} 61	} 59
No. 35	7.42	3.79	3.60			
No. 36	7.90	3.89	3.74			
No. 37	8.00	3.93	3.79			
No. 38	8.08	4.01	3.85	} 1.17	} 68	} 70
No. 39	8.51	4.39	4.14			
No. 40	8.95	4.94	4.63			
No. 41	9.18	5.18	5.06			
No. 42	9.41	5.40	5.29	} 1.49	} 45	} 77
No. 43	9.64	5.63	5.52			
No. 44	9.87	5.86				

1. Thirteen per cent less than above prices for iron, except shearman.
2. Twenty per cent added for changed iron and steel.
3. Seventeen per cent added for pickle-finished iron and steel, except shearman.
4. For all sheets sheared into circles on tin-plate mills where the loss exceeds 10 per cent 20 per cent extra shall be paid.
5. All plate and sheets cut down to smaller sizes on tin-plate mills to be paid for at scale prices.
6. For all sheets rolled on tin-plate mills, 14 square feet and over, not cut down to smaller sizes, and for tin plates, worked other than tin-plate style, sheet-mill prices including hands' prices shall be paid, and when working sheets, tin-plate style, the additional percentage of entire sheet-mill cost over tin-plate shall be added to all hands' wages on the mill, and it is understood when plate worked on a tin-plate mill and is not "first" pickled, annealed, cold rolled, and thoroughly treated as plate for

tinuing purposes before leaving the mill where it is worked, it shall be paid for at sheet-mill prices. (For rules, see Addenda.)

7. Where improved squaring shears are used the company shall pay for opening packs and grinding the knives, and on jaw and crocodile shears the company to pay for opening packs, and in mills where plates are cut into smaller sizes than 14 by 20 additional pay for shearing shall be arranged, shearman to change and set the knives.

8. Catchers on tin-plate mills to receive 23 per cent of roller's statement, the same to be deducted from the roller's statement and paid by the company.

9. Eight (8) hours shall be a day's work on tin or black plate mills, said mills not to follow out, except when notice to mill crew is given of a change in time of starting Friday morning to Saturday morning, and mills are not to operate on Saturday afternoon or Saturday or Sunday nights.

10. It is agreed that no more than three changes in the classification of sheet and tin-plate mills can be made during the scale year, and due notice shall be given before such changes.

11. The weight of bar to be marked on the bar when brought to the mill, or scales for weighing bars be furnished at the option of the company.

12. In each tin mill a blackboard shall be furnished, on which the complete weight of each turn shall be placed within a reasonable time after being made.

13. All tin and black plate shall be weighed by the company after being sheared and opened.

The limit or a turn's work of 8 hours shall be as follows:

On gauge.	100 pounds.	On gauge.	100 pounds.
Nos. 8 to 11.....	13,500	No. 27.....	6,150
Nos. 12 to 13.....	12,500	No. 28.....	5,650
Nos. 14 to 15.....	11,500	No. 29.....	5,850
Nos. 16 to 17.....	10,500	No. 30.....	5,750
Nos. 18 to 20.....	9,500	No. 31.....	5,550
Nos. 21 to 24.....	7,500	No. 32.....	5,350
No. 25.....	6,750	No. 33.....	5,150
No. 26.....	6,350	No. 34 and lighter.....	4,950

Where 28 gauge is worked in 6 or 8 sheets to the pack 6,150 pounds shall be the limit.

On sizes 20½ by 56 and larger an excess of 5 per cent on the limit may be made, but if not made on that turn the per cent can not be made up.

Turns below the limit may be made up during the same week for that week, but in making up lost weight on any turn the output shall not exceed the limit over 500 pounds, and when the 5 per cent is made for that turn the 500 pounds can not be made.

Scale of prices for Morewood stacks.

	Tinning.	Washing.	Catching.
	Cents.	Cents.	Cents.
Coke.....	11	11	3½
B. charcoal.....	12	12	4
Charcoal.....	12	12	4
Double rolling.....	14	14	4
Heavy coating.....	12	12	4
Old style.....	15	15	4

STANDARD.—A box of 14 by 20 containing 112 sheets = 31,360 square inches, to be the standard. All boxes weighing over 136 pounds to be paid for as overweight.

Amalgamated Association of Iron and Steel Workers—Scale of wages for year ending June 30, 1899.

Gauges.	Rolling (2,240 pounds).	Doubling.	Heating.	Shearing on jaw or crocodile shears (per ton).	Shearing on squaring shears (per ton).
Nos. 8 to 11	\$2.04	\$0.93	\$0.85	\$1.10	\$0.36
Nos. 12 and 13	2.13	.96	.90		
Nos. 14 and 15	2.45	1.10	1.07		
Nos. 16 and 17	3.24	1.46	1.32	1.25	
Nos. 18 to 20	3.62	1.63	1.48		
Nos. 21 to 24	4.02	1.86	1.63	1.05	.40
Nos. 25 and 26	4.28	1.97	1.79		.41
Nos. 27 and 28	4.32	2.08	1.93	.98	.43
Nos. 29 and 30	4.90	2.53	2.33	.88	.45
No. 31	5.00	2.66	2.49	.84	.46
No. 32	5.22	2.79	2.62	.87	.48
No. 33	5.54	2.93	2.70	.90	.51
No. 34	6.14	3.12	2.95	1.04	.53
No. 35	6.45	3.30	3.13	1.04	.55
No. 36	6.87	3.38	3.25	1.09	.57
No. 37	6.96	3.42	3.30	1.05	.59
No. 38	7.03	3.49	3.35	1.02	.61
No. 39	7.40	3.82	3.60	1.12	.63
No. 40	7.78	4.30	4.20	1.16	.65
No. 41	7.98	4.50	4.40	1.22	.66
No. 42	8.18	4.70	4.60	1.26	.67
No. 43	8.38	4.90	4.80	1.30	.68
No. 44	8.58	5.10	5.00	1.35	.69

OUTPUT.

The limit of a turn's work of 8 hours shall be as follows:

On gauge.	100 pounds.	On gauge.	100 pounds.
Nos. 8 to 11	13,000	No. 27	5,650
Nos. 12 and 13	12,000	No. 28	5,150
Nos. 14 and 15	11,000	No. 29	5,350
Nos. 16 and 17	10,000	No. 30	5,250
Nos. 18 to 20	9,000	No. 31	5,050
Nos. 21 to 24	7,000	No. 32	4,850
No. 25	6,250	No. 33	4,650
No. 26	5,850	No. 34	4,450

Amalgamated Association of Iron and Steel Workers—Scale of wages for year ending June 30, 1898.

Gauges.	Rolling (2,240 pounds).	Doubling.	Heating.	Shearing on jaw or crocodile shears (per ton).	Shearing on squaring shears (per ton).
Nos. 8 to 11	\$2.04	\$0.93	\$0.85		\$0.36
Nos. 12 and 13	2.13	.96	.90		
Nos. 14 and 15	2.45	1.10	1.07		
Nos. 16 and 17	3.24	1.46	1.32		
Nos. 18 to 20	3.62	1.63	1.48		
Nos. 21 to 24	4.07	1.86	1.63	\$1.05	.40
Nos. 25 and 26	4.57	2.07	1.88		.41
Nos. 27 and 28	4.63	2.21	2.05	.98	.43
Nos. 29 and 30	5.30	2.70	2.48	.88	.45
No. 31	5.40	2.84	2.66	.84	.46
No. 32	5.65	2.97	2.70	.87	.48
No. 33	5.99	3.13	2.88	.90	.51
No. 34	6.64	3.33	3.15	1.04	.53
No. 35	6.97	3.52	3.34	1.04	.55
No. 36	7.43	3.60	3.46	1.09	.57
No. 37	7.52	3.65	3.52	1.05	.59
No. 38	7.60	3.72	3.56	1.02	.61
No. 39	8.00	4.07	3.80	1.07	.63
No. 40	8.40	4.22	4.00	1.07	.65
No. 41	8.60	4.36	4.14	1.06	.66
No. 42	8.80	4.50	4.30	1.05	.67
No. 43	9.00	4.65	4.43	1.02	.68
No. 44	9.20	4.80	4.47	1.02	.69

OUTPUT.

The limit of a turn's work of 8 hours shall be as follows:

On gauge.	100 pounds.	On gauge.	100 pounds.
Nos. 8 to 11.....	13,000	No. 32.....	4,850
Nos. 12 and 13.....	12,000	No. 33.....	4,650
Nos. 14 and 15.....	11,000	No. 34.....	4,450
Nos. 16 and 17.....	10,000	No. 35.....	4,300
Nos. 18 to 20.....	9,000	No. 36.....	4,150
Nos. 21 to 24.....	7,000	No. 37.....	4,000
No. 25.....	6,250	No. 38.....	3,900
No. 26.....	5,850	No. 39.....	3,800
No. 27.....	5,650	No. 40.....	3,700
No. 28.....	5,150	No. 41.....	3,600
No. 29.....	5,350	No. 42.....	3,500
No. 30.....	5,250	No. 43.....	3,400
No. 31.....	5,050	No. 44.....	3,300

Amalgamated Association of Iron and Steel Workers—Scale of wages for year ending June 30, 1897.

Gauges.	Rolling (2,240 pounds).	Doubling.	Heating.	Shearing.
Nos. 8 to 11.....	\$2.04	\$0.93	\$0.85	\$0.99
Nos. 12 and 13.....	2.13	.96	.90	
Nos. 14 and 15.....	2.45	1.10	1.07	
Nos. 16 and 17.....	3.24	1.46	1.32	1.59
Nos. 18 to 20.....	3.62	1.63	1.48	
Nos. 21 to 24.....	4.07	1.86	1.63	
Nos. 25 and 26.....	4.57	2.07	1.88	1.71
Nos. 27 and 28.....	4.63	2.21	2.05	
Nos. 29 and 30.....	5.30	2.70	2.48	
No. 31.....	5.40	2.84	2.66	1.78
No. 32.....	5.65	2.97	2.79	1.88
No. 33.....	5.99	3.13	2.88	1.98
No. 34.....	6.64	3.33	3.15	2.20
No. 35.....	6.97	3.52	3.34	2.20
No. 36.....	7.43	3.60	3.46	2.46
No. 37.....	7.52	3.65	3.52	2.49
No. 38.....	7.60	3.72	3.58	2.52

OUTPUT.

The limit of a turn's work of 8 hours shall be as follows:

On gauge.	100 pounds.	On gauge.	100 pounds.
Nos. 8 to 11.....	12,000	No. 27.....	5,650
Nos. 12 to 13.....	11,000	No. 28.....	5,150
Nos. 14 to 15.....	10,500	No. 29.....	5,350
Nos. 16 to 17.....	10,000	No. 30.....	5,250
Nos. 18 to 20.....	9,000	No. 31.....	5,050
Nos. 21 to 24.....	7,000	No. 32.....	4,850
No. 25.....	6,250	No. 33.....	4,650
No. 26.....	5,850	No. 34.....	4,450

The following advance applies to scale of wages paid by American Tin Plate Company for years 1898 and 1899:

	1898.				1899.			
	Hour.	Day.	Week.	Month.	Hour.	Day.	Week.	Month.
	<i>Cents.</i>				<i>Cents.</i>			
Blacksmith.....	20½				27			
Blacksmiths' helpers.....	16½				17½			
Carpenters.....	22½				24			
Carpenters' helpers.....	11½				12½			
Cranemen.....	15				16½			
Electrician.....				\$60.00				\$75.00
Grease makers.....	13½				14½			
Assistants.....	12½				13½			
Annealers.....			\$12.50				\$15.87½	
Annealers' helper.....		\$1.25				\$1.45		
Machinists.....	17½				18½			
Machinists' laborer.....	11½				12½			
Laborers' foreman.....	15				16½			
Laborers.....	11½				12½			
Truckers.....	12½				13½			
Watchman.....		1.40				1.54		
Watchman.....		1.25				1.37½		
Scrap wheelers.....	a 75				a 82½			

a Turn.

Where the rate paid prior to January 1 was \$1.50, or less, the new rate is 15 per cent higher; \$1.50 to \$2, 12 per cent higher; \$2 to \$2.50, 10 per cent higher.

In addition to this, some of the employees mentioned are advanced 25 per cent.

In the finishing department, including the tanners and risers, who do most of the work in connection with the turning or finishing of the plate, the advance since January 1 has been from 15 to 50 per cent, dependent upon the wages in existence in the different mills before the consolidation.

PRICES HAVE NOT RISEN PROPORTIONATELY TO COSTS.

Q. You have spoken of the advance in raw material and wages; has the price of the finished product been proportionate?—A. Proportionate to the advance in steel, wire nails, etc.?

Q. Proportionate to the advance in steel, tin, and wages; your raw material and wages?—A. I would say no; our advance has not been so great proportionately.

MODE OF SELLING—NO DISCRIMINATIONS BETWEEN JOBBERS.

Q. Will you explain to us briefly now your general method of selling; the nature of the contracts that you make for sales; persons to whom you sell, and so on; the general methods of selling the finished product?—A. The product of the American Tin Plate Company is sold from our New York and Chicago offices, sold through what we call our selling agents. There is a general agent in New York, and in Chicago Mr. Graham has charge of it, with sales agents under him. The contracts are made in the usual form—John Smith agrees to sell to Thomas Jones so many boxes of tin plate, price named, delivered f. o. b. mill, terms 30 days, or 1 off for cash 10 days; and that is all, I believe.

Q. You sell regularly to jobbers?—A. To all jobbers except the small retailers—people who buy small lots.

Q. Do you have any agreements with any of these persons to whom you sell as to whether they will buy from other parties or not?—A. None whatever.

Q. Have you refused or do you refuse to sell to any jobber—any large dealer of the kind you have mentioned—whose credit is good?—A. We never have; no.

JOBBERS' BRANDS.

Q. Will you explain to us the arrangements you have with jobbers with reference to special brands?—A. We have no arrangements of that kind.

Q. Do you manufacture any special brands of tin plate?—A. We do.

Q. Were these brands acquired from special dealers?—A. We manufacture certain brands for certain parties. For instance, we manufacture special brands of terneplate. They have a terneplate they have been selling for a number of years—Acme brand—or some such thing as that. They will ask us to brand the box so and so, and that we will do for them.

Q. You do make use of these special brands for special dealers?—A. Yes.

Q. Under these circumstances do you restrict that brand to these dealers or sell it to others?—A. That is their brand.

Q. You do them that favor of restricting that special brand to them?—A. Yes; I think there is a little charge for that. I forget just the charge there was, and I do not know whether there is one now or not. I pay little attention to that end of it, and I do not remember.

Q. When you give this exclusive use of the brand to a dealer of this kind, do you make this obligation of your company to continue the manufacture of any brand for a special dealer contingent on his restricting all his purchases of tin andterne plate to your products?—A. As I remember it now, there was some talk of that kind at one time, but we never closed it up. It was never closed.¹

Q. So, as a matter of fact, you have never enforced any such contract?—A. To the best of my knowledge, no.

CONTRACTS WITH MACHINERY MAKERS.

Q. Have you made any arrangements, any agreements, with founders and machinists that have been working for you?—A. We have 6 or 7 machine men and roll makers and housing makers which we have picked out as the best makers in the country. We have a contract with them agreeing to take their entire product of rolls, housings, etc., made for tin-plate work. There are a number of others on the outside from whom housings, rolls, etc., can be procured.²

Q. You have an agreement of that kind to take the full product of some 6 or 8 that you considered best?—A. Yes.

Q. Could you give us an estimate of the number of manufacturers of a similar nature outside with whom you have no such agreement?—A. I presume there are 5 or 6 outsiders.

Q. So you possibly have this contract with half the manufacturers?—A. Fully half, yes; I should say two thirds.

Q. But there are still left perhaps one-third of the manufacturers with whom you have no such contract?—A. Who are free lances to do as they please.

Q. Have you any agreement with these manufacturers that if they manufacture mills for other parties they shall make no black plate for tinning for any limited period?—A. There is an arrangement, agreement, or understanding that they will not sell tin rolls to mills for the purpose of rolling tin plate so long as they have a contract with and are doing business for us.

Q. That understanding is with these few manufacturers from whom you have agreed to take the largest part, at any rate, of their output; if they sell to anybody else they must do it with the understanding that their machine is not to be used for the purpose of making tin plate?—A. They are free to sell where they please outside of tin plate. We take all the rolls they make for tin-plate work.

VERY FEW PATENTS.

Q. How far are these products of which you agree to take the full amount covered by patents?—A. I do not think any of them. There may be a few little traps and trinkets, but outside of that I do not think so.

Q. Generally speaking, you think not patented at all?—A. Generally speaking.

RELATIONS WITH THE NATIONAL STEEL COMPANY.

Q. What are the relations that exist between the American Tin Plate Company and the National Steel Company?—A. The only relation existing between them is that part of the directory of the Steel Company are members of the directory of the Tin Plate Company, and part of the Tin Plate directory are members of the National Steel Company's directory.

Q. What proportion of your raw material do you buy from the National Steel Company?—A. I should say half; not over half, I should say.

Q. Are the products that you buy from the National Steel Company bought under special contracts substantially of the same nature as the others?—A. We buy from whom we can buy the cheapest; the Carnegie Steel Company, the Federal Steel Company, and the National Steel Company, whichever sells the cheapest.

Q. Owing to the fact that a number of men are directors of both companies do you have a freedom in talking over conditions of business with the National Steel Company that you would not have with the Carnegie Company, so that you would be

¹ See Mr. Graham, p. 851; Mr. Griffiths, pp. 890-893.

² See Mr. Graham, p. 852; Mr. Wheeler, p. 864; Mr. Griffiths, pp. 888-890.

assured of getting the raw material from them?—A. It is a means of keeping well posted as to iron and steel, what is going on in the iron trade. We are always sure when we have a friendly relation with the National Company to get steel and not have to shut down; to keep the mills running.

Q. You are sure the National Steel Company will not make a contract to dispose of the whole of their product to the exclusion of the American Tin Plate Company?—A. For instance, last winter the Carnegie Steel Company shut down 8 or 10 of our mills for a few days until the National Steel Company got to work and gave us some work. Carnegies were oversold for a time and could not make delivery.

PLANTS SHUT DOWN—THE JOHNSTOWN CASE.

Q. Will you tell us the number of plants of the American Tin Plate Company that have been shut down, dismantled?—A. There has been one 2-mill plant at Cleveland, two 2-mills at Baltimore, a mill in a second story of a building at Brooklyn called the Somers mill; that is all I think of now—a little mill down the Ohio River called the Ohio River mill. To offset that, however, we have added 4 mills at Monessen, Pa.; 1 mill at Cleveland, Ohio, in addition to the other mills; there are 2 at Canonsburg, and we have started 10 new mills at Newcastle. We have 20 going, with the Shenango and others that have been started; so we have added 20 or 25 against 10 or 12 shut down. The reason they were shut down is they were started by somebody who had a village lot he wanted to sell and that sort of thing.

Q. Did you have a plant at Johnstown that was shut down?—A. A 2-mill plant at Johnstown we shut down on account of some such conditions as I have mentioned in regard to these other plants. When the plant was built there, there seems to have been some town-lot scheme behind it. It was a bad place for us, and we shut it down for 5 or 6 weeks, maybe longer. A committee of citizens waited on us and made some concessions with regard to something or other, I do not know how it was done, and enabled us to start up the mill—some coal arrangements.

Q. The committee waited on you?—A. Yes. They made some concessions in regard to coal.

Q. In regard to the price of coal? What was the general nature of the concession or advantages that they offered you?—A. As I remember, it was in regard to the price of coal; I think we had the Pittsburg rate of freight.

Q. Practically they offered to pay out of their own pockets enough to put that plant in such condition that the establishment would be on an equality with the Pittsburg establishments?—A. So that we could operate it at a profit instead of at a loss.

Q. They made you an offer to put it in such condition you could operate at a profit?—A. Exactly.

QUESTIONS OF UNION LABOR.

Q. Did you close any works at Lisbon, Ohio?—A. No; they were shut down a week or two on account of a strike. It was a nonunion mill not working under the Amalgamated scale. I do not remember the facts, but I do remember the mill was shut down for 2 or 3 weeks; but it is now operating under the Amalgamated scale, as well as the other mills, with the exception of perhaps one.

Q. Do you remember any agreement when the mill was started up that you would employ union men, so that it opened as a union mill?—A. As I remember the facts now, when the Amalgamated conference took place in June the Lisbon mill was a nonunion mill. I think they sent a committee down to Lisbon and the mill was declared union and came into the Amalgamated; that is how it happened. I think the mills were shut down 2 or 3 weeks until that arrangement was made.

Q. (By Mr. KENNEDY.) Do you say all the mills in your combination except one are operated by the Amalgamated Association?—A. That was the mill mentioned by Mr. Graham yesterday, which has a little peculiar machinery we were experimenting with. He explained the facts yesterday.

Q. How many employees in this one mill?—A. I should say 700 or 800.

Q. You have no difficulty with the Amalgamated men in the other mills on account of this mill being nonunion?—A. None at all.¹

NO DECREASE OF LABORERS PER UNIT OF PRODUCT, OR OF OFFICE FORCE.

Q. (By Mr. JENKS.) You have mentioned the number of laborers in your employ and the amount of the pay roll being very largely increased. Have you been able, owing to the more efficient methods of management and other sources of saving, to lessen the number of laborers per unit of product, say, per hundred boxes; is the number of laborers less for every hundred boxes you put out now?—A. I think we are working more men now.

¹ See Mr. Graham, p. 861; Mr. Griffiths, pp. 904-906.

Q. Are you working more men per unit of product?—A. I think so.

Q. Suppose you take your total output as it was and as it is now; is the number of men employed now less in proportion to the output?—A. I think very few, if any, less; there have been very few men dropped out of the various works. There is an office pay roll with each mill. One case in question is a 4-mill plant where the pay roll in the office was \$16,000 for clerks, and so on. There were some brothers-in-law in there; there are a number of cases like that. We have got in the Chicago office 150 men, and this has taken in all the office force which was in the various mills; and instead of \$16,000 pay roll for a mill like that, we have a pay roll of perhaps \$1,200 or \$1,800.

Q. So you have decreased the office force?—A. There have been no men cut off at all. As the office force at the mill has been decreased they have been taken into the New York and Chicago offices.

SAVINGS—BUYING—FREIGHTS.

Q. What is the chief source of saving by the combination itself? What are the main ways in which you save by going into the combination?—A. There is a saving at the mill in the office force, and there is quite a saving in buying all sorts of supplies.

Q. By being a larger customer you can get better rates?—A. Buying pig tin; pig tin is very high. Large buyers as we are can buy tin at 2 or 3 cents a pound less than the small buyer.

Q. Then there are other sources of saving?—A. There are a good many little things like acid; we buy, I suppose, \$10,000 worth of acid a month, of acid alone; and we can get it some cheaper than the little companies do.

Q. Is the nature of your product such that you can concentrate, making one product at one mill and another at another, and in that way save more than if the plants were working independent?—A. We can work ternoplates entirely at one mill, and use another mill for coke plates.

Q. You would not consider that source of saving very large in your industry?—A. Nothing great, except you can give a customer a little nicer plate.

Q. By concentrating one kind of product in one mill is there any saving in labor?—A. None at all, except as I said, the office force; not in the workmen.

Q. You have two central selling offices to which all orders are sent; are you able to make any material saving by shipping from the nearest plants?—A. Yes; for instance, if we ship from Indiana to New York, the freight rate is 28 cents a hundred as I remember now; from Pittsburg it is 11 cents; from Canonsburg it is 2 cents less, I think.

Q. It is your custom to ship from the nearest mill to save the freight?—A. Yes.

FORMER METHODS OF SELLING—THE BIG FOUR—PRICES NOW THE SAME TO ALL.

Q. Have you been able to make a saving by lessening the number of commission and traveling men?—A. I do not think, as a rule, the commission men—the traveling men—of the tin plate companies are very expensive. For instance, one of the managers or one of the owners, if the inquiries came in by mail, would get on the cars himself and go. Our company handled their business that way, and I take it for granted they all did. For a time it was the rule to pay the New York jobbers, what they call the Big Four, a commission for selling plates. That was finally given up and the only commission paid would be, for instance, where some mill hard up would give them a discount for cash, or some such arrangement as that. "We will advance you \$50,000 or \$100,000, and you give it back in plate at so much a box."

Q. You said the owners of plants or managers did the selling themselves?—A. They did.

Q. Are these same managers employed by the American Tin Plate Company—the same who have been managing the separate plants?—A. Nearly all of them; there are a few that are not; not over half a dozen of them, if any, that are not employed.

Q. Do you think there is any gain in having these men put in a position where they can devote their whole time to the mill instead of half of it to the selling?—A. I think we can get a better output, better plates, and it satisfies the customer better.

Q. The saving of traveling expenses also, as regards that?—A. So far as the tin plate companies—the 39 companies—are concerned I do not suppose the entire number of companies had 10 of what you would call regular traveling men.

Q. You speak of the large jobbers, the Big Four in New York, that had been prominent in the business before the organization of the Tin Plate Company. Are these 4 jobbing houses still doing a regular business in New York?—A. No; one of them is practically out of business.

Q. Which one is that?—A. Our Eastern sales agent, Mr. Dickerson.

Q. You took one member of the firm and gave him a salary as sales agent?—A. He is our Eastern agent now.

Q. Did you take persons from any of the other houses?—A. We took a traveling man that belonged to the firm of Robert Crookes & Co. as our San Francisco agent.

Q. He was a traveling man?—A. What we call a road man at a salary.

Q. Do you have any special arrangements with Phelps, Dodge & Co. at the present time?—A. What kind of an arrangement?

Q. With reference to purchases, importing any special kind of material, or any special rates to them in selling your products?—A. They buy plates at \$1.65 in lots of 5,000, 10,000, and 100,000 boxes. They pay cash in 10 days, regular discount. That is the only arrangement we have with them.

Q. The rates are the same?—A. To everybody; there is no distinction between persons as to the price of a box of tin plate.

Q. You have not any arrangement with them as to furnishing you with pig tin?—A. We have this arrangement; so long as they furnish it as low as anybody else, we buy from them.

Q. You give them the preference?—A. As long as they keep the prices down.

THE TARIFF—EARLY EXPERIENCES.

Q. Will you give us your opinion with respect to the relation of the tariff to the tin-plate industry? I should be glad if you would go back to the first tariff on tin plate and explain your opinion of the relation of that tariff to the tin-plate industry as a whole. How long have you been a tin-plate manufacturer?—A. Since 1891; but active only since 1895.

Q. If you would be kind enough to give us the effect of the tariff?—A. To begin with, there would be no tin in this country without the tariff; it would be impossible to manufacture it and sell it. Beginning back at the early days in 1891 and 1892, the Elwood mill (with protection at \$2.20) cost \$150,000, to make tin plate. The cost, of course, came in through a lot of Welshmen who came over here and had their ideas about light machinery and engines and all that sort of thing; there was a lot of machinery broken up. The output was small, and when tin plate was selling in 1893 at \$5.85 a box, our plate was costing us \$9 to make.

Q. (By Mr. JENKS.) When you first started the industry you imported some Welsh workmen?—A. Yes, the rollers were all Welsh to begin with. Now, there are, I should say, about 50 or 60 per cent. A great many Americans have learned the trade and are gradually working in, but the Welshman is a very jealous fellow and tells just as little as he can, and the American has got to pick it up for himself.

Q. Then, at the beginning, even under the very high tariff, it was difficult to start the industry and for a time you manufactured tin plate at a loss?—A. We manufactured at a loss.

Q. (By Mr. FARQUHAR.) What was the tariff on tin at that time?—A. \$2.20 a box, as I remember.

Q. And, now, since then?—A. Then it was put to \$1.20, and now it is at \$1.50.

Q. (By Senator MALLORY.) That is on 100-pound boxes or 150 pounds?—A. One hundred pound boxes.

Q. (By Mr. FARQUHAR.) The \$1.20 was under the Wilson tariff?—A. Yes.

Q. And the \$1.50 was under the Dingley tariff?—A. Yes.

Q. (By Mr. JENKS.) What was the effect on the industry of reducing the tariff from \$2.20 to \$1.20?—A. Well, in the meantime the American was getting his mill in a little better working order and getting out his plates a little bit cheaper, and while he was running along there under the \$1.20 tariff, the workmen came in and asked for a 15-cent raise, as I remember it now, and we had a 3 or 4 weeks' row over that, and the thing finally drifted along and I think they took it up down at Washington and put it at \$1.50; that is about the history of it as I remember.

Q. Do you recollect the date when the Wilson tariff went into effect?—A. I think it was in 1894.

Mr. KENNEDY. August 28, 1894.

PRICES—IMPORTS.

Q. (By Mr. C. J. HARRIS.) Do you remember the price of tin plate when the industry was first started in this country, say 1890 or 1888, or somewhere along there?—A. Well, I think, just offhand, that it was somewhere between \$6 and \$7. At times it was higher than that. I think at one time tin plate sold as high as \$17 a box.

Q. (By Mr. JENKS.) What is the price of tin plate now, did you say?—A. \$4.65.

Q. \$4.65; is there any tin plate imported?—A. Nothing except to be reexported.

Q. At what price would tin plate have to be here in order to enable tin to be imported at a profit for home consumption?—A. You mean to ask me the price now?

Q. You say the price is \$4.65. How much higher can you put that price before you

meet competition from the other side?—A. Oh, we can put it on the market to-day, I should say, 35 cents to 55 cents a box.

Q. Higher than it is now?—A. Yes.

Q. So you could run it up to \$5.25 without much fear of meeting competition from the other side?—A. That is right.

Q. (By Mr. FARQUHAR.) Could you run it to \$5.37½?—A. The price of plates f. o. b. New York a few days ago was \$5.27½; that is, from the other side.

WAGES OF VARIOUS WORKERS.

Q. (By Mr. JENKS.) The question came up some little time ago with reference to the relation between the price of tin plate and the wages of the laborers. You could, then, if I understand you now, still increase the wages of the laborers somewhat until the price of tin plate should be forced up to, say, \$5.25, and make the consumer pay instead of making the laborers suffer?—A. Well, the laborers to-day, as I remarked a few minutes ago, are the best paid laborers in the country. Our rollers can make in 8 hours' work close to \$10 a day under the new scale. Our entire pay roll, I will say, would be in the neighborhood of \$10,000,000 per annum.

Q. Now?—A. Yes; now.

Q. (By Mr. KENNEDY.) How many of these rollers are there and what is it that gives these men such large wages; how many rollers are there in a mill?—A. There is 1 roller to each mill each turn.

Q. Just 1 roller?—A. Yes. Then there is the heater, doubler, and catcher, and the whole crew, as they call it; but the roller is the skilled man and gets the high money. Then next to him comes the doubler and catcher.

Q. What wages do they get?—A. \$6 or \$7 a day, according to the tonnage. They are allowed to make so many tons in 8 hours, for which they get a tonnage price.

Q. (By Mr. JENKS.) You say they are allowed to make so much in 8 hours?—A. By the Amalgamated Association.

Q. Do the rules of the organization hold them down to that amount?—A. Yes.

Q. (By Mr. CLARKE.) Does that work require high skill?—A. The roller is supposed to be a skilled man. I think if he is real clever he can learn the business in 3 years from the time he starts in.

Q. Is it hot and heavy work?—A. It is very hot in the summer time.

Q. Is it dangerous to the health?—A. Not especially, no; on the contrary, they are very healthy men.

Q. (By Mr. C. J. HARRIS.) When you speak of mills, you do not mean that you have 1 roller for 1 establishment?—A. Oh, no.

Q. One manufacturing establishment may have how many mills in it?—A. That is an expression we use. We say a 4-mill plant. They would have a roller for each of those mills, on each turn, and perhaps an assistant roller in addition to the heater, doubler, etc.

Q. In New Castle you have how many mills?—A. Fifty mills. We have 2 plants there.

Q. The New Castle and the Shenango?—A. Yes; in New Castle.

Q. Which is the largest plant you have?—A. The Shenango plant, with 30 mills.

Q. (By Senator MALLORY.) What wages do the other workers get outside of the rolling mill—the dippers?—A. The tanners?

Q. Yes.—A. The tanners are paid on a scale. They have a union or federation of labor that controls them, and the same scale is paid in all mills. The price is so much per box, and the tinner to-day would make, working his turn, I understand, from \$2.50 to \$3, and then his helper would make \$2, or somewhere in that neighborhood.

Q. Is that about the least wages that any of them get?—A. No. Then there is the packing house and shipping house, and what we call around the mill the labor gang, which might be, perhaps, 150 or 200 men all the time.

Q. They are not skilled?—A. Oh, no; just common laborers.

Q. For the labor that you class as skilled \$2 to \$2.50 is about the least, is it?—A. Yes; that is, really in the tin house they have no right to be regarded as skilled laborers. In the Elwood tin house, for instance, 19 out of 20 of them are boys taken off the farms or off the streets, and all they do toward operating the machines is just simply to take hold of a pair of tongs and put a piece of sheet in between the rolls, and the other man gets it on the other side with a pair of tongs and puts it on a cleaner. As I say, they were taken off the farms and the streets of country towns surrounding to do this business.

Q. (By Mr. JENKS.) About how long does it take them to become skilled?—A. Two or three months.

Q. What did you say was the wages that you paid to the unskilled laborers?—A. The outside men knocking around the works?

Q. Yes.—A. \$1.40.

Q. That is really the lowest you pay for any help?—A. Yes.

Q. (By Mr. FARQUHAR.) Is that \$1.40 the wages paid the women and children in your packing house?—A. Oh, no; the women make so much per box, and the girls make about \$1.25 per day. In fact, the work has been so plentiful and steady that they do not want to hire out in these towns to do housework. They all want a job in the tin shop.

Q. (By Mr. JENKS.) Do you employ any children?—A. The laws of the the different States—I do not know exactly as to the West Virginia laws, but West they are not allowed to employ anyone under 16 years of age.

Q. But you do employ young persons as young as 16?—A. Yes.

Q. What work do they do?—A. Well, they are grease boys around the mill. There is a great deal of grease used in connection with the rolls, and they are working in these boys for this kind of business, etc., and so on.

Q. (By Mr. C. J. HARRIS.) Including your whole help, what should you say the average wage was per day? You say they are the best paid people in almost any line.—A. What I said was this, that the rolling mill men in a tin plant were the best paid men in the iron business in the country. Now, then, taking in all the labor and averaging it up—is that what you mean?

Q. Yes; all the employees—girls, boys, women, and men—what would it average?—A. I should say \$2.50 per day.

WAGES IN AMERICA AND IN WALES.

Q. (By Mr. KENNEDY.) What would the roller who gets \$10 in this country formerly receive in Wales?—A. My recollection is that their scale over there would be about \$3.50 per day, as against \$10 here.

Q. (By Mr. JENKS.) That is your present scale?—A. Yes.

Q. (By Mr. KENNEDY.) Do you know anything about the difference in the cost of living in the two countries?—A. I do not. I do not know how they live over there, but the rolling mill men in this country live just as well as men worth \$150,000 or \$200,000. They are right up to date; they have got pianos, horses and buggies, and everything of that kind.

Q. (By Mr. C. J. HARRIS.) Lace curtains in the windows?—A. Yes; lace curtains in the windows, all of them.

WE HAVE THE MONEY AND THE TIN, TOO.

There is one thing I should like to call the attention of the commission to, and that is this: Of course you have all thought of it, that there is one thing that tin plate has done; it has kept about \$30,000,000, or a little more than that, now perhaps \$35,000,000, from going out of the United States to the other side. That money has been spent here in labor and in buying steel, which it takes labor to make; and buying acids, which it takes labor to make; and running on down the list, which represents a great many more people than those actually paid by the American Tin Plate Company.

Q. (By Mr. CLARKE.) If we sent that money out of the country, what should we get for it?—A. We get tin back, and this goes into tomato cans to be thrown over the fence.

Q. By keeping it here we have that and the tin, too, do we not?—A. We have the money and the tin; yes.

PRICES REDUCED.

Q. (By Senator MALLORY.) You have done all this, and at the same time you have produced tin plate to the consumer at a less rate than you did before you established these tin-plate plants?—A. As I understand your question, you asked me if we are selling tin plate now at a lower price per box than before the tin-plate plants were operated on this side?

Q. Yes.—A. We are selling, and have been selling, tin plate at \$2 per box right along below the price before the mills were operated on this side, and I would say that our price now is from \$1.50 to \$2 per box—understand, I am not giving you the exact figures—\$1.50 to \$2 per box below the average price, before it was manufactured in this country.

FIFTY CENTS DUTY TO SPARE AT PRESENT.

Q. (By Mr. JENKS.) I understand from what you say in reference to the tariff, that you could still put the price of tin plate, a box, about 50 cents higher than it is now before there would be any importation?—A. Oh, yes.

Q. On the present basis, then, there is half a dollar out of \$1.50 tariff that you would not really need just now?—A. Well, that would do, figuring it that way. I do not know whether you have just got the right idea in figuring it that way.

Q. (By Mr. C. J. HARRIS.) If they should lower the price and introduce their tin here at a less rate—say \$4.65—you would not have any margin, would you? Suppose these other men from Wales lowered their price 50 cents, then you would not have any margin to play on, would you?—A. None at all. That, of course, is the danger of the other side.

Q. (By Mr. JENKS.) Under the present conditions on the other side and on this side, there is half a dollar you do not need?—A. Yes; but it is liable to come off any day in a drop of price in Welsh plate.

LABOR AND STEEL CHEAPER IN WALES.

Q. (By Mr. FARQUHAR.) Is not the price of raw material just as high to the British manufacturers as American?—A. They pay exactly the same.

Q. (By Senator MALLORY.) How about steel billets?—A. Well, the steel billets, I will say, they pay a little less for. Their labor they pay over a third less.

Q. (By Mr. JENKS.) Then the main difference between prices in England and here is the difference in labor?—A. Exactly. We pay \$2 here and they pay about \$1.35 there.

Q. (By Mr. C. J. HARRIS.) Just now are not steel billets a little lower over there than they are here?—A. I just said they were.

Q. But as a general average? Of course, this is rather an extraordinary time here. As a general average how would the two countries compare?—A. Ordinarily they are much lower.

THE DEMAND CAUSED THE RISE OF PRICES.

Q. (By Mr. FARQUHAR.) In a business way, how do you account for this great advance in the raw material that enters into steel, and the product itself, from the mine down? Have you studied this advance and what brought it about, what the necessities were, etc.?—A. What brought it about? The demand.

Q. The demand?—A. The demand. The consumption has been greater than the supply for a year.

Q. After the supply, what do you look for? Falling rates?—A. I certainly do not expect these prices to hold up always. I think we are all right for this year and next.

Q. Do you suppose it is possible to sustain the present price of billets for 6 months?—A. I do; yes.

FURNACES AND MILLS INSUFFICIENT FOR THE PRESENT WANTS OF THE COUNTRY.

Q. Will not the fact that there has been an immense forwarding of ore from the northern Michigan mines and northern Minnesota mines to Pittsburg and other centers bring down this steel-billet price?—A. Well, they would have to build new steel plants, you know, before they could use the ore. I know of only one that is being built, and some plants enlarging; and to build a new steel plant would take 2 years, perhaps longer, and longer than that if they built their own blast furnace.

Q. Is it given as a business reason, as the cause of the rise, that there was a scarcity of the ore itself, or was it the insufficiency of the mills to fill the demand that came?—A. I think that the wants of the country were greater than the ability of the mills to supply, and have been for a year.

Q. (By Mr. FARQUHAR.) The question is this, for the general public and all of us: Whether you business men see now the turning of these high prices, whether in respect to tin or steel?—A. See a turn in the price?

Q. Yes.—A. Coming?

Q. Yes; coming.—A. No, sir; I do not.

Q. Do you think the present prices will be sustained during this whole season and next year?—A. I think the present prices will run through this present year and at least half of the next year.

THIS COMBINATION NOT DUE TO THE TARIFF.

Q. (By Mr. KENNEDY.) According to your testimony the tariff has established this great industry which employs a large number of workmen at exceptionally good wages, and gives this product to the people at a considerably less price than prior to 1890. That being true, should you say that the tariff has had anything more to do with bringing about this business combination which you have entered into within

¹ See Mr. Graham, p. 861.

the past year than it had to do with the establishment of like combinations in the oil trade of this country?—A. It certainly had not.

Q. (By Senator MALLORY.) I understand that before the formation of this combination of which you are president there was very little profit in the tin-plate business in this country?—A. Before our present organization was formed?

Q. Yes; very little profit; that some were making no profit, and those that were making a profit were just barely making a profit?—A. Some few were losing money.¹

EXPORTING TIN PLATE IS FAR IN THE FUTURE.

Q. What was the date of your completion of this American Tin Plate Company?—A. I think the 6th of January. The organization was completed in December, but I think the last bunch of companies was taken in on January 6.

Q. Now, from your observation, what is your opinion as to the ability of a combination such as the American Tin Plate Company to manufacture tin plate on an even basis, or a nearly even basis, with foreign manufacturers?—A. Well, of course, it is the desire of all big companies to reduce gradually the price at which they can sell their product rather than put it up. Of course, high steel and high pig tin and high labor and high supplies of all kinds, not only in the tin-plate and steel business, are going to keep things up for a time; then these big prices will come down.

Q. Well, the higher prices affect the foreign manufacturer as well as you. There is very little difference in the price of steel billets and pig tin to the English and the American manufacturer; so I take it these things are pretty nearly on a level, as far as the raw material is concerned?—A. Yes.

Q. Now, what I want to get at is this: Do you think the time will come when you can compete with England and any other tin-plate manufacturing country in the foreign markets—ship your surplus out of the United States?—A. It is a good way in the future, a long way in the future, so far as that goes. There would have to be a great many economies and things brought about. We are handicapped, to start with, on one thing, and that is the labor question, and that is one of the big things in the case of tin plate.

Q. Well, to-day, so far as this market is concerned, you are underselling the English?—A. As the market stands.

Q. I wanted to see if there was a probability that you would be able to manufacture at a rate sufficiently low to make us anticipate that in that line of manufactures, at least, you would be able to compete in foreign countries in a not remote future.—A. It is in the long future, I should say.

Q. Then we shall not go into the tin-plate business in competition with the rest of the world for some years?—A. Not for some years.

WE CONSUME TWO-THIRDS OF THE TIN PLATE OF THE WORLD.

Q. (By Mr. CLARKE.) Do you know what proportion of the world's product of tin plate is consumed in this country?—A. Well, they have something over 400 mills, I think, on the other side, against 300 on this. I understand they are operating about the same number of mills that we are. Our production would be 30 per cent more than theirs with the same number of mills, taking them as they run, understand; and we shall consume in this country this year over 9,000,000 boxes of tin plate, so you can figure about what it is.

Q. Should you say we consume 60 per cent at least?—A. That would be my opinion, roughly; so I will say that we consume in this country practically two-thirds of what is consumed in the world.

Q. The home market is constantly increasing in extent?—A. Constantly increasing; and we also consume, as you know, some foreign plates that go out of the country again and bring rebates—in which meats, vegetables, etc., are shipped—so that the consumption over here would be fully two-thirds.

NEW YORK PRICE AND PRICE AT MILL.

Q. (By Mr. JENKS.) You have said that you would furnish us some prices of tin plate for some years back. Would the prices you would furnish presumably be New York prices, or on a basis of prices elsewhere?—A. They would be New York prices.

Q. And what difference should one make in order to compare the New York prices with the prices you quote?—A. Eleven cents. The New York prices would be 11 cents over the mill prices.

THE COMPANY AND OUTSIDERS—OUTPUT AND CAPACITY.

Q. About what part of the output of tin plate of this country does the American Tin Plate Company control?—A. About 90 per cent.

¹ See Mr. Griffiths, pp. 898-898, 900; Mr. Taylor, p. 941.

- Q. How many plants are there outside?—A. 1, 2, 3, 4, 5—I think 6.
 Q. Do you know how many mills there are in these plants?—A. 12, 18, 24, 27.
 Q. About 27 or 28 mills?—A. Yes.
 Q. How many have you?—A. We have 300.

UNITED STATES TIN PLATE COMPANY.

Q. What is the United States Tin Plate Company? Do you know of such a corporation?—A. The United States Tin Plate Company, the old United States Tin Plate Company, was a concern at Demmler, Pa., which now belongs to the American Tin Plate Company. The present United States Tin Plate Company was organized at Trenton, N. J. The charter was taken out by myself, Mr. Dill, and Mr. Leeds. I believe we were the ones that signed the original papers, in order to protect the name.

Q. So it is not an active organization?—A. It is not an active organization.

Q. Is there any other similar organization?—A. The United States Tin Plate and Stamping Company.

Q. That is the same kind of a corporation?—A. Yes.

Q. The corporation is organized simply to protect the name against any rivals that might come in?—A. Yes.

Q. Will you see that the commission is furnished with a copy of your charter and by-laws complete?—A. The charter and by-laws Mr. Dill will furnish you a copy of.¹

ATTEMPT AT TIN-PLATE MANUFACTURE IN 1874.

Q. (By Mr. CLARKE.) Was there any tin-plate industry in this country prior to 1890; had there been at any time?—A. There was not. There was an attempt made to make tin plate, I think, at Demmler, Pa., in 1874, but before 1890, as to any quantity, no, and a few years before that, none.²

Q. (By Mr. FARQUHAR.) How much money was involved in the Demmler plant?—A. I should hardly be prepared to say, but I think not over \$100,000.

Q. Do you know whether or not it paid a profit at any time?—A. I hardly think so. Mr. Cronineyer ran the plant. He was a tin-plate man in the early days, and agitated the thing as a tariff man. He was the man who attempted to make tin plate at Demmler.

Q. Do you know whether or not the English manufacturers issued a circular to the trade in this country at that time, saying that whatever price the American manufacturers made they would make a lower one?—A. I do not know. If there was any such circular issued I never heard of it.

Q. Those mills were obliged to shut down because they could not make a profit?—A. Well, it was only a small attempt, a little 1-horse plant, you might say. They shut down and went out of business.

Q. It was not an object for capital to embark in the business, then, until after 1890?—A. That is correct.

CAPITAL OF OUTSIDE CONCERNS.

Q. Do you know the amount of capital that is embarked in the business in this country at the present time?—A. I do not know what the working capital of some of those outside plants might be, but I suppose they are carried by some steel company or somebody—I should imagine so—and that being the case, I should think there is \$2,500,000 outside of the American Tin Plate Company; maybe not over \$2,000,000.

PREFERRED STOCK AND COMMON STOCK—GOOD WILL.

Q. In forming the American Tin Plate Company, upon what basis did you issue the preferred stock and common stock? That is to say, what did you consider that the common stock paid for, and what did you consider that the preferred stock paid for?—A. The preferred stock and common stock did not pay for anything. The preferred and common stock was purchased from Judge Moore, who had bought these plants for cash.

Q. (By Mr. CLARKE.) Then the preferred stock paid for the plants, did it not, practically?—A. He paid cash for the plants.

Q. He paid cash for the plants and you paid him?—A. He sold the stock.

Q. Did you not consider that the preferred stock practically paid for the plants, for the tangible property?—A. As I have already said, Judge Moore paid for the plants in cash. It was a cash transaction. However, if an owner of tin-plate property would come to him and say, "I do not care for mine in cash; I will take so many

¹ See appendix.

² See Mr. Griffiths, pp. 887, 899.

shares in stock," he would get from him a share of common and a share of preferred stock for each \$100 that he did not take out in cash.

Q. No matter how many transactions were involved in it, and by what circumlocution it was brought about, as a matter of fact, did you not consider generally that the preferred stock paid for the tangible property that was acquired?—A. Well, if a mill had \$100,000 cash coming to it from Judge Moore and he gave them \$100,000 in preferred and \$100,000 in common stock, that man would know that he was getting preferred stock for his \$100,000, and whatever he got beyond might be said to be so much bonus.

Q. Was it not considered that the common stock was represented by the good will, the opportunity to do business and make money?—A. I suppose it was.

Q. How do you estimate the relative value of the tangible property and the opportunity to make money? Which is the greater?—A. Well, it would depend somewhat on the property, the conditions, etc. It would be a pretty hard matter to give an answer on that, on 1, 2, 3, 4, 5, 6, different factories, I think. Some would be worth a good deal more than others.

Q. Look at it in this light for a moment: If a mill should be destroyed by fire, or a cyclone, it could be rebuilt for half a million or a million dollars, perhaps. If the business should be destroyed by some untoward event, what would the mill be worth?—A. The mill would not be worth anything, unless you could find a buyer coming along to take it off your hands after the business was gone.

Q. Very well; then, you consider that the good will, the business, the trade built up, and the opportunity to continue it, are worth more than the mill and all the machinery in it?—A. Not in all cases; no, sir.

PRICES OF PLANTS COVERED GOOD WILL AND ALL.

Q. (By Mr. JENKS.) If I understand you correctly, you said that these plants were bought by Judge Moore on a cash basis?—A. Yes.

Q. If a man had got an option on a plant for \$100,000 in cash, he could take that cash and quit business?—A. Yes.

Q. If he preferred to take instead of cash \$100,000 worth of preferred stock and a \$100,000 in common stock, he could do that?—A. Yes; Judge Moore would let him have it.

Q. The price, then, that Judge Moore and these tin-plate manufacturers agreed upon was on a cash basis, and that would include, would it not, the value of the plant and the value of the business in general?—A. Good will and all.

Q. The good will and all?—A. Yes.

Q. So that, as a matter of fact, the price that was agreed upon, the cash price agreed upon, would mean both the value of the plant itself and the good will?—A. Certainly; yes.

STOCK REPRESENTS 3, 4, 5 TIMES THE CASH VALUE OF THE PLANTS THEMSELVES.

Q. At the time when the American Tin Plate Company was organized, was it the presumption that if the Tin Plate Company were organized the business would be a fairly profitable one? Were times good enough so that it seemed as if the business would be a profitable one if they could get this organization through?—A. It seemed so; yes. It seemed that there would be a great deal more money in the business than there had been in the past; there would be no cutting of prices, cutting down to a losing basis.

Q. When the different manufacturers were negotiating with Judge Moore for the sale of their plants, was that taken into consideration by them?—A. Yes; they were looking to him to put it together, and were very anxious to have him, and that was taken into consideration.

Q. It was also true that the prices they would agree upon would be, presumably, in most instances, higher than they would have been if they had been going to sell their plants to another private individual without a thought of this combination?—A. If they were just selling individually, yes.

Q. Without thought of a combination, they would have been willing to sell lower than they did sell to Judge Moore?—A. I think so; yes.

Q. It was worth more in the combination and so they got more for it?—A. Yes.

Q. If we were then to speak about the proportion of the stock that is represented by the real value of the plants themselves, under ordinary conditions of business, without combination, the presumption would be that the shares of preferred and common stock, taken together, would represent 3, 4, or 5 times what the cash value of the plant itself alone would be under ordinary conditions.—A. Well, whatever the case might be, 1, 2, 3, 4, 5. Presumably there were cases where preferred and common stock would represent, we will say, 4 times the cash value of the plant itself, under ordinary conditions.¹

Q. Counting both at par, you mean?—A. Yes; counting both at par.

¹ See Mr. Griffiths, p. 911.

\$5,000,000 WORKING CAPITAL.

Q. (By Mr. CLARKE.) Was any of the working capital derived from the sale of common stock?—A. No.

Q. None whatever?—A. Why, the working capital was derived from Judge Moore for all of this stock.

Q. (By Mr. JENKS.) Now then, Judge Moore, as I understand, when he presented this plan to the different tin-plate manufacturers for the organization of this company, was to furnish these plants and so much working capital?—A. Exactly.

Q. How much working capital?—A. About \$5,000,000.

Q. He was to turn over the plants and \$5,000,000 capital?—A. That is it exactly.

Q. (By Mr. C. J. HARRIS.) Have you got \$5,000,000?—A. We had about \$5,000,000 when we started.

INCREASED COSTS CAUSED THE RISE OF PRICES.

Q. (By Mr. FARQUHAR.) In the course of some questions that were asked of you in respect to the low prices of tin, around \$2.60, \$2.75, \$3.20, \$3.87½, \$4.25, and up to \$4.65, you gave a general answer that these advances were caused by the demand?—A. By the advance in the price of raw material.

Q. But the demand was the cause of bringing the prices up?

THE WITNESS. The demand for what?

Mr. FARQUHAR. For the plate itself, for the finished product.

THE WITNESS. Well, I would hardly put it that way. The prices were put up because the steel, the labor, and the pig tin that went into it, all cost more money.

Q. Yes; I am looking at the reason. Then the second part of the question was this: Did the cost of steel billets advance comparatively as largely as your price for tin plate?—A. It did.

Q. Did the price of the pig tin advance relatively with your prices?—A. Pig tin more than doubled in price.

Q. Did your advance in wages relatively follow this rise?—A. Wages were advanced in some cases 15 and in some cases 20 per cent.

Q. So that you would answer that your advance from \$2.60 to \$4.65 is a normal advance?—A. Correct.

WHAT INDUCED THE COMBINATION.

Q. Now, that is settled. The question was asked you what were the reasons why you went into this combination, and I desire to ask you a question or two there. Did you keep in view the fact that this was a thoroughly protected industry, an industry built by the taxpayers of the United States?—A. Had we that in view?

Q. With that in view, they claim that a trust or a combination in any business in Europe or here results from three great factors—lower prices, overproduction, and diminished profits. Did all or any of these three influence you to make the combination?—A. Diminished profits certainly did.

Q. Well, did overproduction?—A. Yes—no; overproduction did not.

Q. Would you answer plainly whether your intention was to eliminate or control competition?—A. Neither.

Q. Neither?—A. Neither. It was for the purpose of getting together to do away with foolishness in making prices, and competition, I suppose, would enter into that, although there is competition now in the field against us.

Q. Did you not answer that it was the fierce competition that drove you to make a combination?—A. Didn't I?

Q. Yes.—A. A short time ago I said that competition, perhaps, was one of the factors that entered into it.

Q. Yes, and that you made this combination in order that you might make prices stable and secure more for yourselves than you could with open competition?—A. Certainly; yes.

THE OUTSIDE MILLS CAN NOT MAKE TIN PLATE FOR WHAT THE COMPANY SELLS IT FOR.

Q. Do you think the general public have shared in any of the economies that you have inaugurated in your production of tin as prices stand to the consumer to-day?—A. Well, the public are paying more for tin plate than they did before the organization of the company, but the reason they are doing that is the cost of the supplies that enter in.

Q. You would say, then, that this advance in the price of tin plate to the consumer is not arbitrary on the part of your company?—A. Not at all.

Q. But follows naturally in the course of business?—A. Correct.

Q. Controlled naturally by the cost of the raw material and by the demand?—A. Not so much demand as the cost of raw material and the price of labor.

Q. You would answer that it was not the opportunity to suppress competition that caused your organization?—A. I did not say that.

Q. You do not say that?—A. Well, we never for a moment thought that we should not have competition. In fact, there were mills out, and are now, as competitors; but it was to get a number of mills together that would regulate that very much, and not only in buying and selling tin, but in handling supplies, and handling the business in a very much more satisfactory way.

Q. Do you not practically now, in your great organization, name the prices of tin plate to the consumer?—A. We do; yes.

Q. You do not find in the market now, with even the free competition that exists against you, that there is any material cutting of prices?—A. Not at all.

Q. If your organization was not as strong as it is, of course prices might be cut?—A. No; not so.

Q. Why not?—A. For this reason: I think that with the competition we have to-day we can make our own prices, of course. I hardly believe that the outside mills to-day, with the facilities they have for handling, can make tin plate for what we are selling it for. Now, there may be some mills operating and making tin plate and consuming it, and there may be some mills making tin plates for their own use, in the manufacture of wares, like the Harrisburg mill, for instance, and all that sort of thing; but I do not believe, with the present prices of raw material, they can make tin plate and sell it to the public as cheap as we can.

OUTSIDE NONUNION MILLS ARE NOT CUTTING PRICES.

Q. As labor enters largely into the cost of tin plate, do you know that these opposition mills, as we may call them, now pay union wages? Are they on the same basis as you as far as the payment of the scale is concerned?—A. I think that part of them are. I think part of them are nonunion mills running on nonunion scales.

Q. What proportion do you think are nonunion?—A. I should say half of them.

Q. Do these nonunion mills that pay nonunion wages endeavor to cut below your rates?—A. In selling tin plate?

Q. In selling tin plate.—A. No, I do not think they do. In some cases they sell at a slight percentage above our prices.

Q. Quality for quality?—A. Yes.

Testimony closed 12.25 p. m.

The commission was called to order at 2.30 p. m. by Mr. Clarke, who presided.

Mr. DANIEL G. REID recalled.

COST OF A PLANT AND NECESSARY WORKING CAPITAL.

(By Mr. JENKS.) It has been suggested by some of the commissioners that they would like to know what would be the cost, as near as you can estimate it, of putting up a plant to-day, we will say a 10-mill plant, in a pretty good place, say Pittsburg? What would be your estimate of the cost of a 10-mill plant?—A. It would be a very hard question to answer, for this reason—I might answer it in this way: The cost of a 10 mill plant was \$400,000 a year or two years ago. I should estimate now that it would cost 60 to 75 per cent more.

Q. You would say, then, that the cost of a 10-mill plant at the present time would be about how much, in round numbers?—A. Well, based on that estimate, I should say \$500,000 or \$600,000.

Q. Do you include real estate in that?—A. No; I should not include real estate.

Q. That excludes real estate?—A. Excludes real estate.

Q. Suppose you should put up one of double that capacity to-day, a 20-mill plant, would you estimate the cost of that at twice as much?—A. I think it would cost a little more than twice as much, on account of heavier engines.

Q. Rather more than twice as much?—A. Yes.

Q. (By Mr. KENNEDY.) Is it more as compared with the former cost, the increased cost of materials? You said that of the mill that cost \$400,000, the cost is increased by 65 per cent, and you estimate the cost of a mill, a new mill, at between \$500,000 and \$600,000.

Q. (By Mr. JENKS.) Did you intend to give your estimate on the cost of building the mill 2 years ago at \$400,000?—A. It is a very hard question to answer. I said \$400,000 would be the cost 2 years ago, and I said that now it would be \$500,000 or \$600,000. Of course, that is assuming a great many things; it is guesswork.

Q. Can you give any estimate of the amount of running capital that is required to carry on efficiently the work of a tin-plate mill? Suppose we take, for example,

one that would cost half a million dollars. What would you consider a fair amount of capital to handle that business well?—A. It would take \$25,000 per mill to handle it right.

Q. \$25,000 per mill?—A. Yes; at the very lowest figures. It might be possible it would take more than \$25,000 per mill now on account of the excessive cost of supplies.

Q. I understood you to say that was the very lowest cost?—A. Yes.

Testimony closed.

WASHINGTON, D. C., November 16, 1899.

TESTIMONY OF MR. WILLIAM GRIFFITHS,

Manufacturer of tin plate.

The commission met at 10.50 a. m., November 16, 1899, Senator Kyle presiding. Mr. William Griffiths, manufacturer of tin plate, being duly sworn, testified as follows:

Q. (By Senator KYLE.) You may state your full name and address.—A. William Griffiths, tin-plate manufacturer, Washington, Pa.

SALE OF PLANT TO THE AMERICAN TIN PLATE COMPANY—TERMS AND CONDITIONS

Q. (By Mr. JENKS.) How long have you been engaged in tin-plate manufacturing? A. In the manufacture of tin plate proper I have been engaged upward of 11 years.

Q. Have you had any connection in business with the American Tin Plate Company? A. Only as far as the surrender of the plant that I was interested in is concerned.

Q. You mean that you sold out a plant to the American Tin Plate Company?—A. That is my meaning.

Q. Is there any special reason for using the word "surrender?" Did you consider you were compelled to sell?—A. Not as far as the American Tin Plate Company is concerned; only as concerns my connection with my partners. There was a disposition on their part to be absorbed and an indisposition on my part. Not having a majority of the stock I simply surrendered.

Q. In the purchase of the plant in which you were interested did the tin-plate company make any conditions with reference to further engagement in the tin-plate industry by either yourself or partners?—A. In their first approach they did.

Q. They asked that you should not engage further in the business?—A. They named in the option that was first given us for our consideration a period of 15 years in which we should not engage in the business, either in making tin plate or any of the by-products that constitute the character of tin plate.

Q. In the contract that you finally made with them for the sale was there any such provision?—A. Not to my knowledge; no, sir. It simply referred to the transfer of our plant without any of the conditions that you speak of. The business was consummated with such rush and haste that they did not even afford us time or opportunity to examine the papers we were called upon to sign, simply stating that they related exclusively to the transfer of our property.

Q. With whom did you conduct these negotiations for the sale of your property?—A. Almost exclusively with Judge Moore, of Chicago, and his copartner in the formation of the scheme or project, Mr. Wheeler, of Chicago.

Q. Were the contracts made for cash prices?—A. They were made for cash, with the option of taking stock in the new company.

Q. If you exercised the option of taking stock, on what terms was stock to be taken as compared with the cash prices?—A. They gave an amount of stock known as preferred stock representing the cash consideration that was offered you, and as a bonus they gave you the same amount of what is known as common stock.

BUILDING A NEW PLANT.

Q. Have you since the selling out of your former plant to the American Tin Plate Company started a new plant?—A. I have, sir.

Q. You are engaged in active business now in opposition to them?—A. I am engaged in the active work of building.

Q. You have not begun manufacturing?—A. Not as yet commenced the manufacture of tin plate.

RELATIONS BETWEEN MACHINERY MAKERS AND THE AMERICAN TIN PLATE COMPANY.

Q. Have you in connection with the building of this plant found any difficulty in securing on this side of the water the necessary machinery for equipping your plant?—A. Oh, I may unequivocally say no, as far as representative machinery is concerned.

Q. You judge, then, that so far as the building of new plants in opposition to the American Tin Plate Company is concerned they have not secured a monopoly of the equipments for tin-plate mills?—A. Not an absolute monopoly; no, sir.

Q. They have secured enough of it so that it, in your judgment, is a serious hindrance to competition?—A. Yes.

Q. Is there any patented machinery used in connection with tin-plate manufacture which they control?—A. None that I know of of any value, with the exception of what is known as the pickling machine.

Q. Is there a patent on that?—A. There is on the pickling machine. At the same time there are other machines in the market that are not protected by patent which are fully equal to the machine I speak of.

Q. So that in the control of that patent they really are not seriously hampering any competitor in manufacturing?—A. No, sir.

Q. You said that you think they do control so many of the manufacturers of tin-plate machinery that it is a serious obstacle?—A. Yes.

Q. Will you explain a little more fully?—A. Yes. In the first place, the representative founders and machinists whose business it is to build machines and equipment for tin-plate mills have been formed, at the instigation of the American Tin Plate Company, into a compact. That compact prevents any outsider or any independent concern from securing machinery from those parties. There are 13 parties in that compact.¹ There are 2 outside of that compact, or were 2 a short time ago; 1 in Philadelphia, the Philadelphia Roll and Machine Company, and a firm that struggled for a manufacturing existence for some years and was very little patronized, known as the West Penn Foundry and Machine Company, at Avonmore. I have good reason for believing that the Avonmore Foundry and Machine Company is dominated by the American Tin Plate Company. Within the last 2 or 3 weeks there has been put into operation a concern outside of the compact to manufacture exclusively the equipment that you speak of. In securing the mill machinery, the rolls that you speak of, I secured services from the Avonmore Foundry and Machine Company. That was a weak and struggling concern, and I presume, in the beginning, the American Tin Plate Company thought that it would be of little value to take them into the compact; consequently they built me the mills. They signed with me an agreement that they would furnish me with all materials or rolls for a period of 5 years. I sent to them—a month ago—a specification for 2 additional mills. They did not make any satisfactory response to my solicitation. Two weeks after I sent the specification for these mills a gentleman by the name of Mr. Banfield, one of the American Tin Plate officials, called to see me in the city of Pittsburgh. Failing to see me, he conferred with a friend of mine, and told him that I had sent a solicitation to the mills I have spoken of, and that very recently he had put in considerable money, and they had increased the capital stock, and, being an American Tin Plate official, he thought that it would be eminently improper to build the mills for an independent concern; consequently he would refuse the order.

Q. Although you have a written contract?—A. Although I have a written contract.

Q. What position does Mr. Banfield hold in the American Tin Plate Company?—A. He is what is commonly known as manager; that is, he supervises a district or superintends a number of mills within a certain territory.

Q. (By Mr. FARQUHAR.) Has the Avonmore concern refused to carry out the second order?—A. Through Mr. Banfield; yes.

Q. (By Mr. JENKS.) Has he a controlling interest in the Avonmore concern?—A. He gave us to understand that he had.

Q. You think, then, that, so far as the manufacture of tin-plate machinery is concerned, all of the leading establishments, with one exception, are controlled by the American Tin Plate Company?—A. Yes; and of course this exception that I speak of is an unknown quantity, never having built any mills. The principal stockholders were formerly connected with what is known as the Mesta Foundry and Machine Company. They consolidated prior to the existence of the trust with the Robinson and Rea Machine Company, of Pittsburgh, representative builders of rolling-mill machinery; and some of the stockholders of said company formed themselves into another company, which is now known as the Canton Roll and Machine Company.

Q. Do you know whether the American Tin Plate Company has any further control over these manufacturers of machinery beyond a contract to take their entire output for a period of years?—A. Oh, I think the manner in which you put it is

¹ See Mr. Graham, p. 852; Mr. Wheeler, p. 864; Mr. Reid, p. 875.

² Compare testimony of Mr. Graham, p. 852; Mr. Reid, p. 875.

rather misleading, or the manner in which they may have put it is misleading; that is, to take their entire output.

ON WHAT TERMS SHEET MILLS CAN BUY MACHINERY.

Q. Have you any knowledge of the nature of the contract?—A. To disprove any such condition as that I might cite the situation of the sheet mills, whose business is in a measure kindred to the tin-plate industry. They manufacture what is known as regular orthodox sheet iron in long lengths. There is no sheet manufacturer to-day that is able to get rolls or sheet-mill machinery without signing a contract with these foundries and machinists agreeing that those rolls and that machinery shall not be used for manufacturing sheet iron for tin-plate uses for a period of 2 years.¹ Now, my knowledge comes directly from the self-same foundries and the machinists.

Q. Those who have been trying to get such machinery?—A. No; from the builders of this machinery and from the builders that are not in this compact that we speak of.

Q. (By Mr. FARQUHAR.) Have you had any positive refusal from these manufacturers?—A. Yes.

Q. In writing?—A. No, sir.

Q. Verbally?—A. Verbally; yes.

Q. How do you stand now in respect to the furnishing of your own machinery independent of your second order?—A. Well, there is a combination, as I said before; but the Canton Roll and Machine Company have our orders for any machinery we may require in the manufacture of tin plate.

Q. Is their plant ample enough to supply all the independent owners of tin-plate mills?—A. That would depend very largely upon the extent of new firms coming into the business.

Q. Have you any knowledge yourself of new firms coming into the business?—A. None, sir; only by common rumor recently in regard to what is called the National Tin Plate Company of Virginia. I am well acquainted with Senator Whittaker, of Wheeling, whose name has been prominently associated with the new project, and I think the rumor, to a great extent, is baseless. It may not be altogether idle, but nothing has positively matured.

Q. (By Mr. JENKS.) Have you any documentary evidence of any kind at all in the form of letters from the Tin Plate Company or in the form of copies of contracts of the Tin Plate Company with those manufacturers of machinery of whom you have spoken?—A. No, sir.

Q. You have simply the refusal?—A. The verbal refusal.

Q. The verbal refusal of those men themselves, and the reason they gave?—A. Yes; in the first place soon after I dissolved my association with the American Tin Plate Company.

Q. You were connected with them?—A. Only in that way. There is no question in regard to the fact that I am the oldest manufacturer in the business. I was approached by several of those machinists and foundries, who tried to induce me to go into the sheet-mill business, and after that solicitation told me the conditions upon which they would build me sheet-iron machinery.

Q. On condition that you would not —?—A. On condition that I would sign a lease for a period of 2 years not to make any sheet iron for tin-plate uses whatever. If I did I would forfeit the machinery I had bought.

Q. You spoke of their saying that they would furnish you the machinery provided you would sign a lease. Can you tell us in detail what you mean by signing a lease, and who was to have an option of this lease?—A. The control, as I understood it from them, resolved itself into a lease form in which you paid two-thirds of the purchase price when the machinery was delivered; the remaining one-third was to be paid in 2 annual payments, and I suppose if at any time during the 2 years it came to their knowledge—to the knowledge of the American Tin Plate Company—that you had rolled any material that would finally appear as tin plate you would forfeit your mills. Furthermore, I understand that the lease when signed is turned over to the American Tin Plate Company.

Q. And that company then would simply take possession of these mills, as belonging to them until final payment was made?—A. That is the inference.

Q. Payment on the installment plan, the title remaining with the seller until final payment is made?—A. Yes.

HOW BLACK PLATE FOR TINNING DIFFERS FROM SHEET IRON.

Q. (By Senator KYLE.) The stipulation was that you were not to manufacture the kind of sheet iron that is rolled for tin-plate purposes. Is it a peculiar kind of sheet

¹ See Mr. Reid, p. 875.

iron?—A. Yes; there is more labor expended, and the process for making sheet iron for tin-plate uses is somewhat lengthened out, in order to give it a better finish; but the art is practically the same.

Q. There is a brand that is known as tin-plate sheet iron?—A. Well, I might state that I went into the business in the first place as a dipper, and at that time we imported our iron and we had to secure a supply from sheet mills.

Q. I want to know how you could determine where the product went? You can not tell unless you roll a special kind for tin-plate purposes.—A. You can tell in which direction it would go after it left our mill. That is, we can conjecture as to the uses to which it is applied.

Q. Throughout?—A. We might, unless someone is buying surreptitiously for the purpose of deception. We should be dull indeed if we did not know in which direction it would travel after it left us, because the gauge would determine that to a very large extent, and the finish that would be solicited would determine it to a very large extent, so it would be calculated to create a suspicion.

Q. (By Mr. JENKS.) Then, black plate that is used for tinning is different in quality and weight from sheet iron used for other ordinary purposes?—A. Yes; very largely in weight, although it is a very common thing to roll what is known as 28 gauge for general sheet-iron purposes, for stove purposes, for pans for domestic uses; and there is a brand of plate that is also largely used as represented in 28 gauge, which is known to the trade as one cross, or 1 X.

THE SHEET-MILL LEASE—ATTITUDE OF MACHINERY MAKERS.

Q. (By Mr. FARQUHAR.) How did you construe the proposition of this 2-years' lease? Is it a stepping-stone to an ultimate stoppage?—A. To a further lease?

Q. Yes.—A. I think it was; yes. The foundries and machinists that I speak of were not disposed to extend that lease over the time that is stipulated; consequently the American Tin Plate Company had to submit to that condition.

Q. In other words, there were 2 years that you could not, if you signed this lease, go into the productive industry?—A. That is, as far as tin-plate making was concerned; that is very positive. That information, as I stated before, was conveyed without any form of solicitation whatever by the parties that represented this compact.

Q. (By Senator KYLE.) And you state that you have very few letters from the American Tin Plate Company touching your contracts or anything else?—A. Oh, I have no communication whatever with the American Tin Plate Company. Have you reference to the foundries and machinists?

Q. (By Mr. JENKS.) Yes.—A. No, I have no letters whatever.

Q. (By Senator KYLE.) It seems to be the policy, then, to send an agent when they want anything done?—A. I would constantly come in contact with these gentlemen that I have been acquainted with for some years and talk with them on the subject, and no later than last Saturday I was talking with one gentleman, and he stated to me that there was a disposition on the part of many of those in that compact to furnish the independent mills with the machinery desired. The disposition was there, but they did not want to go on record as being the first ones to break through. They are not securing—that is self-evident—they are not securing anything like the amount of orders for tin-plate machinery under the trust administration that they secured under the independent administration.

DEMAND FOR MACHINERY IS LESSENED—MILLS RUN LESS STEADILY.

Q. (By Mr. JENKS.) You think, then, that if the American Tin Plate Company were not so largely in control of the business the demand for this tin plate machinery would be very much larger than it is now?—A. I made the remark that it was very much larger under the independent régime than under trust administration, and as a matter of fact the mills of the American Tin Plate Company are not running as much as they were when represented by the independent mill owners.

Q. It simply is a fact that there were more orders for machinery of this kind 2 years ago than there are now?—A. By reason of the fact that they ran much steadier.

PLATE NOT MADE UNDER JOBBERS' BRANDS UNLESS THE BRANDS ARE ASSIGNED.

Q. When the American Tin Plate Company bought the individual plants that were afterwards organized into this one company, what arrangements were made with reference to the individual brands by the different manufacturers, or by the large jobbers?—A. There was nothing stated in regard to brands that were owned by large jobbers, inasmuch as individual mills have no manner of control over them. As to the brands that were owned directly by the mills, they were to go over to the

American Tin Plate Company. There were very few brands owned by individual mills. The mills, prior to absorption, very cheerfully and graciously made all brands that were solicited; brands that were owned by individual jobbers.

Q. What attitude has the American Tin Plate Company taken in reference to brands owned by individual jobbers?—A. Their attitude is a very formidable and a very aggressive one.

Q. Tell us what it is.—A. Notwithstanding the statement made to the contrary,¹ they are even to-day enforcing the condition that if they make those brands, those brands have got to be assigned to the American Tin Plate Company; otherwise they will not make them. They promulgated in the first place a memorandum to the trade in which they stated in very positive terms that as a condition of making those particular brands that were under individual ownership, or protected by patent or copyright, those brands must be turned over—assigned to the American Tin Plate Company; and in case the American Tin Plate Company became defunct, or went out of existence, they would revert back to the original owners. But if it should appear to their sales agent that the jobbers were having those brands of plate made by any independent concerns, or buying any form or manner of tin plate outside, no matter of what grade, they would consider that sufficient justification for claiming the brand. Now, they have modified their contract to some extent; but the idea, that is, the coercive or arbitrary idea, is incorporated there. I can read you a copy of a recent contract, or that part relating to the assignment of the brands, and their claims upon the brand if it should appear to them that their conditions stipulated in the contract had not been complied with.

Q. Have you a legal form of assignment?—A. I have a legal form of their assignment; their copy.

Q. Can you file that with us?—A. I can let you read it.

Q. Perhaps you may read that to us, omitting any special names.—A. There are no names mentioned in this. This is my own copy. I can read this to you; it will not injure the interests of anyone.

Q. We will take a copy of that and return the original to you.—A. There is one where the trade-marks have not been registered, and here is one—they are identically the same—in cases where trade-marks have been registered in the Patent Office.

Know all men by these presents, that _____, of the city of _____, in the State of _____, party of the first part, for and in consideration of the sum of one dollar (\$1.00) and of other valuable considerations this day paid and delivered to said party of the first part by American Tin Plate Company, a corporation organized under the laws of the State of New Jersey, whose principal business office is located in the city of Chicago, county of Cook, and State of Illinois, party of the second part, does hereby assign, transfer, and set over unto the said party of the second part the exclusive right to use, place, and stamp upon tin plates and terneplates the following brands or trade-marks which have heretofore been used by the said party of the first part as brands or trade-marks; that is to say, _____.

And said party of the first part covenants and agrees to and with said party of the second part to save harmless and indemnify said party of the second part from all actions, suits, payments, costs, damages, expenses, and liability whatsoever which may come to the said party of the second part, or occur, by reason of the use by said party of the second part of said brands or trade-marks upon tin plates or terneplates, which may be at any time manufactured by said party of the second part.

Witness the hand and seal of the said party of the first part on this the _____ day of _____, A. D. 1899.

Signed, sealed, and delivered in presence of— _____ [SEAL.]

Know all men by these presents, that _____, of the city of _____, in the State of _____, party of the first part, for and in consideration of the sum of one dollar (\$1.00) and of other valuable considerations this day paid and delivered to said party of the first part by American Tin Plate Company, a corporation organized under the laws of the State of New Jersey, whose principal business office is located in the city of Chicago, county of Cook, and State of Illinois, party of the second part, does hereby assign, transfer, and set over unto the said party of the second part the exclusive right to use, place, and stamp upon tin plates and terneplates the following brands or trade-marks, which have heretofore been used by the said party of the first part, as brands or trade-marks, and which said brands or trade-marks have heretofore been registered in the office of the Commissioner of Patents of the United States of America, as shown by certificates of registration bearing the numbers _____; that is to say, _____.

¹ Compare Mr. Graham, p. 852; Mr. Reid, p. 874.

And the said party of the first part hereby covenants and agrees to and with the said party of the second part to save harmless and indemnify said party of the second part from all actions, suits, payments, costs, damages, expenses, and liability whatsoever which may come to the said party of the second part, or occur, by reason of the use by said party of the second part of said brands or trade-marks upon tin plates or terneplates which may at any time be manufactured by said party of the second part.

Witness the hand and seal of the said party of the first part on this the ____ day of ____, A. D. 1899.

[SEAL.]

Signed, sealed, and delivered in presence of—

This agreement, made this ____ day of ____ A. D. 1899, between American Tin Plate Company, a corporation of the State of New Jersey, party of the first part, and ____, of ____, in the State of ____, party of the second part, witnessed as follows:

1. First party agrees to manufacture for, and to sell and deliver to, second party, in the regular course of business of first party, and subject to its general rules and regulations, now in force or hereafter to be made, as respects price, time, manner and place of delivery, and time and manner of payment, and at the current and regular market prices prevailing from time to time, such quantities of tin and terne plates as second party may require and need in the business of second party during the life of this agreement, provided second party shall at all times comply with all provisions hereof to be performed by second party, all of said tin plates and terne plates if required by said second party to be branded with such one of the appropriate trade marks or brands heretofore assigned by second party to first party as second party may designate to first party in writing.

2. Second party shall pay to first party for all tin and terne plates which may be ordered by second party, and pursuant to such order tendered by first party to second party in accordance herewith, at the current and regular market prices prevailing at the time of ordering the same, such payments to be made upon the usual terms of credit and discount for cash governing the business of first party at times of delivery, but no order for goods shall be given by second party, which, as to the time of delivery, shall extend beyond the time for which first party may be, at the time of receipt of any such orders, quoting or giving to the trade prices of the kind of goods embraced by such order.

3. First party shall not have the right, except as is herein otherwise provided, to use any of said trade-marks or brands so assigned it by second party, except upon goods to be manufactured for, and upon the order of, second party, but if the second party shall refuse to accept any goods ordered by second party and accordingly manufactured by first party in accordance herewith, then first party shall have the right to sell such goods in the market without removing therefrom any trade-mark or brand placed thereon.

4. First party shall not be required to manufacture for or deliver to second party any goods under this agreement if, at the time any goods may be ordered hereunder, or may be required to be delivered hereunder, first party shall have reasonable cause to believe second party is or will be unable to pay for such goods at the time when payment therefor would become due.

5. All goods properly ordered hereunder shall, subject to the other provisions hereof which are applicable, be delivered by first party within a reasonable time, such reasonable time to be estimated in all cases with reference to the conditions affecting the manufacturing business of first party, and the demands of the market for tin and terne plates, and the ability or inability of first party, from any cause or causes whatsoever, including strikes, scarcity of materials used in manufacturing or otherwise, to make delivery.

6. First party agrees that it will not at any time increase the price of any goods ordered by second party pursuant to this agreement, above the current and regular market prices of like goods, because of the brand or trade-mark which may be placed upon any goods ordered under this agreement, or for any other cause whatever.

7. In case second party shall at any time during the life of this agreement, order, purchase, or receive any tin or terne plates marked with any one of the trade-marks or brands hereinabove mentioned, or other private brand, except from the first party, the latter being at the time in no default in the performance of this agreement, then first party shall have the right to terminate this agreement, and said trade-marks and brands so assigned to it shall be and become its absolute property; but if first party shall not be able to meet the legitimate needs of second party for tin or terne plates, then second party shall have the right to purchase from others than first party such tin or terne plates as second party may legitimately require in excess of the amount which first party may be able to furnish.

8. In the event first party shall be dissolved or cease doing business, or make a general assignment for the benefit of creditors, or this agreement shall be terminated for just cause by second party, or shall be kept during its life by second party, then said trade-marks or brands shall revert to second party absolutely.

9. If first party shall fear that any one or more of said trade-marks or brands can not be lawfully used by it, or if any suit shall be brought affecting its right to use the same, then first party may, at its election, be excused from manufacturing or delivering any goods bearing such trade-mark or brand, and, in any event, second party shall indemnify first party from all damages, expenses, and costs arising from the use of any of said trade-marks or brands.

10. This agreement shall be in force from the day of the date hereof down to the first (1st) day of January, A. D. 1915.

In witness whereof the parties hereto have caused their respective names and seals to be hereunder written and affixed on the day and year first above written.

Attest:

By

Secretary.

Q. (By Mr. JENKS.) Now, you say that you know that some of these contracts have been made lately?—A. I know positively that they have refused to manufacture tin plate under jobber's brands, simply because the jobber would not assign his brand to them.

Q. How long since such refusal was made?—A. It is being conducted almost every week.

Q. You say you know positively. You have, of course, some specific instances in mind?—A. Yes.

Q. Now, can you give us the date or nearly the date of some of these specific instances you have in mind?—A. I should not like to mention the dates, by reason of the fact that it might be a clew for the American Tin Plate Company to discover who the particular jobber was. By reason of the fact that they virtually hold absolute sway, they might make it very disastrous for that particular jobber. Here is a letter to a jobber—

Q. Just one moment further. Perhaps you can name a date since which this has been done?—A. Since the 1st of October.

Q. That is sufficient. You know this has been done since the 1st of October?—A. Yes. Here is a letter:

"GENTLEMEN: Your 2 favors of ——— and ———, with reference to the stamping of brands of plates on orders [I am not giving the number of the orders], were duly received and noted. As you have not agreed to our conditions governing private brands, we assume that you wish to have these stamped under the mill brand, and have instructed the mill accordingly, which we trust will be satisfactory."

Now, then, those plates would not be accepted under the mill brand by the architect that has specified these plates. The sale of those special grades of plates is largely dominated by the architect who has charge of the building. He would nominate, for instance, "Taylor's Old Style," that plate and no other, or "Merchants' Old Style," or "John Hamilton's Best Re-dip." Those brands are represented by special nomenclature, giving them the titles.

Q. This letter you have read is also one of comparatively recent date?—A. Yes.

WITNESS'S PLANT PAID FOR IN STOCK.

Q. (By Senator KYLE.) In your contract by which you turned over your property to the American Tin Plate Company you said you received a certain amount of cash and a certain amount of preferred and common stock?—A. That was optional with the company, yes; they could secure part cash or part stock, at their pleasure.

Q. And you did receive part cash and part preferred stock?—A. What, the company I was identified with?

Q. Yes.—A. We received all our holdings in stock.

Q. (By Mr. JENKS.) You preferred to take that instead of cash?—A. Yes.

Q. (By Senator KYLE.) What exception was made for the minority stockholders, of which you appear to be one?—A. Possibly I was the largest single stockholder. No, sir; there was no exception made; they all concurred in their desire to take stock instead of cash.

Q. (By Mr. JENKS.) Do I understand that it was left optional with each individual stockholder to take his choice of stock or cash?—A. Yes.

NO OTHER CONDITIONS IMPOSED ON JOBBERS; BUT NONE ARE NEEDED.

Q. Do you know whether the American Tin Plate Company keeps any special control over the jobbers to whom it sells in reference to the purchase of their entire stock from that company?—A. None outside of the enforcement in regard to brands.

Q. Further than that you think they leave it entirely optional with the jobber to buy from them or any other person?—A. Oh, yes; there is no option on the part of the jobber; they are the only parties able to supply his wants at the present time, with the exception of a mill that recently commenced to manufacture at Avonmore, Pa.

Q. Do I understand from your statement that the American Tin Plate Company has at the present time absolutely no competition excepting from this one mill?—A. That is the only one manufacturing outside. Mr. Graham stated yesterday before the National Hardware Association that convened in Pittsburg, "We govern conditions." His statement presupposes that they are in absolute sway.

AMERICAN TIN PLATE COMPANY CONTROLS BLACK PLATE—THE SUPPLY OF STEEL.

Q. Does the American Tin Plate Company, in your judgment, aside from the control of machinery control the black plate?—A. Yes; just as they control tin plate.

Q. By that do you mean that they manufacture all of the black plate?—A. Yes.

Q. It would be impossible, then, at the present time for any dippers to do business without their special consent; they would have to buy black plate from them?—A. That is the condition; yes.

Q. And any independent manufacturer of tin plate would have to be the manufacturer of his own black plate?—A. Yes.

Q. Do you know whether it would be possible for a manufacturer of black plate to buy his raw material, or do they control that also?—A. To a very great extent they control the raw material.

Q. Can you tell to what extent?—A. Yes. Of course you gentlemen understand the pressure of demand for all iron and steel commodities at the present time. I think there is a possibility of the Carnegie Company administering in the future to independent concerns, but not at the present time. They are virtually tied up this year, I know, by an obligation to the American Tin Plate Company.

Q. (By Mr. FARQUHAR.) A contract or understanding?—A. A contract—no, sir. Jones & Laughlins, of Pittsburg, are in a position to make in part the tin-plate bars from which we roll our tin plate, and there are 3 or 4 others that manufacture billets. I came in contact with the president of the new mills recently started—the Avonmore mills—a few days ago, and they put down a bar mill, which is something unusual for a tin-plate plant, to reduce billets into the form of bars. He told me that up to the present time they had no trouble in securing billets from Jones & Laughlins.

Q. (By Mr. JENKS.) You spoke of a contract between the American Tin Plate Company and the Carnegie establishment?—A. That is only hearsay. I understand they made a contract with them for 1 year for a very, very large tonnage of bars, to the exclusion of anyone else—that is, during that year.

Q. Do you think the contract provided explicitly that it was to be to the exclusion of others, or only that they were to give a very large order?—A. They have finished this contract. I think the Carnegie Company administered it to the letter that they were to administer to no one else's wants. I know, within 7 or 8 months, I myself approached the Carnegie Company with an order for bars, but could not get any.

Q. You say you know that because you tried it?—A. Yes.

Q. (By Mr. CLARKE.) Now, let me understand what the reason of that is. Because of the great demand for iron and steel, or because they are full of orders ahead, or because they had signed a contract whereby they stipulated they would not furnish to outsiders?—A. No; possibly there was no stipulation of that kind. I would not wish to go on record in regard to that matter. What I have learned has been altogether from hearsay. I know it for a fact that they placed a very large contract for bars with them for the purpose of exclusion, because other mills—when I say other mills, I have reference to the National Steel Company—very recently administered to their wants in that particular direction—the Carnegie only administered sparsely.

Q. (By Mr. JENKS.) Do you understand that the National Steel Company sold its entire output of tin-plate bars to the Tin Plate Company?—A. No; I do not understand it in that way. As far as tin-plate bars are concerned, I think possibly they do. The National Steel Company manufacture what are known as sheet bars, which are somewhat different in weight and length, but practically the same as the Tin Plate Company now use. The National Steel Company now administers to the sheet mills, and have always since they have been in existence, either in consolidated form or individual form.

AMERICAN TIN PLATE COMPANY IS KILLING OFF THE DIPPERS.

Q. Can you explain somewhat further the situation with reference to dippers?—A. The dippers at the present time certainly are in the shadow of the American Tin

Plate Company's displeasure; they are not encouraging them to continue in business; in fact, they are doing all they possibly can to discourage them.

Q. In what ways?—A. I know of two or three firms that have been closed up at the instigation of the American Tin Plate Company, one notably that I was associated with some years ago. As soon as their contracts for black plate were finished, contracts that were placed prior to the existence of the American Tin Plate Company, they told them that they could not furnish any more black plates. Not being desirous to get out of business, they thought they would resolve themselves into jobbers. The American Tin Plate Company positively refused to supply them with the finished tin plate to sell to dealers until they surrendered their dipping business to the American Tin Plate Company. It forced them to take a certain sum of money for what machinery they had, machinery that represents the dipping business. And as soon as the company got possession of the machinery it supplied them with the finished tin plate to sell to the dealers. That condition exists generally. Of course, if it were absolutely essential, proof of that statement could be secured.¹

Q. You say that you know of two or three cases where dippers were compelled to sell their dipping machinery to the American Tin Plate Company before the American Tin Plate Company would sell them the finished plate. Is that question a matter of record? Can that be shown by the contract of sale?—A. What? The circumstances that I speak of?

Q. Yes.—A. Oh, yes; I presume it can. I presume it can, unless they took the precaution of conferring directly with them. I do not think so, because they have not cloaked or mantled all their operations in regard to such matters.

Q. You are not in a position now to furnish a copy of such a contract?—A. No; not at the present time.

Q. Do you think you could undertake to do so?—A. Oh, I think so. I might have to obligate myself in a measure to administer to their wants. The American Tin Plate Company would certainly resent any such disclosure on the part of the parties that you speak of, and they would naturally hesitate, I presume, about giving you the information. Take, for instance, the parties that I speak of; they have gone into the jobbing business; that is, supplying the small trade and dealers.

Q. But you said you thought there were a number of such cases?—A. Yes; I should say the large majority. There were, all told, I believe, at one time 20 dippers in the business.

Q. And more than one half of them have gone out of business, having sold their dipping plants to the American Tin Plate Company?—A. Yes; or else they are making plates in a way that they do not want to disclose to the American Tin Plate Company. For instance, dippers generally redip. By redipping they make a superior grade of plate. Redipping means, of course, dipping what has been dipped before. In the redipping process they contribute very largely to the amount of coating on that plate; and by reason of contributing a larger amount of coating the supposition is that greater endurance is given to that plate for any purpose. The special brand makes a difference in the quality of that kind. I know of some instances where the dippers are buying in carload lots, from larger jobbers, plates that have a very thin coating, and then they redip them and make out of them a particular brand that they have been manufacturing for some years. They can not secure those plates through the American Tin Plate Company for that purpose.

Q. Nor can they secure the black plates?—A. Nor can they secure the black plates. The dippers are very loath to leave that business until every avenue is closed against them; and that is one of the means that they have been employing lately—buying common tin plate from large jobbers and adding by the redipping process a larger amount of coating to those plates and getting an additional price, something in proportion to the cost of coating.

Q. Do you know whether the American Tin Plate Company has in any of these later instances that you have spoken of agreed to furnish black plate or this cheaper grade of tin plate, provided these men would sell out their dipping plants or enter into any special agreement with the Tin Plate Company about the selling of their tin plate, or do they simply give the excuse that they have sold their entire output and have nothing to furnish?—A. I know the oldest dipper in the United States. His contract is worked out. Being an aged dipper—of course they are courteous gentlemen and they have some little respect for age—when he went to Chicago to visit them they very politely told him that, of course, they would fill his orders for black plate when they had any black plate to sell. They have never had any black plate to sell, and his needs have been most urgent. He wrote to them in regard to getting a form of plate that I spoke of—the plate that was thinly coated—in order that he might fill his orders for his particular brands, and they wrote back to him telling him that it was not the disposition of the American Tin Plate Company to encourage dippers in anything.

¹ See Mr. Graham, pp. 849, 850, 863; Mr. Greer, p. 928.

REFUSAL TO SELL TO DIPPERS IS ARBITRARY.

Q. (By Mr. CLARKE.) Why does not that condition of things afford a good opportunity for somebody to erect a mill for the production of black plate?—A. I think that very largely up to the present time people have been intimidated by reason of the arbitrary measures that they have adopted, and, as Mr. Graham said, their absolute control of conditions.

Q. How can they absolutely control conditions in this great country?—A. I do not think they can.

Q. (By Mr. FARQUHAR.) It takes time to build a plant and bring it up?—A. They have a full, good opportunity now.

Q. (By Mr. CLARKE.) To be sure they have a little temporary advantage. It takes a little time to build a mill. Why does not somebody build a mill?—A. Doubtless they will in the future when conditions relax a little. As I remarked before, you gentlemen are very well acquainted with the pressure of the demand for all iron and steel commodities.

Q. May not that pressure of demand have influenced the American Tin Plate Company somewhat in declining orders for black plates?—A. No; emphatically no.

Q. Could they have supplied black plates for the dippers?—A. Oh, without a question of a doubt.

Q. Do you know that their own needs———A. (Interrupting.) Yes.

Q. Did not call for all their black plates that they had or could furnish?—A. Well, I would draw my inference from present conditions. They have approximately 272 mills; at the present time there are 80 of those mills closed down.

Q. (By Senator KYLE.) Eighty, did you say?—A. Yes; fully 80—possibly more.

ARBITRARY MEASURES TO SUPPRESS COMPETITION.

Q. (By Mr. CLARKE.) You are erecting black plate mills in connection with your new plant?—A. Yes; I am erecting a steel plant to make my own billets so as to be in independent form, manufacturing black plate, and putting up an auxiliary tinning house.

Q. You know of no condition in the laws of this country that prevents you from doing that?—A. No; or else I certainly would not have done so. I do not think there is any moral obligation on my part to remain out of the business. I am not a native of this country. I have been here since I was a boy, and tin-plate making is certainly my birthright, my birthgift. I know no other business; have always been associated with it. When I was not making tin plate, I was tin plating articles that were made out of sheet iron.

Q. Then do you know what can be done in the way of public legislation to improve your condition or opportunity in that respect?—A. No; I am assisting you gentlemen to diagnose the case. If there is any disease there, why you are the ones to suggest a cure.

Q. If the law gives you all the rights you need, then the question is whether we have anything to recommend?—A. Well, there is no question but they have been most tyrannical in their measures. The fundamental idea with them has been at all times to keep competition away from them; and, as I have stated here, they have resorted to the most arbitrary measures to do that. I do not believe that they would hesitate at anything, as long as they could avoid the displeasure of the law, to keep out independent concerns. I cited that case at Avonmore. They have simply put in about \$50,000 to keep other people besides myself from getting plate machinery.

Q. (By Mr. JENKS.) You stated a little while ago that you thought it possible that you could furnish some documentary proof of some of the statements that you have been making with reference to the attitude of the company toward the dippers and others. We should be glad if you could do that.—A. If that statement of mine went on record it would be impossible, almost impossible, for me to furnish that proof.

Q. I was going to say that if you could furnish proof of that kind, it is, of course, unnecessary that any names should be put in it. We should simply like to have information of that kind well authenticated as to relating to the dippers.—A. Well, I will make an attempt in that direction.

MAKING 20 PER CENT OR MORE BEFORE CONSOLIDATION.

Q. What has been the course of prices for the last few years?—A. The tendency of prices, ever since the industry was protected, has been downward until since the American Tin Plate Company took charge of tin-plate making. Last year, the year 1898, we saw the lowest prices in tin plate in the history of the business; that is, in this country.

Q. Were the prices at that time so low, owing to the severe competition, that in your judgment it was essential that a combination of this kind be formed in order to prevent widespread bankruptcy on the part of the manufacturers?—A. Not under careful management. Our books are open for inspection by anyone. The books relating to our own mill will disclose 20 per cent profit on our investment for 4 months of last year.

Q. Until the time you sold out?—A. Until the time we sold out.

Q. You were making 20 per cent?—A. Yes; possibly exceeding 20 per cent.

Q. (By Mr. FARQUHAR.) The prices were lower than at any time in the history of this country?—A. Yes.

Q. (By Mr. JENKS.) Where is your plant located?—A. Washington, Pa.

GOOD EFFECTS OF NO LICENSE.

Q. Do you think the location of Washington, Pa., is especially favorable?—A. Yes; as favorable at the time as any other location. We secure cheap fuel. Transportation service is all right. It is peculiarly fitted in one respect. You have got a good class of workmen there by reason of the fact that we have no licensed places in the town. The rolling mill men as a usual thing are addicted to the use of intoxicants. You see our men work 3 turns a day. Each turn represents 8 hours; they generally get through in 7½, and as it is in different portions of the day, men going to and from their work in licensed towns have an opportunity to gratify their taste for intoxicants and generally gratify them; and, of course, then you know why your men are not there to render service on the particular turn that they should work on. In that particular respect it is beneficial for that particular industry at that point.

Q. (By Senator KYLE.) In other words, as regards fuel, transportation rates, etc., you are no more favored than Pittsburg or some other western town?—A. No more favored, no. Pittsburg rates prevail there east and west.

FAILURE OF ILL-MANAGED CONCERNS IS BETTER THAN A TRUST; BUT NONE HAD FAILED.

Q. (By Mr. JENKS.) You think, though, that if you could make 20 per cent on the prices that ruled last year, any other well-managed establishment, fairly situated, might easily have made sufficient to pay dividends at any rate?—A. Yes.

Q. So that in your judgment there was no pressure of competition resulting in such low prices than it was really essential to make a combination in order to prevent bankruptcy?—A. I have no doubt that some mills were not making any money, were simply struggling for existence, by reason of improper management. It is a business that presents infinite details. I knew of no business that presents more details, and every detail has to be carefully watched and attended to in order to make a success and a profit.

Q. In your judgment would it be for the advantage of the country as a whole that establishments so managed should go out of business rather than that there should be a combination to save them?—A. Well, of course, it was a source of distress for those that were struggling for a manufacturing existence to struggle under that.

Q. I am speaking of the welfare of the country.—A. And it was a grand relief that something turned up or discovered itself to relieve that distress.

Q. I was asking you a general question with reference to the welfare of the country as a whole. Take your time. Do you think that on the whole it is more advantageous for the country as a whole that ill-managed establishments should fail rather than that they should be taken into a combination to save them from failure?—A. Yes; I would say positively yes.

Q. You think, then, that the failure of such establishments in the tin-plate industry as would have failed had this combination never been formed, would not have injured the country as a whole?—A. No; that is, the evils resulting from such a condition would not be of the same magnitude as the evils that have arisen under trust domination.

Q. What proportion or what percentage, in your judgment, of the tin-plate establishments of the country were in such a situation as that?—A. Oh, I do not think—I could not point to any one in that situation, I could not. There was never a failure amongst any of them.

Q. None at all?—A. No.¹

GNASHING OF TEETH WHEN PROFITS DROP FROM 100 PER CENT TO 20.

Q. You simply say that while you think there were some such, you have no special definite idea?—A. No; of course, there was much wailing and gnashing of teeth,

¹ See Mr. Graham, p. 865; Mr. Reid, pp. 866, 867; Mr. Moore, p. 965.

but that I think was occasioned very largely by the fact that we commenced to sell a box of tin plate—a box of tin plate is represented as 14 by 20, 100 pounds base—there is 100 pounds of plate in that particular box.

Q. You mean the plate in that box?—A. Yes; and I have sold as a manufacturer and as a dipper of that plate, directly before the McKinley bill was in force, at \$5.75 in carload lots. Now, that was the maximum price that that common grade of plate reached. Then it gradually began to go down until it reached the low price of \$2.60. Now, just consider the distance, the differential, between \$5.75 and \$2.60. Who would not wail and gnash his teeth at a condition that would so soon resolve itself in that form?

Q. (By Senator KYLE.) Between what dates?—A. Between 1891—in a period of 6 years.

Q. (By Mr. JENKS.) At this price of \$2.60 you were still making a profit of 20 per cent on your investment?—A. Yes.

Q. (By Mr. FARQUHAR.) What was your profit at \$5.75?—A. Almost 100 per cent.

Q. (By Mr. JENKS.) Then you mean to say that for the first 4 years after you went into business you made about 100 per cent a year?—A. On our investment.

Q. You doubled your money every year for a time?—A. For 2 or 3 years it was possible to do that; but, of course, as I said, it declined from \$5.75 until it reached the low level of \$2.60.

Q. (By Senator KYLE.) And you were making 20 per cent then?—A. We made 20 per cent last year. I speak now as president of the concern that I was associated with.

Q. (By Mr. JENKS.) You say, then, that from the time you went into the tin-plate business in this country until you sold out to the American Tin Plate Company you never made less than 20 per cent, and before the McKinley bill you made more than that for some years?—A. Yes.

Q. (By Mr. FARQUHAR.) How many times do you turn your capital over?—A. Four or five or six times.

Q. How many times during a twelvemonth according to your methods?—A. We had 4 mills. We would turn it over three times at the low prices I spoke of. We would do approximately a business of \$350,000 a year on a capitalization of \$115,000.¹

BEGINNINGS OF THE BUSINESS.

Q. (By Mr. CLARKE.) Where were you engaged in the tin-plate business prior to 1891?—A. In Pittsburg.

Q. How long had you been in it there?—A. I commenced to manufacture special grades of roofing plate in 1888, and have always been engaged in tin plating—that is, during the major part of my existence—in Pittsburg. You understand what I mean by tin plating?

Q. Yes.—A. Coating iron with tin.

Q. How large an establishment did you then have?—A. We commenced with simply 1 bath, turning out only 50 boxes a day.

Q. That you call a small business?—A. To-day, yes; that was a small business, yes.

Q. There was practically very little tin plate manufactured in this country?—A. None at all at that time. You understand that we did not manufacture it from the beginning to the end. We secured black plate, which we imported, and, as I remarked before, we secured black plate from the sheet mills.

Q. You manufactured roofing plate almost exclusively?—A. Exclusively. We manufactured no black plate. I might state that the plate that I speak of that we secured from sheet mills would hardly be of the quality or kind that you could make bright tin plate or coke plate, or charcoal bright plate from—only roofing plates.

Q. Was there a good profit in the business?—A. At that particular time?

Q. Yes.—A. Yes; we made money from the very beginning.

Q. Why did not a larger number of people go into it if it was so profitable?—A. Well, it was a new venture. Now, understand me, we only made a special grade of plate, a special brand. For instance, at that particular time you are talking about—the ordinary grade of roofing plate has almost invariably been sold in 20 by 28 size—the common plate was sold at \$8.75, while we were selling to the dealers the plate that I speak of that we manufactured at \$15.50 a box. It was not possible at that time to manufacture the common grade of plate.

INTERFERENCES BY THE TRUST CAN PERHAPS BE NEUTRALIZED.

Q. Now, you know of no conditions to prevent anybody from going into the manufacture of either tin or terne plates and making money in the business if they manage the business carefully and well?—A. No present conditions, no. I think the

¹ See affidavit of Mr. Greer.

interference that the trust has placed in the way of anyone desirous of going into the business with the requisite business knowledge can be neutralized.

Q. You regard the conditions and restraints that they attempt to place upon their customers as distinctly against the interests of trade, in limitation of trade, do you not?—A. Oh, yes.

Q. Do you consider them as violations of existing laws?—A. I must confess to very little knowledge on that subject, but from what I have read and from what I have studied I would say yes.

Q. Have you taken counsel on the subject to know whether you had any right to protect yourself against any such restrictions?—A. No; no, I never deemed it essential to go that far. I thought possibly I might prove superior to the interference that I spoke of.

t

INDEPENDENT CONCERNS CAN MAKE TIN PLATE CHEAPER THAN THE COMBINATION CAN.

Q. (By Mr. A. L. HARRIS.) If the American Tin Plate Company should become well established in business, what will be the opportunities for small concerns to go in and do a profitable business?—A. I may be overpresuming in answering that question, but I think really that independent concerns can make the tin plate cheaper and administer the economies in the business much better than the American Tin Plate Company under its present organization and administration.

Q. What I desired to get at was this: Would there be any danger of the American Tin Plate Company, with its large amount of capital, freezing the small men out?—A. That is, by underselling them?

Q. Yes; by underselling them.—A. Well, I intended to answer that question in the remarks that I made, that I thought the independent concern could possibly economize to a greater extent, that concern being directly under the owner's eye, than the American Tin Plate Company. I have not the least hesitancy in saying that it is costing them more to-day to manufacture tin plate under their present operations and administration than it was under individual ownership, because the man that owned the plant—he was directly on the ground, and if he had practical knowledge of the business he was cudgeling his brain all the time in the direction of his own interest.¹

Q. (By Senator KYLE.) That does not correspond with the testimony that has been given in regard to the silver-plate companies and these others. All of these gentlemen testified that there was a saving in the organization by having one president and one set of officers.—A. Well, I know that is a controverted case.

RUNNING LESS REGULARLY THAN UNDER THE OLD MANAGEMENT.

Q. (By Mr. JENKS.) Is the plant that you formerly owned being run now by the American Tin Plate Company?—A. Is it in operation?

Q. Yes.—A. No.

Q. They have closed the one that you sold?—A. Yes; they were running up to a few days ago; they had run for 7 days. Prior to the 7 days they were closed down for 3 weeks. They have not worked the men one-fourth of their time since the 1st of June; a condition that never existed under the former management.

Q. Under the former management?—A. Yes; or conditions.

PAY ROLL INCREASED—COST OF SUPERINTENDENCE NOT APPRECIABLY DIMINISHED.

Q. Do you know about the cost of the superintendence of the plants under the management of the American Tin Plate Company as compared with what it was before?—A. I know their pay roll has been much larger.

Q. That is, the pay roll for the average workmen or the pay roll for the officers?—A. No; I mean the pay roll as far as the labor representation is concerned directly at the mills. I know the pay roll was larger before the advance was granted to the tin-plate workers, which was granted last July.²

Q. How about the pay roll of the superintendents? You, for example, being president of the company, had others associated with you—other officers of the company. You had your salaries. Do you know whether the men who, under the management of the American Tin Plate Company, took your places received as much as you were receiving?—A. No; there has been a change made in that respect. For instance, I had my superintendent there—superintendent of the mills; I had my superintendent of the tinning department. They are getting practically the same salary—they are getting identically the same salary that I paid them. My salary, of course, has been lopped off—cut off clean. That has been taken of course by what is known as the district manager. And in his particular bailiwick he might have 7 or 8 mills.

¹ See Mr. Graham, pp. 855, 857.

² See Mr. Reid, pp. 876, 877.

Q. So that you think that the American Tin Plate Company has not saved very much in the salaries of its superintendents of these different plants?—A. No; by reason of the change of management and the results of that change.

Q. (By Mr. FARQUHAR.) You gave testimony a short time ago as to the infinite details in this tin-plating business. Is it not a fact that a good many of your officers—officers with nominal titles in your organization—were all operating managers; that is, they held not fancy titles simply, but in your own mills and other mills, those that were called president and vice-president and superintendents were men who were really at the head of your various subdivisions—in practical control and care of the mill proper?—A. Oh, yes; they had practical knowledge of the business, and were the best men we could get put in; that is quite correct.

Mr. FARQUHAR. That answers the question. It is the change of the business; it is not the title itself. The business is totally different from almost any other.

The WITNESS. Yes.

THE OWNER'S EYE ESPECIALLY NEEDED IN TIN-PLATE MAKING.

Q. (By Mr. RATCHFORD.) I would like to ask if the witness can give any reasons showing wherein the conditions in the tin-plate industry differ materially from the conditions in any other industry as regards the cost of production? If there be a saving in the tin industry by individual ownership, why does the same not apply to others, so far as you know?—A. Well, the difference would only be marked in that statement that I made before—that I know of no industry that has so many details associated with it; and you have got to take care of all the details to get a good general result. Neglect of one of the most minute details might depreciate the value of your plate when it is finished 25 or 50 per cent, or might render it almost altogether worthless.

Q. Is it to be assumed that men who are officers of the combination and who are paid salaries are not as careful in looking after details as was the original owner of the plant?—A. The district manager is supposed to supervise, superintend, and direct the manufacturing. Now, his district, as I said before, possibly will number 5 or 6 different mills or works, representing possibly 20 or 30 mills. It is simply impossible in a business involving so many details for one man, making his appearance once a week, even though he is a practical fellow and possesses a world of information on that subject, to get good results.

Q. Has not that general manager superintendents over the men, and under the superintendents foremen over every department?—A. Yes.

Q. Who are supposed to look after it?—A. Who are supposed to look after it. But when there is no one to look after your superintendent daily, why look out for results.¹

COMPARISON OF RESULTS AS A SUBSTITUTE FOR THE OWNER'S EYE.

Q. (By Mr. JENKS.) Do you know whether the American Tin Plate Company requires reports daily in detail from each one of its superintendents as to methods of manufacture, cost of manufacturing, and all of the important details?—A. As to the details of the business, yes.

Q. So that one mill can be checked up against the other, and in that way they can bring pressure to bear upon the managers sometimes that is practically fully as great as could be brought to bear where there is an active manager in person.—A. That is their policy; not daily reports—that would hardly be possible—but weekly or triweekly reports.

Q. In your judgment that system of competition brought about by daily reports to one central officer, with the possibility of a man losing his position if his report does not show as favorable results as do the others, is not as efficient as the former system?—A. It is not as efficient, although that, of course, is an incentive on the part of the superintendent to exercise himself to the extent of his ability if he wishes to maintain his position.

EFFECT OF WEAK COMPETITORS UPON AN INDUSTRY.

Q. You spoke of the fact that you had no doubt that there were, before the formation of the tin-plate company, some establishments at any rate that were making but very little money, or were perhaps losing money.—Oh, I should not like to say that they were losing money. I think that possibly the weak ones financially were almost all making money—were all making money.²

Q. At the same time some were making very little money?—A. I think probably that was the case.

¹ See Mr. Taylor, pp. 941, 942.

² See Mr. Graham, p. 855; Mr. Reid, pp. 866, 867, 882; Mr. Moore, p. 965; Mr. Taylor, p. 941.

Q. The question in mind is this: What is the general effect upon any industry of having several of the competing establishments in such a position that they are making no money or are even losing money? What is likely to be the effect of such a condition upon those who are making money? Is there any more danger of their cutting prices unduly, any danger of their becoming more dangerous competitors than the stronger establishments?—A. I do not thoroughly understand your question. Kindly put it in a little plainer form, please.

Q. It is often said among railroads that the most dangerous competitor is the bankrupt road, because it has to get business anyway and will take business at lower rates than the railroad will that is paying dividends. In your judgment does the same thing hold in general business? When an establishment is about on its last legs is it likely to be the one that will cut the most severely in order to get rid of its stock and get a little cash in hand?—A. Well, they energize themselves to a condition of desperation; that is, it inspires them to a greater extent—their distresses and their almost bankrupt condition—to exert themselves so as to work out their salvation if possible. That is a spur and incentive that is not with the prosperous concern.

Q. (By Mr. FARQUHAR.) The question that was asked, as understood here, was this: Is a weak or semisolvent concern in the tin-plate trade dangerous to the whole trade?—A. The great danger in that condition would be the tendency on the part of that weak concern, I suppose, if business was dull, to cut prices in order to get orders.

Q. Then what makes—what is the next cut they make after prices?—A. Well, they cut their own throat.

Q. (By Mr. FARQUHAR.) How about wages?—A. Of course, that is inseparably associated.

Q. (By Mr. RATCHFORD.) Is the weaker concern more likely to cut prices and wages than the stronger concern?—A. There is more of a necessity for them to do so.

GOOD WORK OF THE AMALGAMATED ASSOCIATION.

Q. (By Mr. FARQUHAR.) So that the legitimate, true, and proper outcome is that both the manufacturers and wage-earners have got to carry the weak concerns?—A. Yes; although that condition could not exist in the tin-plate business—never has existed—because the labor representation has been dominated by a very strong organization.

Q. And an organization in harmony with you manufacturers?—A. Always. Only at our annual meetings—

Q. (Interrupting.) You said the failure came to both the manufacturers and the workmen?—A. Our interests were inseparably associated.

PRICES DECLINED BECAUSE PROFITS WERE VERY LARGE.

Q. (By Mr. A. L. HARRIS.) Do I understand you to say that the reduction of rates from \$5.75 when you began to \$2.60 last year was caused by cutting, or was it rather a gradual reduction?—A. No; I think it was the result of there being a very large profit in the business, and not a proper business representation upon the part of the men that had the mills, who would place orders a year ahead in their anxiety to know that the future was provided for to some extent.

COMBINATION NOT A NECESSITY.

Q. (By Mr. FARQUHAR.) Now, one plain question. As far as you know, was there any necessity in the tin-plate trade for the formation, in December, 1898, of a combine, association, or trust, called the American Tin Plate Company?—A. No; it had not reached that extent yet.

Q. Competition had not reached a position to drive them to protect themselves against each other in any way?—A. No.

Q. Nor the profits in the markets had not done it?—A. No.

Q. And the great demand that came also in 1898 for iron and steel was still a great incentive for them to stay off and not incorporate?—A. Of course, the price of materials went up amazingly when this demand came, and our prices certainly would have to sympathize with the price of material.

Q. To your mind there never was the necessity, either in the strength of competition nor in the extension of markets, to bring forward a combination of this kind in the trade?—A. No; not a positive, pronounced necessity.

PURPOSE OF THE COMBINATION.

Q. (By Senator KYLE.) When these promoters visited you first, in the interest of the American Tin Plate Company, did they express anything to you as to the avowed

purpose of the formation of this company or trust? What was the object of the trust?—A. Oh, yes; they gave us to understand that if the trust was formed of course it would hold absolute sway.

Q. And the purpose was, then, to crush competition entirely and to raise the price of tin plate?—A. Of course, they would not say it in as strong phraseology, but they would say it in another way.

Q. That was indicated to you as the purpose of the organization?—A. Oh, yes; that was indicated. You take my copartners; they were as strong as myself. There was an indisposition on my part, and there was an apprehension on their part that we could not manufacture after the American Tin Plate Company took hold of the business.

Q. They did not represent this to you on the ground of economy?—A. Oh, no.

Q. You pretty nearly knew that you could manufacture tin plate cheaper than the combination could?—A. No; they gave me every assurance that I could realize a larger salary than I ever realized when I was in the business.

PRICE OF TIN PLATE HAS RISEN MORE THAN COST OF MANUFACTURE.

Q. Now, as regards the prices, you were getting a specific price; I think it was \$2.60?—A. At the time we abandoned our business.

Q. What time was the trust formed?—A. It was consummated in the early part of December, 1898.

Q. Since then the price of tin plate per box has materially advanced?—A. Yes; from \$2.60 up to \$4.65.

Q. In the meantime the raw material has advanced very considerably?—A. Very considerably.

Q. What percentage do you say is the increase in raw material?—A. Fully 100 per cent; that is, in tin-plate bars.

Q. And wages have increased?—A. Fully 15 per cent, skilled labor; 10 per cent, common; and the price of tin plate has advanced.

Q. About how much?—A. Well, it has advanced about 82 per cent.

Q. Eighty-two per cent?—A. Yes.

Q. (By Mr. JENKS.) Do you think on the whole that the prices of raw material and wages have been increased proportionately to the increase in the price of the product?—A. The increase in price has been more than proportionate to the cost of making tin plate.¹

DETAILS OF COST.

If you wish positive data in that respect I can give them to you. I have reference to my own plant. I formulate prices on that basis.

Q. To what extent in your judgment have the tin-plate company been able to realize their hopes and expectations?—A. Well, this is only private opinion. I think they have been woefully disappointed.

In 1898, when we sold our plant to the American Tin Plate Company, the price of coke plates was \$2.60 a box, 14 by 20, 100-pound base. That is the base on which we formulate all our prices, 100 pounds, 14 by 20. The cost of making that plate to us was \$2.40 a box; we were getting \$2.60. Now, the American Tin Plate, of course, would take exceptions to that statement. We have what is known as wasters, that is, imperfect plates, which we sold at that time for 25 cents a box less. Subtract the difference of 25 cents from \$2.60, and that would make \$2.35 the selling price, and the cost \$2.40. And on those common grades of plates we averaged about 5 per cent of wasters. So you see that we were gleaming a profit on the common grade of plate which cost us \$2.40 and we were selling at \$2.60. Of course, we made the higher grades of plate; we made these special brands for jobbers that commanded a higher premium or profit than the common plates. That was when we paid \$17.50 for bars. Now, bars, as I remarked before, I could not buy to-day, if I could buy them at all, I could not buy possibly for less than \$40 a ton. I do not mean to say that the American Tin Plate Company is buying bars at \$40 a ton. It was our practice to make our contracts for tin-plate bars for six months. They may possibly make them for a year. I think their president, Mr. Reid, stated that by reason of buying in large quantities they bought much cheaper. They may possibly be paying \$30 for their bars per ton. Thirty-dollar bars, with the increase in the general cost of manufacturing, representing the advance that has been given the men and the great advance that has been made in tin that represents the coating upon the black iron, should make tin plate cost \$3.54 a box, which they are selling for \$4.65 a box. Of course, I might say that it is only conjectural on my part as to what they are paying for bars. I did buy some bars a short time ago, 1,000 tons, for \$36 a ton. Now, I know that I can make coke plates, the common grade of coke plates, with \$36 bars and 32-cent tin—tin is not 32 cents to-day; it has declined to 26—for \$3.84.²

¹ See Mr. Graham, pp. 853, 859; Mr. Reid, p. 874.

² See Mr. Greer, pp. 923, 924.

Q. (By Mr. JENKS.) What did you say the market price is?—A. \$4.65. Is that all the information that you desire?

Q. I think that covers it.—A. Now, I do not say that the American Tin Plate Company could do it. Of course they would say they could not. I formulate these prices from the standpoint of my own experience, added to the advances that have been made on all the constituents that enter into the manufacture of tin plate.

MANUFACTURERS WOULD HAVE STOPPED THE FALL OF PRICES.

Q. (By Mr. RATCHFORD.) I understand you to say that there was really no necessity for a combination in the tin industry?—A. No absolute necessity; no.

Q. The fact that prices have declined so largely, from upward of \$5 a box to \$2.60 per box, within a few years prior to the organization of the combine, would not that indicate that there was a necessity? And, furthermore, the fact that prices have advanced from \$2.60 to upward of \$4 since the organization, would not that tend to prove that the organization, or the combination as it is called, at least has accomplished its purpose to preserve prices and enable itself to maintain wages?—A. Well, they have accomplished their purpose as far as the advance of prices is concerned. There is no question but the American Tin Plate Trust, as long as they govern conditions, will place prices to the full limit.

Q. How about wages?—A. They granted a 15 per cent advance to their skilled workmen; 20 per cent was asked.¹ They were in such a position that they could not afford to get away from granting that advance.

Q. If prices had continued to decline, is it your opinion that they would inevitably have had to fall back on their workmen and reduce their wages?—A. Yes; oh, yes.

Q. There is no doubt about that part of it?—A. No.

Q. (By Senator KYLE.) Do you think the price would have declined even had this trust never been formed?—A. No; I think it had reached its limit.

Q. Reached its level?—A. Yes; because there would have been a concerted action on the part of the manufacturers if this thing had not discovered itself, if this trust had not developed. We had been trying to do that thing, to arrange some method by which we could maintain prices, for 2 years prior to this. It does not make any difference how much profit you were making in the beginning, of course; your eyes always looked longingly to the largest amount you did make in the business, and the further you get away from that the greater the longing on your part to get back as nearly as possible to the original condition. That is only human nature.

NO MANUFACTURER WOULD ADMIT THAT HE WAS LOSING MONEY.

Q. (By Mr. RATCHFORD.) At that limit of \$2.60 a box, you state that the manufacturers were making a fair, reasonable profit?—A. I stated that we were making 20 per cent during the last 9 months of our manufacturing existence. There was no manufacturer that would admit that he was losing money. Some have told me that they made over 25 per cent last year. Of course, they may have made very largely special grades. There was not that cut in special grades of plate. For instance, when I first commenced to manufacture tin plate in the orthodox way—that is, manufacturing from the bars—we sold a high grade of tin plate for \$9.50; that is, a special brand; and we were selling at \$9.50 when we went out of the business. There was not that decline in special brands of plate. To even up the small margin on those ordinary grades, the grades that represented the largest amount of tin plate that was made, we generally covered ourselves, more than covered ourselves, in the special grades that we made.

PRICES FELL 50 PER CENT; PROFITS, 80; WAGES, 20.

Q. (By Senator KYLE.) During this time of the fall of tin plate from \$5.75 to \$2.60, a fall of over 50 per cent as regards your finished product, what was your fall in wages paid to employees?—A. I can not speak authoritatively, but as far as my recollection will serve me I should say 20 per cent.

Q. It did not decline in the same ratio, then, as the cost?—A. No.

Q. (By Mr. JENKS.) There had been also a decided decrease in the cost of your material during that time?—A. Oh, yes. At that time you could buy tin-plate bars for \$25 a ton. The lowest price we bought tin-plate bars for was \$17.50, during the year you speak of. Some might have made a better bargain and bought them for \$16.50.

Q. The highest price you said was \$25?—A. During the time you speak of, I think it possible that bars could have been bought at that time for \$25 a ton.

Q. (By Mr. RATCHFORD.) They are \$36 now?—A. That is what I bought them for,

¹ See Mr. Graham, p. 853.

but possibly you could not get them now for \$36. The market price for billets is \$36, and there is generally \$2 difference between the billet and the bar.

Q. (By Senator KYLE.) You were making 100 per cent in the first instance, then?—A. Yes.

And at the last, 20 per cent profit?—A. Yes.

A fall of 80 per cent as regards your profit?—A. Of course; every year we continued in the business our knowledge was expanding and growing.

Q. Your wages had decreased 20 per cent?—A. 20 per cent; yes.

UNEASINESS AND APPREHENSION OF THE WORKMEN.

Q. (By Mr. JENKS.) You say that since the American Tin Plate Company has been formed they have advanced wages some 15 per cent or 10 per cent for different grades. Are the workmen on the whole, do you think, pleased with the American Tin Plate Company? Do they consider it, on the whole, for their advantage that this tin plate company has been organized?—A. At the present time?

Q. At the present time?—A. No; I think that the workmen generally are standing on the ragged edge of desperate thought and feeling. No; a spirit of uneasiness and apprehension has taken possession of the workmen.

Q. (By Mr. JENKS.) What reason have you for thinking so?—A. I come in frequent contact with them, by reason of the mills I am building. The highest skill in the tin plate mills is exercised by what are known as the rollers. There are 816 rollers for the 272 mills that I speak of.

Q. That are in the American Tin Plate Company?—A. Yes. I had application for a small plant that I am building from 150 rollers out of the 816. By the way, I met a representative laborer in the tin-plate industry a few days ago. He is a man that is looked up to by reason of somewhat superior intelligence, and he sways the thought and sentiment to a very great extent of the men he comes in contact with; that is, of the men that are represented in that industry. I asked him for an expression as far as he was concerned, and as far as the men he comes in contact with in Pittsburg were concerned. Yesterday afternoon he placed this in my hands. Now, I can not give his name, by reason of the fact that he would not remain in the employ of the American Tin Plate Company long if they knew he had written this. If you gentlemen desire me to read this and you think you can spare the time, I will do it.

Q. Yes; we shall be glad to have you. You spoke of this man as being an influential man among the laborers and you do not wish to give his name. Does he have any official position in their unions?—A. He has invariably been selected one of the committeemen.

Q. That is sufficient.

A WORKMAN'S VIEW.

The witness (reading):

"PITTSBURG, November 14, 1899.

"MR. W. H. GRIFFITHS:

"In reply to your request for the views of the tin-plate workers in general in regards to the Tin Plate Trust, otherwise called the American Tin Plate Company, I have to reply that I can not claim to be familiar with the views of all the tin workers throughout the country, but I can give you an accurate expression of the views held by my fellow-workmen of the city of Pittsburg; and, as we number over 1,000 in this city, we may perhaps be considered as fairly representative of the whole.

"When the various independent concerns first consolidated, workmen regarded the movement with a great deal of uneasiness. Trusts have acquired a bad name from the workman's point of view. The concentration of so much capital into the hands of one dictatorial management naturally gives it power to drive a hard bargain and often an unfair one with labor.

"It can not, however, be stated with justice that the American Tin Plate Company made any radical changes on its acquisition of the independent mills. The same wages were paid and the same rules and regulations as heretofore existed were continued. The various labor unions that represented its employees were recognized, and the contracts that existed between employer and employee in general observed. This amicable state of affairs continued throughout the brisk season, and the early fears of the tin workers were in a great measure allayed.

MORE IDLENESS THAN EVER BEFORE.

"Since the commencement of the dull season, however, the tin workers have much to complain of. The coming winter will see more tin-plate workmen idle than ever occurred before in the past since the starting of the industry in this country. The dull season in the tin-plate trade sets in in the late fall and generally lasts through

the winter months. The present year it came earlier than usual and will in all probability last longer. When the trade was in the hands of independent firms large quantities of ware were manufactured into stock against future calls or sold at very small profits to large buyers, who stocked it in their own warehouses against the brisk season; thus the workmen were given employment throughout the slack winter months. But the trust, having complete control of the trade, will neither incur the cost of storage on its own premises nor abate its ironclad prices so that the buyers may lay up a stock for future trade.

"The consequences are, a large number of mills have to be shut down. In the past, before the trust absorbed all the mills, even when orders were exceptionally scarce, and many mills would be running less than full time in all parts of the country, yet each manufacturer would strive to obtain his share of the demand; consequently the work would be more equally distributed among all the mills, and therefore the hard times were never felt by the workmen as they are likely to be felt this year. Never before in the history of the trade have two large plants like the Pittsburgh mills been known to close down entirely for want of orders in the same town, thus throwing out over 1,000 work people during the severe winter months, while another plant owned by same company is running its full capacity and actually turning out more work than it is entitled to according to the agreement between employers and employed last July at Chicago.¹ Of course, this is one of the economies of the trust, but the workers may well exclaim with the frogs in the fable, who on being tormented by some thoughtless boys, cried out 'What is only play to you means death to us.' In like manner the workers can cry out to the trust, 'What is only economy to you is starvation to us.'

MILLS KEPT RUNNING WHERE THE AMALGAMATED ASSOCIATION AGREEMENT DOES NOT APPLY, OR IS VIOLATED.

"To the tin-plate workers there appears much more in this system of economizing than is apparent to the general public. There is a most unjust discrimination in the selection of the mills that are shut down. When our representatives met those of the American Tin Plate Company in conference at Chicago last July an agreement was drawn up between the parties of which I select two clauses. (1) That the union representing the tin-plate workers should not interfere with the plant operating at Monessen, in the Pittsburgh district, where a lower rate of wages was paid than settled for other mills. (2) That no mill should turn out more work than the quantity agreed upon between the 2 parties to the agreement at Chicago. The mill at Monessen is running regularly because a lower rate of wages is paid there, while the Pittsburgh mills are kept idle. Other mills also near Pittsburgh (the New Castle mills) are running to their full capacity, owing to the fact that the American Tin Plate Company gets a larger output daily in those mills than contracted for at the Chicago conference.¹ This latter is in direct violation of the agreement. So that one set of workmen is given more work than the agreement between employer and employees allows them, while another set is left without any work at all. There is, however, more in it than the over-glutting of one and the starving of another crew of workmen. A larger output from a mill means increased profit for the manufacturer, just as a lower rate of wages means it. The only fair inference therefore that can be drawn from the foregoing facts is that the reason that the Monessen and New Castle mills are kept running to their full capacity while those of Pittsburgh are closed down owing to the fact that labor does not cost so much at Monessen and New Castle as it does at the Pittsburgh mills.¹ Ostensibly we are idle through want of orders, but as a matter of fact we are locked out because we will not work at a lower rate of wages, as do the men of Monessen, nor turn out a larger output, as do the men of New Castle. The managers of the New Castle mills might say that they do not compel their workmen to violate the limit-of-work rule. It is not necessary that they should compel them. They reward them by keeping them working when their fellow-workmen of the other mills in the same district are shut down. The best proof that the above is the true explanation of the shutting down of the Pittsburgh mills, is the answer that the general manager of the American Tin Plate Company gave to a deputation from the Cumberland, Md., mills, which are also idle, on being petitioned to restart the latter mill.

"He replied, 'If you can in any way give the company a concession of 10 cents per box, which is the amount that is required to put you on an equality with New Castle, your mill will be restarted.'"

Q. That was not in respect to wages?—A. As I saw in the papers, it was in regard to transportation; but that was an absurd statement to make, by reason of the fact

¹ See Mr. Greer, p. 924.

that the New Castle mills are 200 miles farther from the East than the Cumberland mills.

Witness (resuming reading). "Yet all these mills that are now closed down used to compete successfully with those now working when operated by independent firms.

REDUCTION OF WAGES INTENDED?

"But we are persuaded that the trust has much more than present economies in view. Observant workmen perceive in this method of distributing the work a much deeper meaning than present economy.

"The trust, through its officials, calls it one of the exigencies of the state of the trade. The workmen see in it a farsighted policy that is being carried out systematically with consummate skill, the key to which is the utterance of President Reid, of the company, a few days ago at Washington, D. C., to the effect that a reduction of wages would in all probability be demanded next July.¹

"The policy that is now being followed by the American Tin Plate Company is to make the resistance on the part of the workmen to such a demand as feeble as possible. The means adopted to attain this end may be briefly stated as follows:

"(1) Shutting out, through the winter months, of a large number of their most important workmen; (2) keeping at work regularly those whom they have always found pliant and subservient; (3) doubling up in those mills that are in operation, putting two men at one job, promoting the younger workmen, thus insuring a plentifully stocked market of skilled labor in case a labor dispute might occur. With these conditions brought about, the trust thinks it can safely venture on demanding the reduction of which we have had ample warning recently. That a few thousand workmen must be kept idle during the severe winter season in order to carry out the plan will not, it appears, prevent the trust in carrying out its policy. We have no legal right to demand our share of the work, and moral right ceased to exist with the advent of trusts. We had thought that the consolidation of all the mills under one control would be helpful to both employers and employees; but we have been effectually cured of that delusion. If the American Tin Plate Company can not practice its economies without the wholesale shutting down of mills, and throwing hundreds of its employees out of employment, if it can not pay dividends on its enormous issued stock without causing so much human suffering, then we say that the trust is more of a curse than a blessing.

"These are the exact views of the idle tin workers of our two Pittsburg plants. We have discussed the matter thoroughly these last few weeks, having ample time on our hands to do so."

Of course that is a workman's view. Of course his thoughts and feelings are governed by conditions that are staring him in the face.

Q. (By Mr. RATCHFORD). In substance, do you accept the truthfulness of that statement?—A. Well, you understand I am a manufacturer and have been for some years. Yes. In substance, I rather think there is a great deal of truth in the statement he makes.

CAN THE WORKMEN HELP THEMSELVES?

Q. Now, let me ask you this: The complaint that is made by the writer of that paper is against the treatment received by the workmen in Pittsburg as compared with those in New Castle. Could that complaint not be obviated or removed by a closer organization of these men—if these men in Newcastle were organized and co-operated with those in Pittsburg, as the members of the Amalgamated Association do in other places—they would not work cheaper in New Castle than Pittsburg, and they would not work longer hours and would not produce cheaper material?—A. Yes. Let me state to you that the workmen in the New Castle mill and the workmen in Pittsburg mills are all Amalgamated Association men. There is only one exception referred to, the Monessen mills. No; they are not violating any agreement of the Amalgamated Association.² That is a condition; if this condition still continues, that is a question which they will doubtless consider at their next national annual meeting. It was an industry that gave very steady work to the men, while, as I remarked before, there are fully 80 mills closed down at the present time.

MEANING OF "MILL."—80 IDLE OUT OF 272.

Q. (By Mr. JENKS). Eighty of the smallest mills?—A. The Pittsburg mills are not small mills.

¹ Compare the testimony of Mr. Reid, p. 869, bottom.

² Compare the workman's letter, p. 905.

Q. (By Mr. A. L. HARRIS.) What do you mean by a mill; do you mean a plant?—A. No; a works or firm might have 4 mills; there might be 2 mills owned by a firm; that was the smallest number under one management. There were 4 mills, 6 mills, 8 mills, 10 mills, 12 mills, 20 mills, and recently a 30-mill plant built at Newcastle.

Q. (By Mr. JENKS.) What is the total number of mills owned by the American Tin Plate Company?—A. 272, about, counting some sheet mills they bought.

Q. Of that number about 80 are now shut down?—A. About 80.

Q. At what time did the Pittsburg mill close?—A. Three or 4 weeks ago.

Q. (By Mr. CLARKE.) Were 2 plants closed down or 2 mills?—A. Two plants controlling 22 mills.

THE ONLY HELP FOR THE WORKMEN IS IN STICKING TOGETHER.

Q. (By Mr. RATCHFORD.) I was going to refer to another statement of the paper read. The writer claims that the agreement originated in Chicago is not being carried out?—A. Yes.

Q. And in another case he states, referring to these workmen at Monessen, that they are pliable, and that the independent members of the trade are locked out?—A. Well, he simply hints at a condition; that they are keeping the pliable men there; of course he is looking at it from a workman's standpoint.

Q. That is systematically carried out by the trust in order to accomplish certain ends next year?—A. Yes.

Q. If these men to whom he refers are pliable, and will do the bidding of their employer, will they not do so as well under independent management as under trusts?—A. Well, when distress and hunger visit them, I do not think they would.

Q. You do not think they would?—A. No, sir. Now, I shall have to beg your pardon. I am not here as a representative of labor, and I am not here to talk on the labor question.

Q. The point I want to make is this, that if these men work concertedly with each other in organization (we understand, generally, that they have such an organization, and a very good one)—if they work concertedly with each other, and maintain their prices, scales, and agreement, it would be impossible for the tin-plate trust to bring about these conditions?—A. Yes; I acknowledge all that, sir.

Q. And that, if they did not work in such concerted form, such a condition might be brought about by independent manufacturers?—A. Yes; I admit all that. Of course in a general gathering of that kind that is represented by such large numbers you will always find some weak ones.

CONDITIONS AT MONESSEN.

Q. (By Mr. CLARKE.) Let me ask if there is any particular difference in the cost of living at Monessen and at Pittsburg?—A. No, sir. I should say that the cost of living possibly would be a little higher in Monessen than in Pittsburg; we generally find it so in small towns.

Q. (By Mr. FARQUHAR.) The difference would be in rents?—A. Difference in rents, yes; and then other commodities that you buy, store goods, and so forth. If you will permit me to use the term generally—much higher—oh, yes; a great deal higher in a country place, in small towns, than large places.

Q. (By Mr. JENKS.) Do the men in the plant at Monessen belong to this same association?—A. No, sir. Now, I have very little knowledge of the matter. There was some special method of making black plate, introduced in the Monessen mills, before the trust took hold, and I understand that the trust wanted to experiment with this for 1 year, and the form of labor that was represented in those particular mills did not come within the circle of the Amalgamated Association.¹

Q. (By Mr. FARQUHAR.) They do not come within the scale at all?—A. Yes. Now, that was the idea of that, and I understand the American Tin Plate Company were very obstinate in their demands so far as the Monessen plant was concerned.

UNION LABOR AND STRIKES.

Q. (By Mr. RATCHFORD.) What is the history of the trade as regards strikes? Are strikes very frequent or less frequent under the new combination than they were formerly? Have you had any trade strikes?—A. Oh, yes; there have been several nominal strikes, but not in the mills proper; that is, not in the department that rolls the black plate. There have been two or three strikes in the tin-house

¹ Compare Mr. Graham, p. 861; Mr. Reid, p. 876; Mr. Greer, p. 924.

department. That has been the result of the fact that the tin house, or the labor in the tin house, has resolved itself into an organization, which it never did before the trust came into existence—

Q. Have these strikes taken place under the trust?—A. Yes. They might have taken place, you know, under individual administration, if they had been organized.

Q. But practically you had few strikes or none at all prior to the organization of the combination?—A. I only remember one strike during the existence of the business, and that extended for some 2 or 3 months.

Q. Did that take place in your establishment?—A. No, sir; that was prior to my connection with the general manufacturing of tin plates, that was when I was known to the trade as a dipper.

Q. (By Mr. CLARKE.) You think, then, that the consolidation of the mills under one control has had a tendency to cause labor to organize more effectively than before?—A. No; not as far as the mill labor is concerned, but in the tin house they may. They might possibly have organized if the trust had not become a fact. There never was an organization in that particular department until within the last 6 months, and after that they had some little trouble; but the strikes have not been of any consequence whatever. There were strikes in that particular department, but the trouble did not extend generally; it would only be at this mill, or the other mill, and the matter would be adjusted.

Q. (By Mr. CLARKE.) Is your labor organized? That is in your tinning department?—A. You mean—well, I am not employing any labor at the present time.

Q. No; but you were before?—A. No, sir; it was not organized, no. That is what I stated; there was no organization in the tinning department until within the last 6 months, and it might be due to that fact that some differences of opinion arose; but the differences were only nominal, and they were very readily adjusted. You can readily understand that a new organization would lay down certain conditions that might be a little off color from the point of view of the employers.

Q. You found no great difficulty, but, on the other hand, a convenience in dealing with the Amalgamated Association, I suppose?—A. Yes.

Q. Might that not be equally true in the tinning department?—A. Yes; I suppose the same condition would exist.

PRICES; MARKET REPORTS.

Q. (By Mr. JENKS.) When you sold out your establishment to the American Tin Plate Company you retained your own books, accounts, and so on, I suppose?—A. Yes.

Q. Would it be possible for you to furnish to the commission a list of prices based on your own experience, running back for a period of some years, say the monthly prices of the finished tin plate of standard sizes—the prices that you had to pay for tin-plate bars, and the prices you had to pay for tin?—A. Yes. Permit me to state that I only went into the manufacturing of tin plate—that is, from the bar, from the beginning—in 1896. Prior to that time I was what is known as a dipper. My compensation was very large and profits were large; consequently I was satisfied. That is the reason I did not go into the tin business earlier.

Q. You can give the prices from 2 establishments so far as you were dealing in those goods?—A. Yes; but the prices I would give you as far as the dipping business is concerned might not be of any consequence whatever.

Q. They would be tin and black plate, would they not?—A. Yes; but we made altogether special grades of plate.

Q. You can not give the general—A. No; I made no common plate; still I did make some after.

Q. You can give us the course of wages in those establishments?—A. Yes.

Q. What do you consider on the whole the best trade paper to get these facts from as to prices?—A. You get them from the Daily Metal Report that is published in New York.

Q. The American Metal Market?—A. Yes; they are absolutely correct.

Q. Do you think prices in the Iron Age would be correct?—A. Yes.

Q. (By Mr. CLARKE.) Bulletin of the American Iron and Steel Association?—A. Yes; all those papers would be correct. I never saw any variation of prices in any of those trade papers.

The commission took a recess till 2 p. m.

After recess, 2.12 p. m.

PLANT SOLD FOR 25 OR 30 PER CENT ABOVE COST.

Q. (By Mr. JENKS.) You said that for the last year that you ran your independent plant you had earned a 20 per cent dividend on the investment. I suppose that with business conditions as good as that, when you made terms to sell your plant to the American Tin Plate Company, you got a high price?—A. We got about 25 per cent or 30 per cent over and above the original cost of our plant.

Q. By the original cost of the plant you mean the cost of buildings, or simply the plant itself?—A. The plant itself, together with the machinery.

Q. And the stock you had on hand?—A. No, sir; no. That was a matter that was dealt with separately and was distinct from the purchase price.

Q. Then they offered you in cash?—A. Our stock on hand was sold at market prices which prevailed at that time, for whatever goods or stocks we had on hand. For instance, on the plate I spoke of, 100-pound plate, 14 by 20, we secured the market price that prevailed, \$2.65.

Q. For the plant itself you received between 25 and 30 per cent above the complete cost?—A. What it cost us; yes. The matter was treated in rather an indefinite manner, I believe. When that question was propounded I do not know; there has been a condition of feeling on the part of all manufacturers who were represented in the industry prior to the trust not to communicate as to what they did get. I do not know that there was any particular restraint put upon them. I know I never asked that question of another manufacturer and I do not think a manufacturer asked me the question; but there was a standard price put upon a modern tin plant. There may have been exceptions where a better price was obtained, and there may have been an exception where a less price than that stipulated was obtained; but I think the standard price generally prevailed.

THE COMBINATION'S STANDARD PRICE, \$40,000 PER MILL.

Q. Would you mind mentioning the standard price per mill?—A. No; I do not know that I am under restraint not to answer that question—\$40,000.

Q. Per mill?—A. Yes.

Q. In your judgment, is a mill a fair basis of valuation for a tin-plate plant? For example, would you say that a 10-mill plant was, speaking generally, worth just about twice as much as a 5-mill plant?—A. Yes; approximately; yes.

Q. When you so approximate, do you think it would be worth rather more than twice that much, or less?—A. That would depend very largely upon the person who was building. For instance, a 10-mill plant might be geared, to speak in mechanical parlance, and then again a 10-mill plant might be driven direct. Under these conditions where you drive direct you require more engines and more steam capacity; consequently the expense would be greater.

Q. More than double?—A. Well, it would be almost double, because I do not think it would be the proper thing to run more than 2 mills direct, where you could run 4 mills geared with the same steam power.

TARIFF PROTECTION STILL NEEDED.

Q. In your judgment has the protective tariff on tin plate been necessary for the development of the industry here?—A. Yes, positively so.

Q. Do you think that at the present time, with the industry developed as fully as it is, it is essential that the tariff rate be maintained?—A. No; I should not like to go on record as saying that the present tariff rate was absolutely essential.

Q. When the tin-plate manufacturers could make anywhere from 100 per cent to 20 per cent profit in the industry, with the tariff where it then stood, would you think it essential that the tariff be maintained at something like the rate that was put on?

The WITNESS. At the present time?

Mr. JENKS. During this period that you have mentioned, when you made from 100 per cent to 20 per cent?—A. Fully, so far as this is concerned. I do not think for one moment that if the McKinley tariff had not become a law the industry would have grown as rapidly as it has. It was certainly the McKinley tariff bill that encouraged the industry at that time, because until the McKinley tariff bill was talked of there was not a thought given in the direction of erecting tin-plate mills.

Q. You think, then, it would be fair to say that the tin-plate industry in this country is really a creation of the McKinley tariff?—A. Yes.

Q. Do you think that at the present time if the tariff were removed the industry would be destroyed?

The WITNESS. If removed altogether?

Mr. JENKS. Altogether.—A. Yes. I think I stated to you this morning that it was possible during the last year, when the prices of material were exceedingly low, to make a box of coke plates at \$2.40 that sold at the mill for \$2.60. It would cost us to lay that down in New York—well, the minimum cost would be \$2.78.

Q. At that time?—A. Yes. At the same time they could lay tin plate down in New York, and were laying it down in New York—the 100-pound coke plate, 14 by 20—at \$2.18.¹

Q. At that time?—A. Yes. That was independent, of course, of any effect that the tariff had.

Q. What was the rate of the McKinley tariff act?—A. Two and one-half cents.

Q. (By Senator KYLE.) Specific?—A. Yes.

Q. And under the present law?—A. One and one-half cents. Now, if conditions resolved themselves into the former system, we could not possibly make tin plate without some tariff assistance. I demonstrated that by conditions that prevailed last year.

THE COMBINATION BRINGS NO BENEFIT TO THE COUNTRY.

Q. (By Mr. JENKS.) You have spoken at different times of the arbitrary manner in which, in your judgment, the present tin-plate company does business. Do you think that in such a combination as has been formed there are fair opportunities for savings? Are there really advantages from combination of that kind that might be beneficial to the country?

The WITNESS. Beneficial to the country?

Q. Yes. Can you mention some advantages that you think might exist from a combination of that kind?—A. No, sir; I can not.

Q. Do you think that there is an opportunity for them at times to make a decided saving in cross freights? For example, supposing they have a tin-plate mill in Chicago and another in Pittsburg; they would, I suppose, under present circumstances, fill orders in the neighborhood of Chicago from the Chicago plant and in the neighborhood of Pittsburg from the Pittsburg plant? If they were independent concerns, would there be likely to be cross freight that would involve a good deal of extra expense paid to the railroads?—A. Yes.

Q. Can you say that when the tin-plate officials mention the savings in cross freight from their combination as a benefit to the country they are speaking reasonably?²—A. No; as a benefit to the country, no; because whatever grist they get from that source goes into their own mill.

CHARGE A FREIGHT RATE "EVEN IF THEY COULD HAUL IT FROM THESE MILLS."

Q. In the other case it would go to the railroad?—A. Yes. What I mean to say is, if an Eastern firm—for instance, a Pittsburg jobbing house—buys tin plate from a Pittsburg mill, they are going to charge them a freight rate even if they could haul it from these mills. It is the American Tin Plate Company that is getting the benefit of that condition.

Q. You think they do not divide any benefits that come from that condition with the consumer?—A. Not with the consumer; the consumer does not derive any; the jobber does not derive any.

Q. Did I understand you to say it was the custom of the American Tin Plate Company to charge a freight rate to a Pittsburg dealer, a Pittsburg jobber, when they were delivering the goods from the Pittsburg mills?—A. Yes; charge them a 10-cent freight rate. They charge a 10-cent freight rate, and the freight rate from Pittsburg to Philadelphia would be 16 cents. The jobber in Philadelphia has to pay 6 cents more than the Pittsburg jobber if the goods come from Pittsburg.

DISADVANTAGES THAT COME FROM COMBINATION.

Q. What, in your judgment, are the chief disadvantages of a combination like the American Tin Plate Company?—A. One of the disadvantages was hinted at in that communication that I read to you this morning. As far as it would affect labor, I believe I read the statement that it is a much more difficult matter to get justice, as far as wage is concerned, from a large corporate body than it would be from an independent plant. Then, again, I do not think that they can study economies generally as closely

¹ See table of prices, p. 869.

² See Mr. Graham, p. 855.

as if the firms were under independent management, where a man exercises all the skill and all the knowledge he possesses directly upon the scene of action.

Q. Do you think those the two greatest disadvantages?—A. Those are the two greatest disadvantages.

Q. Do you think of any others?—A. It establishes a bad precedent as far as the general industries of the country are concerned. If they make a success, and maintain an existence, and are able to dominate the conditions, as they seem to be at the present time, it is an encouragement for every industry to form themselves into this same body of power.

Q. And you think this domination of one power in any one field of industry tends to weaken, on the whole, the real strength of that industry?—A. It soon debars us of the liberties we prate about so much.

Q. (By Senator KYLE.) And very much discourages an individual from going into business?—A. Certainly it does.

CAN PAY DIVIDENDS AT THE EXPENSE OF CONSUMERS.

Q. (By Mr. FARQUHAR.) How is it about paying dividends on large stocks?—A. Well, I do not think they can pay them as readily as they can on small stocks, where capitalization is a legitimate one.

Q. But is it not a fact that nearly every one of these combinations has a large surplus of common stock that has been given as a bonus, offered share for share as an inducement for parties to go in for preferred stocks that are selling way down at 70; and with over capitalization, how is it possible for them to ever return any dividends to the public and their own stockholders?—A. Under the present conditions, the American Tin Plate Company can most assuredly do it, or else the management is fearfully out of joint.

Q. (By Mr. JENKS.) By keeping prices at what you consider an uncommonly and extraordinarily high level?—A. Yes.

Q. (By Mr. FARQUHAR.) It is at the expense of the consumer, then, that they can pay dividends?—A. Yes.

Q. Is it your own opinion, speaking generally, and your observation generally, that these combinations are really overcapitalized?—A. Oh, no question about it.

Q. Do you think that men who own mills in good working condition and paying a good ordinary dividend would ever go into any combination of that kind unless there was a remarkably good premium attached to the offer to them of coming into the combination?—A. No, sir; most emphatically, no.

Q. You can always speak of that from your own experience?—A. Yes.

VALUE OF PLANTS WHEN BUILT PERHAPS \$12,000,000.

Q. (By Senator KYLE.) What amount is the American Tin Plate Company capitalized for?—A. Twenty million preferred and thirty million common.

Q. Fifty million?—A. Fifty million.

Q. What is the value of the plants, taking them individually?—A. At the time they were bought?

Q. Yes.—A. I presume they could have been built for \$12,000,000. They can not be built for that to-day.

Q. At the time they were gathered into this aggregation?—A. Yes; at that time, I should say, \$12,000,000.

Q. Twelve million dollars, good will and all?¹—A. Yes.

Q. (By Mr. JENKS.) What did you say the basis per mill was?—A. About \$40,000.

Q. How many mills went into the combination?—A. Two hundred and seventy-two.

Q. (By Senator KYLE.) This \$40,000 includes good will and everything?—A. The \$40,000 includes good will of the mills, property, and everything in these mills pertaining to the manufacture of tin plate.

\$10,000,000 TO THE PROMOTERS.

Q. (By Mr. A. L. HARRIS.) Do you know how much the promoters were to get?—A. Yes; \$10,000,000 of common stock.

Q. (By Mr. JENKS.) Was that stated to the persons who were asked to sell out to them?—A. Yes.

Q. It was an agreement—perfectly open matter?—A. Yes.

¹ See Mr. Reid, p. 884.

Q. You received that information from Mr. Moore himself?—A. No, sir; I read it in the general form of agreement.¹

Q. That was included in the written agreement, was it?—A. Yes. That written agreement was presented to each manufacturer to read.

Q. And you stated that the promoters were to receive \$10,000,000? They were to pay the expenses of organization out of that?—A. Well, I can not say positively whether that was the case. I have been led to draw that conclusion from statements that have been made since that time.

DESPITE HIGH PRICES, \$20,000,000 TO \$25,000,000 WOULD BUILD THE PLANTS TO-DAY.

Q. (By Senator KYLE.) It was represented to you that they could be made to pay a very good dividend on this whole amount under the reorganization?—A. Oh, yes; I was cognizant of that fact myself, being a manufacturer. That is, with the high prices that were prevailing at the time we sold out. Of course, I knew that was the fundamental idea in the character of the project.

Q. (By Mr. JENKS.) You said that at the time you sold out, the property could probably have been duplicated for about twelve million?—A. Yes.

Q. About what would you say it would cost to duplicate them now? You are in the building business. You know what the increase has been.—A. Well, I might be able to put down a mill probably 20 per cent less than a competitor would, having extensive knowledge of the business.

Q. Speaking of your own particular plants?—A. Well, take your machinery and buildings and power service, and it has increased almost 100 per cent.

Q. Well, would you suppose that in the neighborhood of \$20,000,000 or \$25,000,000 would build those plants to-day?—A. Yes.

Q. Not over \$25,000,000?—A. Not over \$25,000,000. I might cite you a few facts and you can draw your own conclusions. For instance, I contracted for building one building in particular, in March, for the sum of \$5,850. I sent in a specification for an identical building six weeks ago, and they asked me \$9,000. For instance, I bought a 30 by 60 Corliss engine for \$7,200. That included a feed-water heater. For a 28 by 60, less in size, they asked me to-day \$10,850. Of course, you gentlemen are fully aware of the conditions of the times; we all expect—

\$40,000 A MILL A FAIR VALUE TO-DAY.

Q. What would you say would be a fair basis per mill for valuation now if you are going to put down mill plants?—A. Oh, I think I could put them up at \$40,000 a mill.²

Q. To-day?—A. Yes.

Q. So you think this basis of calculation that was agreed upon was at that day a very high basis of calculation?—A. Yes, but not to-day.

Q. How many mills are you putting up?—A. We have assembled now 3 mills. We are building for 4 more.

TARIFF NOT THE FATHER OF THE TRUST.

Q. (By Mr. CLARKE.) You have stated that the establishment of the tin-plate industry in this country is due to the McKinley tariff?—A. Yes.

Q. Do you think that, except in that sense, the tariff is the father of the tin-plate trust?

The WITNESS. Of the present trust?

Mr. CLARKE. Yes.—A. Well, it just follows the natural flow of circumstances. It has a relationship, of course, from the statement I made in the morning. Of course, if we had remained as independent plants, it would have been the father of our business on the lines I spoke of. I am not prepared to state, gentlemen, that you would not have seen any tin-plate mills at the present time, but I do know that that was the fountain from which all these streams have flowed. Possibly, in a year or so after the period that I spoke of, somebody might have been able and brave enough to build a tin-plate mill and show conclusively that it was possible to operate tin-plate mills here with a profit.

Q. But, granting that the establishment of the tin industry in this country is due to the tariff, is the tariff the father of the trust in any other sense than that?—A. No, sir; I do not think so.

¹ Compare testimony of Mr. Reid, p. 866; Mr. Moore, p. 960.

² The American Tin Plate Company has 272 mills. See Mr. Griffiths, p. 907.

Q. Would you have ventured to establish your business then or build the mills which you are building now without a protective tariff?—A. I do not think I would have done so, unless I had had an example before me.

DISADVANTAGES OF COMBINATION MAY BE MADE UP FOR BY SAVING CROSS FREIGHTS AND SUPPRESSING COMPETITION.

Q. (By Mr. RATCHFORD.) I want to recur to the excess of cost of production, which you referred to some time ago, of the American Tin Plate Company as compared with the individual manufacturers. Are we to understand that the independent manufacturer has to that extent an advantage over the American Tin Plate Company, or is that excess of cost accounted for in any other way?—A. The excess of cost is accounted for by the fact that all materials represented in tin-plate making have advanced in price.

Q. Is the price not increased alike to the American Tin Plate Company and to the independent manufacturer?—A. To a certain extent. I think I ventured the remark that I really did not know what they were paying. They may be paying very close to the market price, and they may be paying \$10 below the market price per ton for tin-plate bars. The most expensive constituents that enter into the make-up of tin-plate are the tin-plate bars, the labor, and then comes the tinning, or coating, which is very small compared with the other costs. For instance, block tin a week ago was 32 cents a pound; to-day it is 26 cents a pound. That would make a difference on a box of tin plate of 15 cents, which would mean a profit on the normal amount of plate that is turned out per year of \$1,500,000. So that, while it is small in detail, the aggregate is considerable.

Q. The particular point I wanted to refer you to is this: You are understood to have stated that the individual manufacturer is better able to look after details?—A. Yes.

Q. And as a result is able to show a saving that is not shown by the American Tin Plate Company?—A. That is my individual opinion.

Q. Then to that extent you believe that an individual manufacturer, or independent concern, as it is called, has an advantage in production?—A. Yes.

Q. Is that disadvantage that results to the American Tin Plate Company, as compared to the individual producer, compensated for in any other way? Do they make it up in any other way?—A. What, the American Tin Plate Company?

Q. Yes.—A. Well, they would make it up to a certain extent, as far as freight rates are concerned, by shipping to the jobber from the nearer point of manufacture.

Q. Is it not accounted for also in this way, that by closing up mills they suppress competition?—A. Yes, they keep the supply down.

DOES NOT KNOW OF FREIGHT DISCRIMINATION.

Q. You spoke about freights. That is a point I believe you have not brought out yet. Do you know of any advantage that the American Tin Plate Company has over the individual manufacturer in the matter of freight rates?—A. That is, as to any gracious consideration extended by the railroads?

Q. Yes.—A. No, sir; I do not.

Q. There have not been any complaints on the matter?—A. No, sir; I have not heard of any.

SAVINGS IN BUYING—RELATIONS TO PHELPS, DODGE & CO. AND CROOKES & CO.

Q. (By Senator KYLE.) What is the saving in regard to the cost of materials?—A. That is, to the American Tin Plate Company in contradistinction to the independent manufacturers?

Q. Yes.—A. The saving would be considerable by reason of the fact that they are large purchasers.

Q. Do they purchase all their material from 1 firm or 1 or 2 firms?—A. Yes, as I understand it, they buy all their block tin from Phelps, Dodge & Co., of New York. They buy their palm oil, I believe, that they use very extensively, from Crookes & Co.

Q. What per cent do you believe they would save in this way over the independents in the purchase of stock?—A. Well, I do not know. As far as block tin is concerned, I do not suppose they would save very largely, nor in palm oil. It would just depend on the time when they bought. The individual manufacturer might not possess the ability to buy a 6 months' supply. The supposition is that the American Tin Plate Company is able to buy for 6 months, and they would take advantage doubtless of a low market when they made their purchases.¹

¹ See Mr. Reid, p. 877.

Q. It would not be so great a per cent, however, that it could not probably be overcome by the individual?—A. Oh, no. That is, in the economies that he is able to practice that they are not?

Q. Yes.—A. Yes; I would state that individually as my opinion.

Q. (By Mr. JENKS.) Have some of the members of Phelps, Dodge & Co. and Crookes & Co. positions on the board of directors of the Tin Plate Company?—A. Yes; Phelps, Dodge & Co. have Mr. McLean as a director, and Crookes & Co.—well, I think possibly they buy their palm oil from that source in order to administer a kind of poultice for any soreness that might occur there. They were large jobbers and practically closed out of business. They took one of their representatives, Mr. Wells, and put him on the Pacific coast as their sales agent.

PLANTS RUNNING AND PLANTS CLOSED.

Q. You spoke about the fact that 2 of the large plants at Pittsburg had been closed down. Was it not possible, at least, that they were closed down because of the difficulty of securing their raw material, the tin-plate bars, etc.?—A. No.

Q. Why not? I suppose there is a very strong demand and it is difficult to make the supply?—A. I do not think that was it, as far as the tin-plate trust was concerned. Of course, they say that the mills were closed down indefinitely with the possibility of reopening them again for service. They had discharged their superintendents and their clerical force, and I understand were removing the metal from their tinning departments.

Q. What reasons do they themselves give to their men for closing down?—A. They assign no reasons. They are very indefinite; the men chafe because they can get no form of satisfaction as far as the future is concerned.

Q. Is the Newcastle mill running overtime?—A. No; that apparently does not come in.

Q. You run 24 hours a day, do you not?—A. Yes; it is necessary to do that for economy.

Q. (By Mr. FARQUHAR.) The Newcastle mill is running full?—A. They are running full.

Q. So that any production that has come in there is taken up by the Pittsburg syndicate?—A. Yes.

JOBBER'S SELLING AS MUCH AS EVER.

Q. That has frozen them out?—A. Yes, that is my opinion, if the trade is somewhat dull, that they have brought it about largely by themselves. I know, as far as the statement is concerned by some of the prominent jobbers in the country, that they are only buying for their actual wants, and hope that something will turn up in the future whereby they can turn their patronage in some other direction. This matter of brands with the jobbers has been a very serious thing with them and has incurred their resentment.

Q. The demand for tin plate is just as large now as it was in 1898?—A. Well, yes.

Q. It is a great deal more, is it not?—A. Well, the supposition is that it is sympathizing with the general demand.

Q. (By Mr. FARQUHAR.) Any combination that can control 75 to 80 per cent of the whole product of the country, if not more, certainly can maintain prices by putting on the market just so much of the product?—A. The jobbers have been selling just as much plate this year as they ever sold.

EFFORTS TO RESTRICT PRODUCTION HAD BEEN UNSUCCESSFUL.

Q. But a curtailment of the product is a very easy remedy for the purpose of putting the price up?—A. Yes.

Q. Is it not the usual way for manufacturers to do that—to even partially agree among themselves to curtail the output so as to maintain prices?—A. It is customary; yes. We have never had an agreement amongst ourselves; we have never felt able to do that.

Q. You have striven to do it?—A. We have striven to do that, to formulate an agreement, with reference to carrying out that thing. But I do not know whether it was a lack of honor on the part of some of us or not. They generally found an opening that effected a breach in the agreement.

PRICE NOT LIKELY TO FALL SOON—ADVANCE IN WALES.

Q. As you are going into the business now again, probably competing with these people, have you an idea that under present conditions, and if there is no change made in the tariff—although there are threats that there will be—the price of tin plate

to the consumer will be anything lessened in the coming year or two?—A. Under present conditions?

Q. Yes.—A. Yes; it might be somewhat less—that is, if there was a change in the tariff. That was the question you put, was it not?

Q. Do you think that independent of the combine the prices would naturally fall away from what they are?—A. I do not think so.

Q. Then you believe in a combine to arbitrarily hold and control prices, provided the combine is strong enough?—A. I do not believe in that.

Q. Do you think it is human nature to do that?—A. It is human nature to do the very best you possibly can for yourself and those closely connected with you.

Q. That is right.—A. Pardon me, there has been an advance of about 72 per cent on the foreign output, on the Welsh tin plate, and about 81 per cent on the domestic within the last 4 months. The Welsh tin plate is unusually high, by reason of the high price of materials over there.

TIN PLATE IMPORTED.

Q. Is the American market—the United States market—very much cut off from the Welsh manufacturers?—A. Very largely; yes. There are some grades there that are made from what is known as open-hearth material, which is somewhat better than our open-hearth material here. The material is known to the trade as Siemens.¹ There is more ductility and tenacity in the material itself; and that ductility and tenacity is required for some special purposes. But then that represents a very small percentage of the tin plate.

Q. (By Mr. JENKS.) Do you know whether there is any imported, with the idea of receiving a drawback, to be reexported?—A. Oh, yes, yes; the Standard Oil Company very largely follows that practice.

Q. They buy it cheaply?—A. They buy across the water of some large manufacturers.

Q. And they do not buy very much of the American product?—A. No, I will not say that; I know in 1898 I sold them some myself.

Q. But they buy largely abroad?—A. Yes. Mine was an emergency order

A SIX-MILL PLANT QUITE LARGE ENOUGH.

Q. (By Mr. A. L. HARRIS.) What sized plant, measured by the number of mills in the plant, can be operated with the greatest economy, in your opinion?—A. Well, in my opinion, when you exceed six mills you have too much for one man to look after and look after economically. The larger your mills the larger your leakage, in consideration of the innumerable details that I spoke of this morning. I have been given to understand that across the water four-mill plants could be worked to greater advantage and more profit than larger plants. That has been generally understood and very frequently published.²

Testimony closed.

TESTIMONY OF MR. H. F. GOING,

Retired canner and manufacturer of tin cans.

The commission met at 2.12 p. m., Chairman Kyle presiding. At 3.10 p. m. Mr. H. F. Going was introduced, and, being duly sworn, testified as follows:

Q. (By Senator KYLE.) State your name and address.—A. H. F. Going, Baltimore, Md.

Q. (By Mr. JENKS.) You have been engaged in the manufacture of tin cans?—A. I was engaged first in the canning of hermetically sealed food, and incidentally we made the cans or packages that contained the food.

Q. For how long were you in this line of business?—A. My first entry into the canned-goods industry was in 1864, and up to a recent time I had been engaged continuously in that line of business. I still retain a small interest in it, but at this particular date am not actively engaged as much as previously.

FORMER PRICES OF IMPORTED TIN PLATE.

Q. For how long a time were you engaged in the manufacture of tin cans?—A. From 1868 to 1894.

¹ See Mr. Taylor, p. 932.

² See Mr. Greer, p. 925.

Q. Will you be kind enough to tell us what the effect of increases in the price of tin plate has been, according to your business experience, upon the industries with which you were connected—in the first place upon the manufacture of tin cans, and afterwards upon the tinned-goods industry?—A. Going back to the earliest period in which I took particular notice of the price of tin plate, I would state that at that time we received all our supplies from England; and as the value of the greenback rose or as gold declined, so did the price of tin plate vary. After it got down to a basis of \$5 or \$5.25 a box, during the dull period on the other side, we manufactured cans on that basis very cheaply. Later on industrial activity increased on the other side and the demand for iron sprang up; and as pig iron is the thermometer of trade, prices of tin plate went up in harmony with the prices of pig iron, and values went back to \$7, \$8, and \$9 a box; and so throughout the various years of changing trade, until about the time of the McKinley tariff bill.

EARLY IMPERFECTION, AND LATER IMPROVEMENT, OF AMERICAN TIN PLATE.

Shortly after that we commenced to get occasionally a little lot of American plate; but the American plate was not at first satisfactory, for the reason that it was not rolled by men away up in their line, as they are to-day. It was rather irregular in manufacture. In addition to that we found that the phosphorus and sulphur had not been sufficiently taken out of the plate, and it was rather brittle. In the stamping up we found it would often crack. But by the improved American methods the quality of plate improved, as well as by the improvement of American machinery, which, as I understand from the report of the president of the Royal Institute of Engineers of England, is so far superior to the English machinery used in the production of plate that they are left behind in the race. Did they not have the cheap labor on their side they could not hold themselves up in competition with the price of American plate. That was at a period when plate was selling at about \$2.60 a box at the mills. With the introduction of American machinery there, he stated, and with the low rate of wages paid to their operatives, they need not fear as to the result from competition from anywhere. I hear that they have adopted a great many of our mills over there in their manufacture, and are introducing more. After a while the quality of the American plate improved to such an extent that to-day, with the two side by side at the same price, the average can manufacturer will take the American plate. The skill of the workmen has produced a better result; the tin is softer and more ductile; it has a better coating.

RECENT DETERIORATION OF TIN PLATE.

It did have a better coating, but I understand lately, since the formation of the American Tin Plate Company, that they are reducing the surface coating to such an extent that the canner now—the manufacturer of cans—has commenced to be a little apprehensive. That coating, as has been stated to you, is done by dipping, and after it comes out of the dipping tank it goes through something in the shape of a machine called a squeezer. But in the years I am speaking of, when we imported tin plate, there were 5 pounds of pig tin used to 100 pounds of black iron. They have reduced it now to a basis of about 2½ pounds. And the action of salt on the interior of the can in the liquor in which the article is preserved, like a vegetable, or the action of an acid in the case of fruits or tomatoes, has oftentimes an injurious effect on that plate because it has such a thin coating. You can almost, as it were, see the pores, if it may be expressed so, of the iron through the coating.

Q. Do I understand you to say that this deterioration in the quality of tin, or at any rate the lessening of the thickness of the tin coating of the plate, is new since the formation of the American Tin Plate Company, or did it begin 3 or 4 years ago?—

A. No; it had already commenced with the tightness of business. The closeness of competition had commenced it on the other side and extended it here.

Q. You have noticed that for the last 4 or 5 years?—A. Yes.

Q. You think the quality of tin plate that is sold by the American Tin Plate Company to-day is not poorer than that which was sold 3 or 4 years ago to the manufacturers—a year ago?—A. That is the case.

Q. You hear it is still poorer?—A. The can manufacturers say that the coating now being of such thinness has given them considerable trouble, and that it is not equal to the quality that was furnished them before the trust went into effect, and when a mill, as it were, had to stand upon its own bottom.¹

¹ Compare affidavit of Mr. Greer, p. 926.

CAN MANUFACTURERS WANT GOOD TIN PLATE.

The can manufacturer wants to get the best quality he can for his money, for the reason that he is responsible to the canner for the value of the can and the value of the contents. He has to pay for both if the can is spoiled through any imperfection in the tin plate. Therefore he is very particular from what mill he gets his supplies. A mill in Indiana, called the Elwood, was getting quite a reputation for perfection of manufacturing, and other mills in proportion. Some of them that did not stand so well—their product had to be sold for a less price. If you picked out your brand, you were expected to pay 5 cents or a dime more per box in order to get the quality that you wanted.

Q. Is it customary for the manufacturer of tin cans to have some favorite brand and regularly to buy that brand so that they can always be sure of their quality?—A. He would always take one certain brand in preference, because he had used it and found it to be satisfactory and was unwilling to change.

Q. And was ordinarily willing to pay 5 or 10 cents a box more?—A. That amounts to very little when you figure that a box of tin plate of 100 pounds would turn out 270 cans. The 5 cents or a dime a box would not make very much difference. But where he had to pay for the can and contents—the can he would sell probably for 1½ or 1¾ cents, and when the contents got into it it would run up to 15 or 25 cents; that was his reason why he was so particular in getting the quality of plate.

Q. You think that the ownership of brands and the keeping up of the quality of the brands as it was originally is a matter of great importance to the tin-plate manufacturer or to the jobber selling to the tin-can manufacturer?—A. It would be more important to the manufacturer of cans, because he would like to adhere to that; but where he has to take what he can get and has no voice in the matter, of course he is not so well satisfied as he would be if he could get what he wanted.

SHORTAGE OF CANS IN THE SUMMER OF 1899.

Q. In your establishment do you manufacture more cans than you need for your own canning industry?—A. At times.

Q. You have a surplus to put on the market?—A. We kept our men working as long as we could, and when we could not find use for the cans in our own canning industry we would sell to some party who did not have a can shop.

Q. Did you find in your business experience that a decided increase in the price of tin affected the demand for tin cans materially?—A. Not to such an extent as one would think. The man that wants cans wants them in his packing season, and then, like the gentleman from Texas with his gun, he wants them bad, because the articles are of a perishable nature. If he does not have the cans right there his raw material will spoil on his hands. That was the case this summer to a great extent in Maryland and also in California. The cans could not be furnished fast enough, and a good deal of the raw material had to be thrown away.

Q. What was the reason for that; because there was an unusually large output so far as the material for canning was concerned, or because there was a short supply of cans and of tin to make cans from?—A. The increase of business in general throughout the country stimulated a larger demand for goods in cans than had been the case heretofore. During the dull period the consumption of canned, tinned food goes off considerably, because the purchasing power of the average consumer is gauged by his receipts, his wages, and at the low scale of wages under a limited sphere of operation they had to limit their supplies. When the good times came in recently the canner or can manufacturer was overwhelmed with orders. Previous to the formation of the American Tin Plate Company notice had been given of the formation or of such an arrangement. These individual mills sent notices around to their friends that they believed that there would be a trust formed, and they had better get in under cover. Immediately orders were placed, to my own knowledge, of from 40,000 to 100,000 and 150,000 boxes each by individual can-manufacturing concerns. When the trust was formed it took in all the outstanding contracts, and there were a great many of them. I suppose it was the exception to find a man in the manufacture of tin cans but what had in a great measure supplied his needs.

Q. For a year?—A. For a year. And the American Tin Plate Company at first shut down a great many mills. I do not know for what purpose; some people thought to get them up in better shape or something. But when the time came for delivery, as specified in a contract—for instance, for March delivery—the can manufacturer did not get them, and he had to do the best he could. He had to go out and buy somewhere else to supply his needs, and he did not get them sometimes for 30 and sometimes 60 days after. Well, what could he do? He could not really go

out into the market and buy them for the account of the trust. He did not care about getting in bad odor with them. The supposition was that they controlled 95 per cent of all the plate mills in the country. So he did the best he could. That threw some of the manufacturing plants in cans out of the market for a while. For the time being it threw them out of the manufacturing and they had to wait. I refer to examples that I know of. Some of them were shut up for two weeks and some a little longer, because they could not get any plate and the trust was behind in deliveries. Gradually, though, as the summer rolled around, the deliveries commenced catching up, and by September there was very little complaint on this score; but by that time the season practically was over for the manufacture of cans.

Q. Do you ascribe that large demand for can goods, to any material extent, to the war in Cuba and the Philippines?—A. No; not to any great extent. During the war in Cuba the Government bought about two hundred odd thousand cases of canned tomatoes, and also other articles. But when you reflect that the canning trades of this country have an output of over 500,000,000 cans, you will understand that the Government purchase of 200,000 cases of 24 cans each did not cut much figure. It is the general resumption of business that has made the demand for canned food.

Q. How large a part of this demand for canned goods comes from abroad? How much of an export trade is there?—A. To a very limited extent compared with the home consumption. For 7 years I did the largest export business, I think, in Baltimore, and I endeavored to spread that export business; but I was handicapped in every direction by the tariff that was imposed upon it in the different countries, and I found eventually that it was useless to try anywhere except in England. In England we sold lots of goods, principally, though, in tomatoes.

Q. What kind of goods did you can mostly?—A. Everything in the line of fruits, vegetables, and oysters.

PRICE OF TIN PLATE CAN HARDLY AFFECT THE CONSUMPTION OF CANNED GOODS.

Q. Does the increase in the cost of the tin cans affect, to any noticeable extent, the prices of canned goods?—A. No; I think not, for the reason that before the advance in tin plate the price of a 3-pound tin, which is the ordinary quart tin, you might call it, was a cent and a half, and I should say it went up, through the excitement of last summer, say to 2½ cents. That is a cent a tin, or 12 cents a dozen. I hardly think that the average consumer would stop buying any line of goods because of an advance of a cent a can. To-day it is about three-fourths of a cent.

Q. Then you would say that an advance in the price of a box of tin plate, base, from \$2.60 to \$5.50 would not affect the consumer of tinned goods to any extent?—A. \$5.50? \$4.65 is the highest now.

Q. I am putting it high.—A. At \$5.50?

Q. Yes.—A. It would depend on the times. If there are average good times I do not think they would stop for the difference. My opinion is that when it comes to an article of food the consumer denies himself less in that than anything else.

EARLY ORGANIZATION AGAINST CONVICT LABOR.

Q. During your experience in the canning industry, have there been organizations, combinations, among the tin-can manufacturers or among the canners?—A. Yes; we commenced first with an organization among the canners, which was in 1866.

Q. I wish you would give us a brief sketch of these combinations among the canners.—A. That was brought about in order to put a stop to the making of tin cans in the penitentiary of the State of Maryland. A man from Connecticut, by the name of Porter Cook, had a contract with the State officials for the hire of convicts, on a basis, I believe, of 50 cents per day. In 1864 all things were on an inflated scale, and wages were high compared with what they were later on, and our men made from \$3 to \$4 a day. The fact that men who were good enough citizens to stay out of jail were having their wages brought into competition with men who were unfortunate enough, to say the least, to get into jail, induced the can manufacturers and the journeymen can makers to get together and form an association with the idea of putting a stop to that. By marching in procession with bands of music, and showing the political power they held, these journeymen can makers prevailed upon the legislature to repeal that law. That was the first combination in the canning or can manufacturing industry.

CANNED-OYSTERS COMBINATION.

In 1868, competition became very close among the canned-oyster packers of Baltimore, and they formed an association or combine, industrial combination you may

terms it, in which the minimum forfeit to be paid was \$1,000. They fixed a stated price to sell their goods by, and they made such profit that someone who did not share in the sales to the extent that others did commenced cutting secretly, and within a twelvemonth the combination broke up completely in confusion.

LABOR UNION—HIGH WAGES—MACHINERY.

Shortly after that the operatives in the can shops got together and formed an association and called it the Can Makers' Mutual Protective Association. The idea was to maintain a scale of wages and to stand together in case of an advance. In 1879—

Q. (By Senator KYLE, interrupting.) In case of a decline—to stand together in case of a decline?—A. Well, I do not think they were considering a decline, because we never had had any reduction so far in the wages.

Q. What was your statement that they agreed to stand together for?—A. To get an advance, because that was one of the first things they did. They were making then on a basis of \$2.50 a day, the journeymen can makers, and the first thing they struck for, after being in good practical condition, was an advance of 20 per cent, and they ran along up until finally they got it over a hundred and odd per cent; and they made the mistake then of working only 3 days in the week, because they reasoned, if they could work 3 days in the week and make the same wages that they could in 6, what was the use of working the other 3 days? And the other 3 days were used, in many instances, in riding around in hacks and going fishing. We did not get any more output and they did not get any more out of higher wages. While some men worked steadily and made \$50 a week, others were still satisfied with \$15; but they had 3 days' worth of fun and the other men did not have any. That association ran along for some time and affected wages. But finally machinery commenced to show itself in the manufacturing of cans, on account of the frequency of these strikes, and on account of the strength of this combination. Men became restive under these influences, and the manufacturer of cans commenced figuring to get away from being dictated to by his employees. And then the ingenuity of man went to work and the first machine, got out by a man named Brooks, was the starting point for all the vast machinery that has come out since. And to-day the men who work in the canning shops of the country, making them by the old process, are so few that they do not figure in the output. Machinery to-day makes the great bulk of cans.

NEW COMBINATION OF OYSTER PACKERS.

Now, a combination later on of the packers of Baltimore was put in the shape of these later-day trusts; that is, a stock organization. Each man bound himself to enter into that. That was in 1878, brought about by the dull times that were prevailing in that year. And they went into the combination, or stockholders' organization, to control the sale of the entire output of the canned-oyster industry of Baltimore, which, at that time, was the only oyster-packing port of the United States. The first year their profits were over 100 per cent; the next year, as they had taken in a great many outside concerns that were not really in the oyster business, they had to pay a dividend on a largely inflated basis, you might call it. In other words, they had to pay for idle plants, and the second year the profit was much less. And the third year an opposition came up, which, at the formation of the association, was denominated, as it might be, the tail of the arrangement. We left out one or two concerns, and as they stated at the time these concerns were really the tail and we were the dog, and the dog would wag the tail; but by the third and fourth years the profits at which we had worked had evolved a number of opposition houses, to such an extent that the tail commenced to wag the dog, and we found it prudent to break up our concern and go back to our original condition. Then competition set in for a number of years, and at different times industrial combinations have been formed by the canners of Baltimore, but rarely have they lasted over a twelvemonth or 2 years.

THESE COMBINATIONS MADE THEIR PROFITS BY RAISING PRICES.

Q. (By Mr. JENKS.) In what form have these later ones been, that of pools or agreements to hold prices?—A. Pooling and affidavits to prevent the cutting of prices and so on. And to-day, and for a number of years past, there has been no organization. They fear now that anything of that character would have to be capitalized at a rate that would put them beyond the economical point of production.

Q. Has there been at any time a combination between the Baltimore canners and the canners elsewhere, or have these organizations been confined simply to Baltimore?—A. Only to Baltimore. There have been no organizations elsewhere. But recently, within this past twelvemonth, they have commenced to get together in

California, and they are now discussing a combination of all the New York State canners, and they are getting in line with the general idea that by consolidation economies can be practiced and bigger dividends paid.

Q. From the experience you have had with these combinations in Baltimore, what is your own opinion of that matter? Is there any special saving by combination, or did you simply make your profits of 100 per cent or less from the added ability that you had to put prices up on the consumer?—A. Our idea was that by consolidation we could stop the competition.

Q. You really expected, then, to get your profits from the increased price and not from any economy?—A. Precisely. We thought that where we were competing one against another, if we could get together as one seller we could make our own prices; and that was the practical result for a time.

MANUFACTURERS WOULD PREFER TO HAVE THEIR MEN IN A COMBINATION, PROVIDED THEY COULD CONTROL IT.

Q. In these various combinations that the manufacturers made, did they make any attempt—did they express willingness to divide their profits with their employees in the way of increased wages?—A. Never; they were looking solely for their own benefit.

Q. When the employees got their increase of wages, it came through their own combination forcing it from the employers?—A. That is all. I would say that at a later day the manufacturers favored a combination that would make permanent figures and stay there, if they could make a contract with the men for the period of a year, which was the longest, at least. But machinery at that time had come in, and finally the machinery practically drove the journeymen out of business. For a number of years they did have an arrangement with the employees that was very satisfactory. They had regular wages paid right along, and they had no trouble. As a general thing, I believe that the manufacturers would prefer to have their men in a combination, provided they could control it. But, before, the combination could not be controlled; the man that would talk the most and was probably worth the least in the combination would probably influence the men there, and that would draw the men out to strike at perhaps the wrong period.

Q. These combinations that you speak of were among the canners. Did you also have similar combinations among the can manufacturers of that kind?—A. They did, but they could not hold together as well as the men. They invariably gave in after standing out, for the reason that they had contracted for the delivery of the cans at specified times; and, as I have already said, they wanted those cans very bad, and they had to deliver, and they could not stand out against the men. The men could stand out longer than the manufacturers.

Q. (By Mr. JENKS.) Have you any suggestions that you would like to make with reference to monopolies in general, or to combinations?—A. No; I have no suggestions to make. I have not much of an opinion of combinations; I believe they generally fall by their own weight.

Q. (By Senator KYLE.) Fall by their own weight? Tell us what you mean by that. That is frequently referred to in the newspapers and in the testimony.—A. All the combinations that I have been in were not able to hold themselves together for an indefinite length of time; and if I may judge by those that I have been in, they do not seem to be able to stand up indefinitely.

POOR TIN PLATE MAKES CANNED GOODS UNRIGHTLY.

Q. (By Mr. JENKS.) I judge from what you said in reference to the American Tin Plate Company that you consider that its check upon the manufacturing of tin plate was, for a part of the year at any rate, a detriment to some extent?—A. I have not the slightest doubt that if any can manufacturer were put into a position where he could only buy his plates from one individual, on general principles he would kick against that.

Q. You think he could not count so well upon the quality of his tin?—A. If he could not import his plate, he would have to take what he could get.

Q. And you think your experience the last year would justify the belief that the American Tin Plate Company is not giving them so good a quality of tin as they were counting on?—A. That is the report that I have heard—that the quality of the tin plate is not so good as it was before.

Q. (By Mr. A. L. HARRIS.) What effect has poor tin manufactured into a tin can upon the consumer of the canned goods, where acids are affecting the tinning, even if the contents are not spoiled?—A. The iron that forms the body of the plate is a healthy metal. The doctors give it to us occasionally. That would have no effect

on the health of the consumer. A can that is hermetically sealed has comparatively little oxygen in it or life to start fermentation, and it remains in statu quo for a period of a great many years. It would have this effect where that coating is very thin, that in opening the tin, you would find the can more discolored inside, from the fact of the coating being so light, than it would be where the tin had been redipped, as explained this morning by the witness before me. The can made of tin plate which had been dipped once or twice and had a better coating would be a much better-looking object on the inside. I think it would have no prejudicial effect on the consumer, even with that light coating.

Q. When a man opens his can and finds the contents in that condition, it detracts very much from the value of the goods in the opinion of the consumer?—A. Well, from the point of view of the sight, if you opened a tin and found it very much discolored inside it would not look quite so nice as it would with a perfectly bright interior.

Q. (By Mr. FARQUHAR.) Is not the quality determined by the packers themselves, by unseasonable packing, overripe packing, and a good many other causes?—A. There are a great many factors that would enter into it.

Q. That would enter in independent of this tin matter?—A. If an article was green or overripe or partly decayed, all those are facts that would enter into the healthfulness and sightliness of the article.

CAN MANUFACTURER GUARANTEES AGAINST DEFECTS.

Q. (By Mr. JENKS.) Did I understand you to say that the manufacturer of the tin cans guaranteed the preservation of the goods that were canned?—A. No; but if the preservation of the goods was impaired by the fact of a default in the manufacture of the tin or the can, then he has to pay.

Q. That is what I mean; guaranteed so far as that goes?—A. If that can broke in the forming up and there was some little leak not bigger than the point of a needle, the action of the atmosphere getting in there soon starts fermentation, and of course with fermentation come the gases and distention of the tin, and it becomes unsalable.

Q. Goods that are spoiled in that way are sent back to the tin-can manufacturer to pay for?—A. They are sent back to him as proof that the defect is there; he examines them, and if he finds that it is so he has to pay for them.

CAN MEN DO NOT YET FEEL THE NEED OF NEW LAWS.

Q. (By Mr. CLARKE.) Do your studies and observation of economy in relation to industry suggest to you the need of any change in existing laws for the protection of the people?—A. Well, so far, those laws have not been oppressive. As I said before, the can manufacturer, in the instances that we are speaking of, has so thoroughly supplied himself with material that he has not felt the pinch yet. When the time comes that he has to take what is given him and pay the price for it, then he will commence to feel restive, and then possibly feel the need of some legislation that will relieve him from the peculiar position.

Q. If the management of a large consolidation like the American Tin Plate Company is far-sighted and liberal, or if there is considerable competition, will that time come when there would be a pinch and he would need some public relief?—A. I do not think that they would say that there was any need for legislation until they get pinched.

SOURCES OF TIN PLATE—IMPORTED FOR EXPORT TRADE.

Q. (By Mr. FARQUHAR.) Was any part of the output of the Cumberland mill used in Baltimore?—A. Oh, yes; we used materials from different parts of the country—more particularly, though, did we in Baltimore get it from Indiana. There was more tin plate used in Baltimore from Indiana than from elsewhere—and from Newcastle. I suppose Newcastle furnished possibly more tin to Baltimore than even the Elwood plant did.

Q. Is there any difference between the tin that you use in the domestic trade and the export trade in quality?—A. In the export trade we invariably used the imported article. We did not think it quite so good as the domestic; but as we got a rebate of the entire amount of the duty paid, with the exception of a slight percentage, we used that in preference to the American plate. But the export trade out of Baltimore is not such an item. Out of California it amounts in fruits alone, I suppose, to about 500,000 cases of fruit a season. In the salmon industry it will run up probably to three times as much.

COMPETITION OF GLASS CANS IS NOT FORMIDABLE.

Q. (By Mr. RATCHFORD.) To what extent has the industry in which you are engaged been affected by the earthenware and the glass jar for the purpose of fruit canning?—A. Not to any extent appreciable.

Q. Have you any competition from that source?—A. There are certain people that use goods put up in glass packages instead of tin, for the reason that they believe the glass probably is more healthy; but the difference in the selling price is so great that oftentimes the storekeeper will say to them, "Why, here is the same goods in tin at 40 cents a tin for which you pay 60 cents a glass jar," and show them the difference.

Q. (By Mr. FARQUHAR.) Is not the glass jar used also almost altogether for the home packing; that is, domestic packing?—A. At home? Oh, no; there are a great many tins made, what we call the open tops is not such a great item, but still it is considerable. The tin open top cans and the glass jar are the only packages used by the average housewife. The average housewife thinks, of course, her own productions superior, and in a great many cases they are. She puts them up in glass; occasionally in tin.

Q. (By Mr. RATCHFORD.) Is it not a fact that glass jars are more extensively used for that purpose to-day than ever before?—A. Yes, and it will be still more the case since they have been able to reduce the price of fruit jars. At first I paid \$16 a gross for glass jars in 1868. To-day that same jar can be bought for \$4.50.

Q. How do you account for the great reduction in prices?—A. By decreased cost of manufacture and improved methods of manufacture.

Q. Machinery?—A. Not so much machinery, I think, as it is that they have been able to produce a greater output per man.

Q. Well, it is a fact that they manufacture such jars by machinery?—A. They do now within a very recent period, but it is confined, I think, to a few houses. Ultimately I think it will be extended everywhere; for the machine-made jar is superior to the hand-made.

Q. Are glass jars used by you in canning?—A. Not in our city. The only place where glass jars are used in canning is at sundry points in New Jersey, the city of Providence, and Petaluma, Cal. I speak now of factories; that is all.

Testimony closed.

AFFIDAVIT OF MR. GEORGE GREER,

District manager of the American Tin Plate Company for the New Castle district, New Castle, Pa.

The following communication, written as a personal letter, is verified by Mr. Greer's affidavit, p. 9.30.

NEW CASTLE, PA., December 8, 1899.

HON. THOMAS W. PHILLIPS,
Vice-Chairman Industrial Commission, Washington, D. C.

DEAR SIR: I had hoped to have the pleasure of an interview with you during your recent visit to New Castle, but was not aware that you were in the city until after you had left.

I address this letter to you entirely on my own responsibility. No stockholder or officer of the American Tin Plate Company has made any request or intimation to me suggesting that I address you. I know that you have had very large experience in business enterprises, and as a stockholder and director of the American Tin Plate Company, and one of the pioneers, as you are aware, in the tin-plate industry in this country, particularly in New Castle, I wish to call your attention to a few matters that have come to my notice through the press.

In the Iron Age of November 23 I see that Mr. Griffiths, of Washington, Pa., appeared before your honorable body and gave some evidence with reference to the cost and profit on tin plate. Mr. Griffiths was formerly engaged in a small dipping plant near Pittsburg, and afterwards was one of the parties who were interested in the Washington Tin Plate Works. Those works were sold to the American Tin Plate Company, and I have personal knowledge, from interviews and statements made by Mr. Griffiths at a number of meetings of the manufacturers before the new organization, that he was then decidedly of the opinion that it was necessary for some combination or "gentlemen's agreement" to be made as to maintaining prices, in order that the manufacturers might make a reasonable and legitimate profit from

their investment. It was reported to the management of the American Tin Plate Company by one of their competent experts that when the American Tin Plate Company took hold of the Washington mill they found the tinning department in practically the worst condition of all the mills in the Pittsburg district. The condition of the tin-plate works at Washington was such that it was absolutely necessary to make a change in the management of the tinning department, which necessarily displaced Mr. Griffiths and brother. Whether or not the change of superintendence in the tinning department at the American Tin Plate Company's Washington plant could have influenced Mr. Griffiths in any way as to his testimony I can not say, but I notice that he volunteered a very large amount of information, a considerable quantity of which was merely assumption on his part, and an unbiased reader can hardly come to any other conclusion after having carefully read and analyzed Mr. Griffiths's statements, if put correctly in the Iron Age of November 23. I will, however, call your attention to a few of the statements made by Mr. Griffiths, which, if made as reported, were not correct; and if he is mistaken in one or two items it is quite likely that he is mistaken in many.

First. He says that when plates were worth \$5.75 per box he made 100 per cent profit, and when they were worth only \$2.60 about the time the American Tin Plate Company was organized, he cleared 20 per cent profit, and that he never made less than that as a manufacturer. I am prepared to prove to you, from the cost sheets of mills thoroughly equipped and organized, that if Mr. Griffiths paid 100 cents on the dollar for materials and labor, either he is mistaken or he had no actual knowledge as to what his costs were. A box of tin plate is based on 14 by 20, 112 sheets, or 31,360 square inches surface measure. The New Castle mills were built and in operation much earlier than the Washington Tin Plate Company. The first sale of coke plates made by the New Castle mill was to a Chicago buyer at \$5.10 per base box delivered f. o. b. Chicago, less 1 per cent cash 10 days; and from this time the price of coke plates constantly declined until it stood at \$2.50 to \$2.60 f. o. b. mill for about 6 months prior to the organization of the American Tin Plate Company. The average price of the first 3 months' operation of the New Castle mill was \$5 for coke plates delivered f. o. b. Chicago and New York, which would net not over \$4.75 at the mill.

At that time our steel billets cost \$18.10½ per ton; pig tin 21½ cents per pound, and general supplies less than now; and it was then costing us about \$3.50 per box to make the plates above referred to. The present market price of steel is almost double, and pig tin is very much higher; materials for repairs and general supplies are higher to-day than at the time when the New Castle works were first put in operation; and at that time the prices paid for tonnage and general labor were lower than the prices that are now being paid. The increase in the cost of the raw materials and supplies used over the cost of the same materials used during the last half of 1893, the time above referred to, without adding anything for increased cost of labor, comes very close to \$1 per basis box of finished coke tinned plate. There is no company in existence that started at the time when the New Castle works did but had to spend thousands of dollars in experimenting and discarding useless machinery that was suggested by our Welsh friends who came over to America to teach the Americans how to make tin plate. During the period of excessive low prices for tin plate, which was during the year 1893, coke plates were selling at from \$2.50 to \$2.60 at the mills. At that time tin-plate bars, pig tin, palm oil, lumber for boxes, and all necessary mill supplies were purchased at the lowest prices that have prevailed during the past 7 years; but no mill in the Pittsburg district could make a box of coke plate under \$2.40 at actual cost, and if Mr. Griffiths was making a box of tin plate at \$2.40 he was doing very much better than any mills we know of with similar equipment. But for the sake of analyzing his statement we will assume that his cost of \$2.40, as stated by him, was correct, and that at the time the American Tin Plate Company was organized he was clearing 20 per cent.¹ If so it would require him to sell his plates, based on a cost of \$2.40, at \$2.88 per box net. It would be necessary to allow the buyer 1 per cent cash discount, and probably a commission to some jobber or salesman, which would require plates to sell somewhere in the vicinity of \$2.95 for coke tin plates, net at mill. If Mr. Griffiths actually did secure 20 per cent profit, based on the cost of \$2.40, he must have been selling his plates fully 33 to 35 cents a box above the average market price for No. 1 quality coke plates. As to his statement that plates were worth \$5.75 per box, no such price was obtained for coke plates by any manufacturer, unless it may have been in one or two box lots; no such price was obtainable by any of the large well-known mills for established brands of No. 1 coke plates. If Mr. Griffiths refers to plates that he may have sold before he

¹ See pp. 897, 898. Mr. Griffiths's statement was not that he made 20 per cent on his cost per box, but that he made 20 per cent per annum on the capital invested.

COMPETITION OF GLASS JARS IS NOT FEARFUL.

Q. (By Mr. RATCHFORD.) To what extent has the industry in which you are engaged been affected by the earthenware and the glass jar for the purpose of fruit canning?—A. Not to any extent appreciable.

Q. Have you any competition from that source?—A. There are certain people that use goods put up in glass packages instead of tin, for the reason that they believe the glass probably is more healthy; but the difference in the selling price is so great that oftentimes the storekeeper will say to them, "Why, here is the same goods in tin at 40 cents a tin for which you pay 60 cents a glass jar," and show them the difference.

Q. (By Mr. FARQUHAR.) Is not the glass jar used also almost altogether for the home packing; that is, domestic packing?—A. At home? Oh, no; there are a great many tins made, what we call the open tops is not such a great item, but still it is considerable. The tin open top cans and the glass jar are the only packages used by the average housewife. The average housewife thinks, of course, her own productions superior, and in a great many cases they are. She puts them up in glass; occasionally in tin.

Q. (By Mr. RATCHFORD.) Is it not a fact that glass jars are more extensively used for that purpose to-day than ever before?—A. Yes, and it will be still more the case since they have been able to reduce the price of fruit jars. At first I paid \$16 a gross for glass jars in 1888. To-day that same jar can be bought for \$4.50.

Q. How do you account for the great reduction in prices?—A. By decreased cost of manufacture and improved methods of manufacture.

Q. Machinery?—A. Not so much machinery, I think, as it is that they have been able to produce a greater output per man.

Q. Well, it is a fact that they manufacture such jars by machinery?—A. They do now within a very recent period, but it is confined, I think, to a few houses. Ultimately I think it will be extended everywhere; for the machine-made jar is superior to the hand-made.

Q. Are glass jars used by you in canning?—A. Not in our city. The only place where glass jars are used in canning is at sundry points in New Jersey, the city of Providence, and Petaluma, Cal. I speak now of factories; that is all.

Testimony closed.

AFFIDAVIT OF MR. GEORGE GREER,

District manager of the American Tin Plate Company for the New Castle district, New Castle, Pa.

The following communication, written as a personal letter, is verified by Mr. Greer's affidavit, p. 9.30.

NEW CASTLE, PA., December 8, 1899.

HON. THOMAS W. PHILLIPS,

Vice-Chairman Industrial Commission, Washington, D. C.

DEAR SIR: I had hoped to have the pleasure of an interview with you during your recent visit to New Castle, but was not aware that you were in the city until after you had left.

I address this letter to you entirely on my own responsibility. No stockholder or officer of the American Tin Plate Company has made any request or intimation to me suggesting that I address you. I know that you have had very large experience in business enterprises, and as a stockholder and director of the American Tin Plate Company, and one of the pioneers, as you are aware, in the tin-plate industry in this country, particularly in New Castle, I wish to call your attention to a few matters that have come to my notice through the press.

In the Iron Age of November 23 I see that Mr. Griffiths, of Washington, Pa., appeared before your honorable body and gave some evidence with reference to the cost and profit on tin plate. Mr. Griffiths was formerly engaged in a small dipping plant near Pittsburg, and afterwards was one of the parties who were interested in the Washington Tin Plate Works. Those works were sold to the American Tin Plate Company, and I have personal knowledge, from interviews and statements made by Mr. Griffiths at a number of meetings of the manufacturers before the new organization, that he was then decidedly of the opinion that it was necessary for some combination or "gentlemen's agreement" to be made as to maintaining prices, in order that the manufacturers might make a reasonable and legitimate profit from

their investment. It was reported to the management of the American Tin Plate Company by one of their competent experts that when the American Tin Plate Company took hold of the Washington mill they found the tinning department in practically the worst condition of all the mills in the Pittsburgh district. The condition of the tin-plate works at Washington was such that it was absolutely necessary to make a change in the management of the tinning department, which necessarily displaced Mr. Griffiths and brother. Whether or not the change of superintendence in the tinning department at the American Tin Plate Company's Washington plant could have influenced Mr. Griffiths in any way as to his testimony I can not say, but I notice that he volunteered a very large amount of information, a considerable quantity of which was merely assumption on his part, and an unbiased reader can hardly come to any other conclusion after having carefully read and analyzed Mr. Griffiths's statements, if put correctly in the Iron Age of November 23. I will, however, call your attention to a few of the statements made by Mr. Griffiths, which, if made as reported, were not correct; and if he is mistaken in one or two items it is quite likely that he is mistaken in many.

First. He says that when plates were worth \$5.75 per box he made 100 per cent profit, and when they were worth only \$2.60 about the time the American Tin Plate Company was organized, he cleared 20 per cent profit, and that he never made less than that as a manufacturer. I am prepared to prove to you, from the cost sheets of mills thoroughly equipped and organized, that if Mr. Griffiths paid 100 cents on the dollar for materials and labor, either he is mistaken or he had no actual knowledge as to what his costs were. A box of tin plate is based on 14 by 20, 112 sheets, or 31,360 square inches surface measure. The New Castle mills were built and in operation much earlier than the Washington Tin Plate Company. The first sale of coke plates made by the New Castle mill was to a Chicago buyer at \$5.10 per base box delivered f. o. b. Chicago, less 1 per cent cash 10 days; and from this time the price of coke plates constantly declined until it stood at \$2.50 to \$2.60 f. o. b. mill for about 6 months prior to the organization of the American Tin Plate Company. The average price of the first 3 months' operation of the New Castle mill was \$5 for coke plates delivered f. o. b. Chicago and New York, which would net not over \$4.75 at the mill.

At that time our steel billets cost \$18.10 $\frac{1}{2}$ per ton; pig tin 21 $\frac{1}{2}$ cents per pound, and general supplies less than now; and it was then costing us about \$3.50 per box to make the plates above referred to. The present market price of steel is almost double, and pig tin is very much higher; materials for repairs and general supplies are higher to-day than at the time when the New Castle works were first put in operation; and at that time the prices paid for tonnage and general labor were lower than the prices that are now being paid. The increase in the cost of the raw materials and supplies used over the cost of the same materials used during the last half of 1893, the time above referred to, without adding anything for increased cost of labor, comes very close to \$1 per basis box of finished coke tinned plate. There is no company in existence that started at the time when the New Castle works did but had to spend thousands of dollars in experimenting and discarding useless machinery that was suggested by our Welsh friends who came over to America to teach the Americans how to make tin plate. During the period of excessive low prices for tin plate, which was during the year 1898, coke plates were selling at from \$2.50 to \$2.60 at the mills. At that time tin-plate bars, pig tin, palm oil, lumber for boxes, and all necessary mill supplies were purchased at the lowest prices that have prevailed during the past 7 years; but no mill in the Pittsburgh district could make a box of coke plate under \$2.40 at actual cost, and if Mr. Griffiths was making a box of tin plate at \$2.40 he was doing very much better than any mills we know of with similar equipment. But for the sake of analyzing his statement we will assume that his cost of \$2.40, as stated by him, was correct, and that at the time the American Tin Plate Company was organized he was clearing 20 per cent.¹ If so it would require him to sell his plates, based on a cost of \$2.40, at \$2.88 per box net. It would be necessary to allow the buyer 1 per cent cash discount, and probably a commission to some jobber or salesman, which would require plates to sell somewhere in the vicinity of \$2.95 for coke tin plates, net at mill. If Mr. Griffiths actually did secure 20 per cent profit, based on the cost of \$2.40, he must have been selling his plates fully 33 to 35 cents a box above the average market price for No. 1 quality coke plates. As to his statement that plates were worth \$5.75 per box, no such price was obtained for coke plates by any manufacturer, unless it may have been in one or two box lots; no such price was obtainable by any of the large well-known mills for established brands of No. 1 coke plates. If Mr. Griffiths refers to plates that he may have sold before he

¹ See pp. 897, 898. Mr. Griffiths's statement was not that he made 20 per cent on his cost per box, but that he made 20 per cent per annum on the capital invested.

was identified with and operated the Washington mill, he was compelled to buy black plate for dipping, and when coke plates were actually selling at \$5.75 per box, which was during the year 1891 and the early part of 1892, black plates were selling in carload lots delivered in Pittsburg and Philadelphia at from 3.7 to 4 cents per pound. A box of plates weighing 100 pounds requires 97 pounds of black plate, which, at 3.7 cents, would practically be \$3.59 for the steel. As pig tin was worth 23 cents to 25 cents per pound, the cost of tinning, boxing, and loss in wasters in a small plant could not have been far from \$1 per box; hence we can not see where Mr. Griffith made 100 per cent profit in selling plates at \$5.75 per box. As I have said, he could not have secured that price for coke plates at any time while he operated the Washington mill, and if he referred to plates dipped he could not have purchased the black plate at other mills and paid 100 cents on the dollar and made any such profit as he stated.

I am also surprised that Mr. Griffiths used the letter that he read, which was evidently written by some "sorehead," with reference to the closing down of mills and the output at the New Castle works. First, the statement that the New Castle workmen are required to turn out a larger output than the scale calls for is an absolute falsehood. The workmen at New Castle work under exactly the same conditions as the men at all other mills.¹ The agreement is signed with the conference committee representing the Amalgamated Association, and the same conditions apply as to output of all mills. There is this difference, however, that at the New Castle works there are 2 large mills and at the Shenango works 4 large mills, making a total of 6 at New Castle, on which larger sheets are rolled than on the ordinary smaller tin mills, and on which the workmen are allowed a larger production, based on the sizes which they are working, and the same rule applies to other mills of similar size. As to the statement about the mills at Monessen, it is scarcely worth noticing, except that the mills are arranged differently. They are under a patent process secured by Mr. Donner, on which a small concession is allowed by the workmen on account of the method of roughing and rolling the sheets.

It is a fact that the American Tin Plate Company, when they assumed the contracts of the various companies at the time the purchase of the individual mills was made, were encumbered with very large orders for future deliveries, many of which extended up to October 1 and a part to the 1st of January, 1900. The entire product of black and tinned plate of the New Castle and Shenango mills was sold fully up to October 1 and a very large portion of the last quarter's product up to January 1, 1900. The product at the Shenango mill had been very largely sold in advance by the Shenango Valley Steel Company. At the same time contracts for fuel, bars, pig tin, etc., had been made by the various companies, which were also turned over. Unfortunately the management of some of the smaller mills that had sold their product in advance had not been cautious enough to cover their supplies, and the American Tin Plate Company was compelled to purchase materials for many of the works at advanced prices, while the product was sold at low prices.

Both the New Castle and the Shenango works have been and are now making shipments of thousands of tons of black plate to those known in the trade as dippers in Chicago, Pittsburg, Philadelphia, Norristown, Baltimore, and New York, and these facts ought to be good evidence that "reputable" and "responsible" dippers of tin plate have been and are still securing a supply of black plate from the American Tin Plate Company. It is true that the tin-plate trade has been handicapped for years by irresponsible dippers. About all the losses the Newcastle works ever sustained was by selling to that class of buyers, and I know of two other manufacturers whose losses were much larger than our own on account of their selling black plate for tinning. As good business policy the American Tin Plate Company, as manufacturers of tin plate, have tried to discourage the innumerable irresponsible brands that have been put out, with the view of having kept before the buyers only the American Company's own guaranteed brands or those made for the reputable and well-established jobbers and dealers. They are very desirous of putting none but reliable roofing plates on the market; and this, which is intended for the protection of the buyers as well as the sellers, does not meet with the approval of a certain class of trade, who would no doubt like to buy plates carrying less coating than certain well-known brands at a lower price and have them branded "Jones's" or "Smith's" Worcester grade roofing plates. Formerly the word "Worcester" was known as denoting an excellent quality of plate. It is a fact, however, that during the year preceding 1899 large quantities of plates were sold as "Worcester" grade that were very inferior to the genuine coated Worcester grade plate. We believe a customer in buying a piano or a first-class carriage is better protected if he feels confident that when he buys a Steinway piano it is made by Steinway & Sons, New York; or if he buys a Brewster carriage that it is the genuine Brewster. I know that the manage-

¹ See p. 905.

ment of the American Tin Plate Company is very desirous of furnishing none other than plates of excellent quality and finish to their customers, and I believe that the general practice in all the mills is much better to-day than it was as a whole during the preceding years, when they were operated under the individual management in accordance with the whims or notions of each superintendent, and he did not have an opportunity to compare notes with other mills. The practice of the best mills where the best results were obtained has been and is being adopted in all of the mills as fast as possible, and we believe that plates of a much better and more uniform quality are now turned out by the American Tin Plate Company than the general average of the plates under the independent management.¹

As to the continuous operating of the mills during the winter season;² during the past 4 years it had been the policy of a majority of the manufacturers, as soon as the canning season was over, which is usually about the 1st of October, to sell direct to the jobbers and large consumers for the next 6, 9, and 12 months' supply. To do it they were compelled to sell at prices that would fully satisfy the jobber. The plates would be stored in the manufacturer's or the jobber's warehouse, and when the spring trade opened those plates were always a hindrance to the manufacturers in securing a fair price for their product; and we believe if the mills had not been under the management and control of the American Tin Plate Company during the past 12 months more mills would have been idle on account of bankruptcy and not being able to run than have been already closed down on account of shortage of orders by the American Tin Plate Company. Had the intense competition continued, no doubt a number of the mills would have become bankrupt, as some were actually on the verge of bankruptcy when they were purchased by the American Tin Plate Company.

Mr. Griffiths says, in conclusion, that in his opinion "a plant of 6 mills would enable the manufacturer to take advantage of all economies effected by the proper division of labor, and that such a plant constituted the limit of economical management by one good man."³ We also notice he stated "that under present conditions in Wales a 4-mill plant was regarded as the unity of economical management." I have no doubt that Mr. Griffiths is honest in his opinion. I will only add that he is a fair sample of the plausible and talkative foreigners who assumed to know all about the manufacturing of tin plate when they first came to America. Mr. Griffiths is a plausible talker, but as a progressive tin-plate manufacturer he certainly is not worth considering. In fact, there are very few, if any, foreigners that have been of much assistance to the American manufacturers in establishing their mills. Nearly all of the old "Welsh" ideas as to hot rolling, shearing, annealing, and tinning were discarded and abandoned by the progressive and wide-awake American manufacturers. They were tried and found wanting at New Castle, and at Elwood, Ind. The American tin-plate manufacturers have made very rapid advancement, and it has been brought about by careful and intense application of American engineers and workmen, who first made themselves acquainted with the various processes necessary to manufacture and finish tin plate, and then went about adopting the best methods for securing the desired results. The best organized and best conducted plants to-day are officered and managed by live Americans.

I desire also to call your attention to the additional fact that up to the early part of the year 1898 there were scarcely enough mills in active operation to supply the demand for tin plate, and the jobbers and the well-to-do class of consumers were ready and willing to purchase plates and accept deliveries in advance of their actual requirements, which enabled all of the mills to keep in continuous operation. A large number of the mills were completed and put in operation during the year 1898 and the early part of 1899; and the manufacturing capacity is now, and has been for some time, considerably in excess of the requirements of American consumers. In addition to this fact, the unprecedented advance in the cost of steel bars, pig tin, palm oil, boxes, and all mill supplies, such as castings, brasses, and labor, has added to the actual cost of tin plate, and a very large portion, if not all, of the export trade has been lost to the American manufacturers. Also the buyers and jobbers of tin plate, like buyers and jobbers of nails and all kinds of merchant iron, are of the opinion that the present high prices can not continue for any considerable length of time, and hence are not now disposed to go into the market and anticipate future wants, unless at a considerable concession from present prices; and with the present price of pig tin, steel bars, and lumber for boxes the American Tin Plate Company can not, without actual loss, reduce the price of tin plate for the jobber to speculate on or for the consumer to anticipate his future requirements until the raw materials mentioned can be secured at a lower cost. Taking the general average selling price of tin plates, as can be shown from the books of the American Tin Plate Company for the year

¹ See Mr. Going, p. 916; Mr. Greer, p. 926.

² See pp. 905, 906.

³ See p. 915.

1899, the buyers as a whole have no reason to complain. The jobbers' price as published in the Iron Trade Review and other papers is not the price which the manufacturer secures for the plates f. o. b. mill. Formerly under the independent ownership and management of the mills there were a number of so-called jobbers or dealers who simply had desk room rented in New York or Chicago and would send out circular letters to consumers and buyers of tin plate and offer plates at 5 to 10 cents per box below the market price. They were well posted as to the mills that were somewhat short of orders and in such financial shape that they must accept business in order to keep in continuous operation at almost any price; and as soon as they secured an acceptance of some of their propositions they would telegraph that they had an order in hand to place and would state the price at which they would place it, requesting a wire reply. It is needless to say that that class of jobbers or dealers are now out of business; and of course they are very loud in their denunciations of the American Tin Plate Company. Under former conditions they were simply leeches and hangers-on to the trade, which it seemed impossible to get rid of under the conditions existing at that time.

I will refer to one other statement made by a can manufacturer, Mr. H. F. Going of Baltimore,¹ who is quoted as a large canner of food products, and until recently an extensive manufacturer of cans. He states that the coating has been reduced from 5 pounds to 2½ pounds of tin to 100 pounds of black plate, and that most of the reduction has been made since the American Tin Plate Company was organized. This statement is very misleading. First, no coke plates which are used for canning purposes made by the Welsh manufacturers or the American manufacturers ever did carry 5 pounds of coating. None other than a very high grade of charcoal carry 5 pounds of coating per box. The facts are that the Welsh imported coke plates for several years used for canning purposes have carried less coating than the American cokes. And, further, it is susceptible of proof that American tin plates put on the market by the larger part of the American manufacturers since the year 1892 have been better coated than the imported Welsh plates. For proof of this I refer you to the largest users of tin plates for canning purposes in America, such as the Pacific Sheet Metal Works, of San Francisco; Norton Brothers, of Chicago, also Baltimore; Black & Krebs, Baltimore; Ginna & Co., New York City; Phelps, Dodge & Co., New York; A. Booth Packing Company, Chicago and Baltimore. The parties named are known all over the United States, and I believe that you will find, upon investigation, that some of the parties I have mentioned have used much larger quantities of both imported and American tin plate per year than ever Mr. H. F. Going did. And, further, it is a fact admitted by the largest consumers of tin plate for canning purposes that American Bessemer tin plates furnished by the American manufacturers are and have been very superior to the plates furnished by Welsh manufacturers. The steel is softer and more ductile, and a smaller percentage of breakage and damaged goods results from the use of the American plates. Second, they are better coated; and last, but not least, the consumers of American tin plate have had a better plate and at a lower price since the American manufacturers commenced manufacturing than they were ever able to secure prior to 1891. Notwithstanding the enormous advance in steel, pig-tin, and other supplies, as well as the advance in labor, the present cost of tin plates to the consumers in America is away below any average price which they were ever enabled to secure before plates were furnished by the American mills.

Another fact which I wish to call your attention to is that a very large majority of the late independent manufacturers are still stockholders in the American Tin Plate Company and are identified with the business and giving it their best and undivided attention in active connection with the management and operation of the mills. I feel confident that just as soon as the decreased cost of materials will warrant a reduction it will be the policy of the American Tin Plate Company to reduce the price to the lowest possible limit, in order to increase the home consumption of tin plates, and also to secure all of the canners' export trade. We feel certain that this will be the policy of the company.

As to discrimination in closing down mills, I wish to call your attention to a few matters that perhaps Mr. Griffiths and others have not thought of. First, the New Castle mills have contracts for fuel extending into the first of the year 1900. The Monessen and some other mills referred to are advantageously located as to fuel supply. The Cumberland mill, which is mentioned as being one discriminated against, is not advantageously located as to fuel and steel supply. Unfortunately there is no tinning department connected with the Cumberland mills. Large quantities of what is known as black iron are made by the sheet mills for the makers of

¹ See p. 916.

granite ware, and a great deal of it was formerly made in such mills as the Cumberland mill. You will notice that the sheet-iron trade is very much depressed at present, and the only reason for closing down the Cumberland mill was a shortage of orders and the fact that they were not equipped for tinning purposes. It is hoped that trade will so revive and that the demand will be such that a majority, if not all, of the tin-plate mills can be put in operation very soon after January 1.

Another fact: a large number of the mills have been in continuous operation for the past 3 or 4 years, and it has been found necessary to make some extensive repairs and changes in furnaces and equipment. A number of mills that are now closed down are being thoroughly overhauled and put in first-class condition. We find it will be necessary to close down the New Castle mills about the middle of this month for about 3 weeks to make some repairs that are absolutely necessary and can not be delayed any longer. We find it necessary to rebuild some annealing furnaces and make several betterments. A 4 weeks' shut down annually is necessary to keep any mill in proper condition for continuous operation, even if the demand is such as to require the full production of the mills continuously for 12 months; and the keeping of some mills in continuous operation, while others have been closed down on account of the conditions I have referred to, is, we believe, such business policy as any competent management would adopt.

I beg pardon for imposing on your valuable time with this long communication. I hope and believe, however, that you will, as a citizen of New Castle, somewhat familiar with the history of the tin-plate trade, have the actual facts clearly and fairly placed before your commission. I trust that if your report is now completed, if the statements published in the Iron Trade Review of November 23 have been misleading to those members of your commission who were not familiar with the tin-plate situation, you will call their attention to the facts I have presented. If any additional information is desired I shall be pleased to furnish it, either in writing or in person. I regret that someone who was thoroughly familiar with all the details of the manufacturing of tinned and terne, or roofing, plate, as well as the uses to which the various grades are put, could not have been present to cross-examine Mr. Griffith and Mr. Going for your information.

The statements that I have made as to costs, selling price, quality, coating, etc., can be verified by competent and unimpeachable witnesses under oath.

Thanking you in advance for giving this communication your attention, and assuring you that I have no other object than to see that the facts connected with the American tin-plate industry be fairly presented to your honorable body, and believing that under your careful leadership these facts will receive fair and just treatment, I am,

Very truly, yours,

GEORGE GREER.

(The following are interrogatories proposed to Mr. Greer, and answers made by him.)

Q. What has been the course of prices of finished tin plate from the time when your establishment was organized to the present date?—A. Commencing with the year 1892, and continuing until the latter part of the year 1898, there was a decline in the prices of tin plate during each year. During the latter part of the year 1894 there was a decline of \$1 per base box on account of the reduction in the tariff. As an offset to the reduction in the tariff a large reduction was conceded and allowed by skilled and general labor. Also, fortunately for the tin-plate manufacturers, the price of steel declined to about \$15 to \$16 per ton. Prices of black plate for tinning purposes declined fully 1 cent per pound, or \$20 per net ton. During a portion of the third and fourth quarter of the year 1895 there was a small advance in tin and black plate, caused by a sharp advance in steel. The advance in steel, however, did not hold for any great length of time, and as steel declined the prices of black and tinned plate declined proportionately to a point below the lowest price received for plates during the year 1895. From the latter part of the year 1896 until the latter part of 1898 the price of tinned, terne, and charcoal plates declined, selling lower during 1897 than during 1896, and lower during 1898 than during 1897.

Q. How would you analyze the cost of manufacture so as to show the profit per box throughout this period?—A. The plan adopted by the New Castle works for analyzing the cost of manufacture to show the profit per box through this period was as follows:

First. No interest on capital invested was charged in any expense or cost account. Account was kept of the amount of fuel consumed; cost of steel; labor, including tonnage, skilled and piece labor, day labor, and machinists; repairs, lubricants, and supplies, pig tin, palm oil, acid, and general supplies, boxes, superintendence, office and clerical force, general expense account (which includes taxes, insurance, and incidental expenses). All betterments and additional construction or addition to

mills were charged to construction account. The cost per box of plate was determined by charging the tinning department with the net number of pounds of finished black plate delivered to the tinning department, with the cost of the white pickling, including acid and labor, delivering the white pickled plates to the tinmen, riser, daster, and cleaning, delivering the plates to the assorting room, including the assorter or inspector, the reckoner (being the party who counts the sheets), shearmen (or trimmers), boxers, branding or stenciling of boxes, truckmen, shipping and warehouse labor, and handling, shipping or storing the box of plates. The fuel delivered to the tinning department was charged separately; also a reasonable proportion of the office and clerical expenses, reckoned as necessary to take care of that department; also the machinists' labor and supplies for repairs. The account of the tinning department was always kept separate from the hot-rolling and black-plate department, inasmuch as we have always sold large quantities of black plate; hence the cost of tin plate was arrived at by adding the net cost per box of tinning to the net cost of the substance or weight of black plate used per box of tin plate. In addition to the items enumerated, the loss from seconds, or what is known as wasters (which usually sell at 25 cents per base box less) must be added to the cost of firsts or primes. The percentage of wasters usually amounts to from 8 to 12 boxes per 100 in coke-finished plates, and in charcoals, from 12 to 20 boxes per 100. The allowance or depreciation for charcoals, however, is much higher, from 50 cents to \$1 per box, depending upon the substance or weight of the plate coated.

Q. Are the workmen in the tin-plate company trade-union workmen under the Amalgamated Association, and do they receive the Amalgamated scale of wages?—A. My understanding is that all of the skilled workmen employed in the various mills of the American Tin Plate Company are members of the Amalgamated Association and the Tin Workers' International Protective Association of America.

Q. Has the American Tin Plate Company been as ready to treat with trade-union men as were the separate companies before the organization, and are trade unions and their officials recognized by the tin-plate company?—A. The American Tin Plate Company has recognized and treated with the trade-union men as an organization, as the individual establishments did before the consolidation. Further, when the American Tin Plate Company bought the individual mills, several were running nonunion; that is, they did not recognize the Amalgamated Association or the Tin Workers' Association. The American Tin Plate Company did agree with the Amalgamated Association and the Tin Workers' Association that they might unionize all the mills, and agreed to pay and are paying the Amalgamated scale prices for hot rolling and shearing and the Tin Workers' Protective Association prices in the tinning departments. This applies to all the mills under the control of the American Tin Plate Company, with the possible exception of the Monessen mill, on account of a different process of roughing and hot rolling black plate. The trade unions and their officials are recognized and treated with by the officers and district managers of the American Tin Plate Company.

Q. Kindly explain the relation between the American Tin Plate Company and the various dippers in the country, stating under what conditions, if at all, the Tin Plate Company has refused to sell black plate to the dippers.—A. During the year 1898 the price of finished tin coke plates and charcoal plates had declined to such an extent that a number of the dipping plants discontinued buying plates, except such as they coated and sold asterne or roofing plate. The individual manufacturers who were properly equipped and prepared to tin their plates could tin the plates and sell them to the trade at a price at which the dippers could not afford to sell to the general trade. The price at which coke and the cheaper grades of charcoal tin plate were selling was the market price for black plate with the cost of tinning added, which left no margin to the dipper for paying freight on black plate, unloading, handling, coating, shipping, and delivering. Hence a considerable number of stacks were not in operation during the year 1898. The majority of those operated were tinning roofing plates, and a number discontinued dipping a portion of their plates and purchased roofing plates direct from the mills, as the margin between the cost of black plate and the selling price of the finished tin plate was not such as would justify some of them in operating their tinning or dipping machines.

As to the American Tin Plate Company's relation with the various dippers of the country, I can not say as to all of them. We have orders on the books at the New-castle works for delivery to dippers in large quantities, a number of which orders have been but recently entered for dippers in Chicago, Baltimore, Philadelphia, and New York. We have shipped to dippers doing business in the cities mentioned, including Pittsburg and the vicinity of Philadelphia, during the year 1899, about 28,000 net tons of black plate. Taking 100 pounds substance as basis, a ton of black plate is the equivalent of 20 boxes of tin plate. In addition, there was shipped by the

Shenango works of the New Castle district during the first 6 months of the year fully 3,000 tons of black plate, making a total of about 31,000 tons of black plate shipped to dippers from the New Castle district. I have no knowledge and have not heard that the American Tin Plate Company has refused to sell black plate to any responsible buyer or dipper who is prepared to pay for it and to comply with the terms of the sales department of the American Tin Plate Company.¹

Q. What is the nature of the contract which the American Tin Plate Company makes with former owners of special brands? Are the purchasers of these brands required to buy all their tin plate from the American Tin Plate Company?—A. As to the nature of contracts which the American Tin Plate Company might have made with owners of special brands I am not advised. I have not heard of any instances of purchasers being required to buy all their tin plate from the American Tin Plate Company.

Q. How does the quality of the tin plate, both as regards thickness of coating and the finish of the plates, compare with that made in this country 2 years ago by independent manufacturers?—A. Both as regards coating and finish of plate, so far as I have seen, I believe that the standard quality of the plates in some mills is uniformly better, and as district manager of the New Castle mills I have instructions in writing from Mr. Arms, of the operating department at Chicago, to make a good plate at the New Castle mills. I believe that the finish and coating of the common terne or roofing plates has been improved at the New Castle mills during the present year, and the higher grade roofing and charcoal plates are fully up to their former high standard as to quality and finish. And as to coke plates, we are doing our best to improve as to quality and finish at both the New Castle and the Shenango works. We are now making some changes and hope to turn out a better finished plate in the New Castle district during the year 1900 than we have uniformly turned out during any preceding year.

Q. Explain the reasons for the closing down of the mills of the American Tin Plate Company at Pittsburg.—A. My understanding, based on the explanation of the district manager of the Pittsburg mills, is that they were closed down on account of shortage of orders.

Q. Have there been any strikes on the part of the workmen employed by the American Tin Plate Company since its organization? If so, explain briefly the circumstances and the results.—A. I know of none except one at Elwood, Ind., caused by the discharge of a workman for taking spirituous liquors into the mill and thereby violating one of the rules of the company. We understand the strike was not of long duration, and the workmen were requested to return by the president of the Amalgamated Association. From the information we have, we believe the Amalgamated Association were hasty and were not justified in declaring a strike.

Q. What are the chief reasons for the formation of the American Tin Plate Company?—A. After having considered the then existing condition of the tin-plate industry, for some considerable time prior to the purchase of the individual mills by the American Tin Plate Company, we concluded that it would be better for us, as stockholders of individual mills, that all should become partners each with the other. By so doing we hoped to stop the intense "cutthroat" competition, and believed that the mills under one management, by the purchasing of supplies, and by distributing the finished product from the mills nearest to the buyer or consumer, would secure savings that could not be secured by the independent individual mills.

Q. What are the chief advantages from such a combination that have been proved by the experience since its organization?—A. In so short a period it is difficult to state what advantages or disadvantages arise from the consolidated or single ownership of the individual companies. In my judgment the time is too short since the organization of the American Tin Plate Company and the conditions under which they have been compelled to operate up to the present time have been so unusual as to make it impossible to reach a fair conclusion as to the advantages or disadvantages of the consolidation. The unprecedented advance in all kinds of raw material and supplies, as well as the advance in labor, made it necessary for the American Tin Plate Company to advance the price of tin plate. The advance in bars was fully 120 per cent, in pig tin 150 per cent, and in labor from 15 to 25 per cent, and there were large advances in all kinds of materials and supplies. The advance in tin plate has not been in proportion to the advance in raw materials.

Q. What are the chief disadvantages, if any, that come from such an organization? For example, is there any lack of efficiency on the part of superintendents coming from the fact that they are workers under orders instead of independent producers?—A. We can only answer from our own experience. During the past year the entire management of the New Castle mills, with the exception of the purchasing of steel, pig tin, and supplies, and the selling of the product, has been under my care, and the

¹ See Mr. Griffiths, pp. 894-896.

New Castle mills have been operated and managed under my instructions exactly as they formerly were when the New Castle mill was run independently. This applies to the Shenango, New Castle, and Neshannock mills. I believe that if the buyers and users of tin plate in the United States will give the American Tin Plate Company a reasonable time they will conclude they are accorded fair and just treatment. No individual company, and much less a large company, can afford, as a matter of business policy, to be arbitrary or to give their customers any other than fair and just treatment; and we believe that the present policy of the American Tin Plate Company is to consider carefully the interests of the buyer and to deal justly with all their customers.

Q. Have you any suggestions to make regarding legislation in connection with industrial combinations, either to restrict them in their form of organization or in their management, or to protect them and their interests in any way?—A. We believe the political agitation with reference to classing large corporations as trusts or monopolies is premature. The time will come in the near future when the production and supply of the blast furnaces and steel mills will be fully equal to the demand, and on account of the changed conditions and the magnitude of business enterprises only large corporations or aggregations of capital can at all exist and make a reasonable return to the stockholders, and at the same time furnish the finished product at reasonable prices to the buyer and consumer. I believe that hasty legislation should be avoided, and the new organizations should be given a fair and impartial trial before the lawmakers of the country undertake to handicap them by hasty legislation. If you consider the abnormal conditions under which the American Tin Plate Company has been compelled to do business during the year 1899, you will see that the advance on tin plate has not been in proportion to the advances made in raw materials used in the manufacture, nor in proportion to the advance of the finished products in other lines of which the basis is steel. For instance, the lowest point at which wire nails sold per basis to jobbers during the period of low prices was from \$1.05 to \$1.10. The present price, I am informed this morning, is \$3.15, being an advance of nearly 200 per cent. There is very much less labor employed in making a keg of wire nails than in making a box of tin plate. Steel bars have advanced from the lowest price of \$15.50 to \$36 per ton, while the base of tin plate, from the low price of 1898, \$2.60 per base box, has risen only to \$4.65 per base box f. o. b. mill. You will find by comparison with pig iron, steel, wire nails, angles, beams, channels, etc., that the advance is much less on tin plate than in other branches of the iron trade. Although the American Tin Plate Company has been attacked by numerous correspondents in a number of Eastern papers on the ground that they have arbitrarily advanced tin plate, the actual facts are that the profit to the American Tin Plate Company, based on the increased cost of materials and labor, is to-day less, taking into account the output and the large amount of labor employed, than in almost any other branch of the iron business with which we are familiar.

Q. Make any further statements on the subject which seem to you of consequence.—A. As stated in my letter, a box of plates containing 112 sheets, 14 by 20 inches, or 31,360 square inches, is what is known to the trade, dealers, jobbers, and buyers as the basis for a box of tin plate, and where prices are quoted without adding to the quotation that they are for charcoal, terne, or roofing plates it is always understood that it refers to what is known as coke or canners' plate. Charcoal plates are made of various grades in at least 4 qualities, the price depending upon the finish and amount of coating per box. Terne or roofing plate also varies greatly in price, depending upon the substance, finish, amount, and quality of coating. The quotation of \$2.60 per box, being the price at which coke plates were sold f. o. b. mill during the latter part of the year 1898, referred to a 100-pound basis; that is, it referred to a box of plates containing 112 sheets, 14 by 20, whose substance or weight when coated was 100 pounds. Hence, when Mr. Griffiths referred to plates selling at \$2.60, the only interpretation that the general trade could place on his statement was that he referred to a box of coke plate. In justice, however, to Mr. Griffiths, I am of the opinion that the larger proportion of his trade was in roofing plates, and as the price of roofing plate depended somewhat on the brand, finish, and coating, the variation in price was almost as great as the number of brands under which roofing plate was sold. Profits or prices based on terne plate should have no bearing on coke plates used by canners and the general trade, as the quantity of roofing plate sold, compared with coke plate, is but a small proportion of the entire output of the American tin-plate manufacturers.

STATE OF PENNSYLVANIA, *County of Lawrence*:

I swear that those statements made by me of my own knowledge are true, and that all other statements I believe to be true; also that the information given and

the facts as set forth in a letter addressed to the Hon. Thomas W. Phillips, under date December 8, 1899, are true as to the material facts and statements as set forth in said letter.

GEORGE GREER.

Sworn to and subscribed before me this 27th day of December, A. D. 1899.

[SEAL.]

WALTER D. CLARK,
Notary Public.

WASHINGTON, D. C., December 8, 1899.

TESTIMONY OF MR. NATHAN A. TAYLOR,

Independent tin-plate manufacturer.

The commission met at 11.55 a. m., Vice-Chairman Phillips presiding. Mr. Nathan A. Taylor, of Philadelphia, Pa., independent tin-plate manufacturer, was introduced as a witness, and being duly sworn testified as follows:

Q. (By Mr. CLARKE.) Please give your name, residence, and occupation.—A. Nathan A. Taylor, Philadelphia. I am a member of the firm of N. & G. Taylor Co., manufacturers of tin plate. We are also dealers in kindred articles, but that is unimportant.

Q. Is that a partnership or a corporation?—A. A partnership; it always has been.

Q. How long has the firm existed?—A. We are a very old firm, with changes in the partners. I have been connected with it from my younger days, for 35 years, and I have been a partner, I think, for 20 years.

REASONS FOR BUILDING A LARGE TINNING PLANT ONLY.

Q. Do you manufacture tin plates?—A. Yes.

Q. How long have you been manufacturing them?—A. We have been manufacturing tin plates in Philadelphia since the tariff bill of 1890. I believe that was the date of the McKinley bill.

Q. But your firm existed before in the manufacture. What did you manufacture before?—A. We have always made very largely special brands of tin plate, being very closely connected and allied with the consumers' interests; and before it was possible to make tin plates in this country we had them made for us in Wales and England, and under our own formula very frequently, being closely connected with those works which supplied us. When the tariff changed in 1890, we simply transferred the making of those brands and that tin plate to our works here.

Q. Before 1890 and since then, did you and do you manufacture both tin andterne plates?—A. Both kinds.

Q. And put your own special brand upon them?—A. Not necessarily.

Q. Your plates had a reputation in the trade?—A. Yes; I think so.

Q. Before the industry was established in this country?—A. Yes; since it is necessary with some brands to individualize them in some way by stamping the sheets. That is done in roofing tin largely, so that the consumer will know what those brands are; otherwise, if taken out of the box, there would be no way of identifying the brand. We originated that idea of stamping those sheets a good many years ago.

Q. Do you manufacture your black plates or confine yourselves to tinning?—A. We confine ourselves to tinning.

Q. Where do you get your black plates?—A. Our black plates for the last 7 or 8 years, probably, have been largely of American manufacture and obtained from American mills. If I might be allowed to explain—

Q. (By Mr. PHILLIPS.) Certainly.—A. We thought we knew a great deal about the tin-plate industry, having been really connected and identified with it over so long a number of years. When the tariff changed, fortunately for us as we thought in America, enabling us to make tin plates here, one of two things was open to us—either to put up a complete plant, as it might be called, combining the making of black plate with the tinning process, or to separate the two. I felt that we should be best served in our interests by putting up a large tinning plant, for several reasons; by doing that we put it up in our own city, largely an industrial city and a very important center for distribution, in which we could have a better command of labor both in the quantity and quality and cost of labor; and the freight from Philadelphia on what we might not sell in Philadelphia proper would be very small, reaching large centers, as three-fourths, or 65 per cent at least, of the tin plate used in the

United States is consumed east of the Allegheny Mountains. A more important reason that influenced us in simply putting up a very comprehensive tinning works was the desire to have that large power of tinning in order to fill promptly our customers' wants within any reasonable time. Then I felt at the time that if we waited a little while we should know a great deal more about making black plate in America than they ever had known in Wales, that the product on the other side was not as good as it ought to be, and that their ideas were, as we know in kindred things, very old, and they could see no reason for changing them. I felt, therefore, that if we waited a little while we should know a great deal more here about making that black plate, and it would cost us a great deal less to put a black-plate mill up subsequently than it would to put it up in a hurry. I felt that with the inventive genius of the American people means would be found to very largely improve and at the same time cheapen that manufacture of black plate, and so we have been waiting from year to year, and every year has seen successive steps in that improvement.

AMERICAN IMPROVEMENTS IN BLACK PLATE AND IN TINNING.

Q. (By Mr. CLARKE.) How do the black plates produced in this country now compare for quality with those produced abroad?—A. Oh, they are very largely superior to anything that is produced abroad. I speak of that in the finished product. In the Bessemer quality, as far as the intrinsic quality is concerned, the American Bessemer is vastly superior in every respect—in ductility and tensile strength, in the surface and in the finish—in every respect vastly superior to the foreign quality. In the open-hearth, or the Siemens-Martin, process we have not improved materially, I think, over the quality of the foreign production, nor has that been used very largely in America. In Wales they were obliged to use those two separate materials, the Bessemer and the open-hearth product, according to the use you might want to put that tin plate to, and the difference was very wide over there; but in America our Bessemer has been so vastly improved that there is not that difference between the Bessemer as produced now and the open-hearth as we would produce it here.¹

Q. What proportion of the black plates used in this country are Bessemer and what open-hearth?—A. For tin-plate purposes it is somewhat difficult to say. I could not hazard a guess at it; it would simply be a guess.

Q. Has the process of tinning been improved since the industry was established in this country?—A. We have made very many improvements in tinning, but they are not so marked as the improvement in the black plate.

Q. How do the present prices of tin and terne plates compare with the prices for 5 years prior to 1890?—A. I can not speak from recollection as to facts. I think the present prices are much less than they were at that time, but I am speaking without data before me. They are, I think, no higher to-day than they were 5 or 6 years ago.

Q. Do you now import any tin plate or black plate?—A. No, not to any extent; only in a very small way, in special items where there is some necessity for it.

WORK PEOPLE AND WAGES.

Q. What wages are paid to your operatives, and also to the operatives in the black-plate mills?—A. I can not speak from knowledge of the wages in the black-plate mills. The wages in our tinning works are graded very much throughout the different processes. I might say that we pay very full wages, in our opinion. We have always kept in close touch with our men—willing to listen at any time to any fancied grievance on their part—and we have continuously paid them, through bad times as well as good, pretty uniformly good wages.

Q. Do they work by the piece, or by the day, or by the week?—A. In both ways. The minor labor is mostly by the day or week; the highest and skilled labor is usually by the piece.

Q. Is your labor organized?—A. No.

Q. Are men, women, and minors employed?—A. Very few minors, and if so, in a minor capacity.

Q. Some women?—A. Yes; we employ women to clean the plates after they are tinned in the higher grades. We go to considerable expense in that respect. I do not think the practice obtains in Western mills to the extent that it does with us; their cleaning is done very largely by machinery, but we do ours largely by hand and we think it produces better results.

Q. Do you know how the wages you pay compare with the wages that are paid in similar plants abroad?—A. No; not as to facts. I know our wages are very much more than are paid abroad; how much I can not say.

Q. Are your operatives native to the country or have most of them come from

¹ See Mr. Griffiths, p. 915.

Wales?—A. Most of them are native to the country. We have a few that came from Wales when we started our works, and they have been with us continuously ever since. We have not as many, though, of foreigners as we had when we started.

Q. Have you had any labor difficulties?—A. None whatever.

Q. Do the wages of labor in your works compare favorably with the wages of labor in most of the industrial establishments in your city?—A. Yes, they compare very favorably. I think I stated that we think we pay very full wages indeed.

Q. You think that is true of the tin-plate industry and the black-plate industry generally in this country?—A. Yes; so far as my knowledge goes, very full wages are paid, especially in the skilled departments.

NO RELATIONS WITH THE AMERICAN TIN PLATE COMPANY—SUPPLIES OF BLACK PLATE.

Q. Do you sustain any relation whatever to the American Tin Plate Company?—A. None whatever in any direct sense.

Q. Do you compete with them?—A. We are in a sense their competitors; yes, we are independent of them.

Q. Do you buy anything from them or they from you?—A. No; we have no dealings together.

Q. How do you obtain your black plates, and from whom—not necessarily the firms?—A. We have had our black plate always made for us by black-plate mills, and have selected those which could do the best work for us and at the time were most favorably situated as to freights, so that the cost of freight on their product to our works would be a minimum. We have taken, as a rule, the output of such works, and have been cognizant of their methods and of their cost; and I have arranged in our contract with them to pay them a certain profit upon such costs. Sometimes the contracts have been of a sliding nature where the prospect of the value of materials was in any way uncertain, and the price of our product from those mills was based on the cost of materials ahead. We practically took the output of certain black-plate mills which never made tin plates, and, as I said before, were favorably located. When the American Tin Plate Company was formed, these mills, with our approval, naturally embraced the opportunity offered to obtain a very handsome price for their plants and sold out to the American Tin Plate Company; but they had large contracts with us which would not have terminated for some time ahead, and the American Tin Plate Company assumed those contracts and have been filling them and are continuing to do so. Except in that respect we have had no direct relations with the American Tin Plate Company.

Q. You do not know just what effect the consolidation of those companies with the American Tin Plate Company will have upon the future of your supplies?—A. No; I do not know what the effect will be. We expect no difficulty in obtaining or making such supplies as we need, when the time comes.

Q. Have any independent black-plate mills been built or operated since the American Tin Plate Company was organized?—A. Upon that subject I only know what I have read in the newspapers and trade papers. I believe there are such. At the time when the American Tin Plate Company was organized there were still some few independent concerns left out.

Q. You have not built any yourselves?—A. No; not yet.

Q. You do not know whether you will or not?—A. I can not tell. We of course must obtain our supplies at the lowest possible cost; it is simply a matter of business with us.

Q. Is there a sufficient supply from the mills outside of the American Tin Plate Company to supply you?—A. No; they can not supply us. We require about 1,500 tons of black plate a month. If our works were equipped for making the ordinary kinds of tin plate we could without difficulty, by working night and day, turn out one-tenth of the entire consumption of the United States.

THE RISE OF TIN PLATE NOT CAUSED BY THE COMBINATION AND NOT UNDULY GREAT.

Q. Have you observed any variation in the prices of tin plate since the consolidation of companies into the American Tin Plate Company; and if so, to what do you attribute that variation?—A. There has been a steady advance in the price of tin plates since the organization of the American Tin Plate Company. I do not think they had anything to do with that, as the cost of materials advanced very largely, and those costs always seemed to be beyond the prices that the American Tin Plate Company would establish from time to time. In other words, I think it was the pressure of buyers that forced the American Tin Plate Company to advance their prices, or they would have been filled up with business that they would have had to

do at a loss. I think their prices have been less, throughout the whole period from their organization to the present, than the cost of making the tin plates at the current value of the materials. If we compare the present prices with the prices in Wales, where there is perfect freedom of action on the part both of the buyer and the maker, we find that the current kind of tin plate known as 14 by 20, coke tin, 100 pounds, was selling a year ago at about 9 shillings a box, and the present quotation is about 15 shillings a box, an advance of 6 shillings a box, which is \$1.50. If we take the very lowest price at which American tin plate was sold at any time from the Western mills, that lowest price was \$2.65; the present price of the American Tin Plate Company is \$4.65. We have an advance in the foreign product of \$1.50, and we have an advance in the American product of \$2.¹

Q. (By Mr. FARQUHAR.) How is that?—A. Of \$2, the difference between \$2.65 and \$4.65. I think that 50 cents difference between Wales and America is justified entirely in the present difference between the cost of labor in the two markets. I do not think the present price of tin plate is out of the way at all. Naturally every thing in our line, from the pig up, partakes of a better profit than it did a year ago and there is therefore a better profit throughout, in the intermediate products, compared with a market that is unrestricted in its field of production and amenable to no conditions as it is here, you find an advance in England of \$1.50 a box and America of \$2, and the difference in the American market is entirely justified by the difference in labor.

GOOD EFFECTS OF THE ESTABLISHMENT OF THE INDUSTRY IN AMERICA.

Q. (By Mr. CLARKE.) Have you any knowledge as to the number of people who are employed directly in the tin and tin-plate industry in this country, and in the production of black plates for tin plates?—A. No.

Q. Have you any knowledge as to the number of millions of dollars saved by the consumers of the United States in the purchase of tin plates from home producers instead of from foreign producers?—A. They have saved a great many millions of dollars; it is impossible for me to estimate it; the saving has been very large. The inception of the American industry in this country greatly lowered the price, and it has been going down ever since. All that has been a saving to the American consumer, and besides we have developed very largely our iron and steel resources. To make tin plates employed these men that otherwise would not have been employed. Everything has been very favorable to this country in the establishment of the new industry.

Q. Are there any natural conditions in this country which are obstacles to the successful production of tin plate?—A. None whatever. We have more favorable conditions in this country for making tin plate than exist anywhere else.

WE MIGHT HAVE EXPORTED TIN PLATE, BUT WE CAN NOT AT PRESENT DISPENSE WITH THE TARIFF.

Q. (By Mr. CLARKE.) Do you produce wholly for the domestic market?—A. Entirely so.

Q. Do any of your products go abroad?—A. We have done business of that kind; it is unimportant, though. I think that if the American Tin Plate Company had not been formed, and individual mills had been built and continued in their individual capacity, and we had not since that time had the wonderful enhancement of values that we have had, we should have reached the point before long at which we could have exported tin plate, at least to some countries, because the prices of American tin plate a year ago were not very far off from the prices in England itself.

Q. Does the tariff affect your business in any way, and if so, how?—A. Well, the tariff was necessary to the establishment of the tin-plate industry. We have worked independent of it since, because the price has steadily declined independently of the tariff on the imported article—so much so, as I have just said, that a year ago our price for tin plate was almost as low as the price in England itself.

Q. Could the industry safely dispense with the tariff?—A. Not at present. It is an advantage, as long as there is a difference in labor between the two countries; in point of fact the industry at certain periods, at least for a brief period, might have dispensed with the tariff, but the tariff is no injustice to the consumer when we consider that it often prevents speculative importations.

CONDITIONS BEFORE AND AFTER THE M'KINLEY TARIFF.

Q. Were there inclinations to import so as to prevent the establishment of the industry in this country before the passage of the McKinley law?—A. The importers

¹ English advance, 66 per cent; American advance, 75 per cent.

of tin plate in this country naturally bought everything they could. They imported tin plates that, in their opinion, would cost them less here, duty paid, before the tariff of 1890 went into effect—it was simply a business operation on their part, calculating that the increased duty would make the importation of those plates cost so much more. In point of fact, their expectations were never realized, as the market steadily and largely declined immediately after the passage of the tariff bill. Large quantities of tin plate were imported, and they were more than the holders could carry, and more than the consumers wanted. The law of supply and demand simply brought the prices down. At the same time the American product commenced to build up, and these goods were produced and purchased, and the foreign tin plates held in this country simply had to be sold at the same price to compete with the coming American product.

Q. It was not true, then, that the duty was added to the price of the domestic product as well as of the foreign product?—A. In no sense true. The American consumer has never been charged the duty on tin plates since they were made in this country.

Q. (By Mr. A. L. HARRIS.) How do the prices of foreign tin plate to-day compare with 1890?—A. The prices in 1890 were very high; stimulated, as I have just stated, by these excessive importations the foreign holders were able to unload upon us stuff that they had not been able to sell for about 15 years—they cleared out everything.

Q. Take the normal conditions; take the year before that and make comparisons?—A. I would not like to make a statement without data before me, but my impression is that the foreign market for tin plate in 1890, and say for 2 years back of that, was much higher than the present price of American tin plate—very much higher.

Q. Did American competition have anything to do with bringing that down?—A. It had everything to do with it. It is reasonable that we allow for the wonderful development of iron and steel in America, which has also cheapened that part of the making, but the American competition had everything to do with it.

Q. (By Mr. CLARKE.) You think then that it is necessary, or at least desirable, to preserve the tariff or some rate of duty to protect against the dumping of foreign surplus stocks on this market?—A. Oh, yes; I think the tariff is essential, and it should also be consistent. There would be no particular reason for largely reducing or withdrawing the tariff on tin plates without scaling everything else down that is kindred to it.

WITNESS'S BUSINESS HAS ALWAYS PROSPERED—HE SEES NO PERIL.

Q. Do you think of any change in existing law, national or State, which would benefit the tin-plate industry in this country?—A. No; I can not conceive of any legislation that would benefit it.

Q. Have you any complaints to make of existing conditions?—A. We have no complaints to make at all, as far as our business is concerned, of existing conditions.

Q. Your business is prosperous?—A. Our business is prosperous and it always has been. We have not been affected in the past when business has been depressed in tin plates among the Western mills by the conditions that have existed among them. We have always catered to the very best buying element, have always striven to make the very best tin plates, have always found buyers for them who have made no complaint of our prices, and we have continued on that line and there seems to be no occasion to deviate from it.

Q. So far as you have observed, or can observe at the present time, then the industry in this country is not hazarded by the consolidation of companies?—A. No; I see nothing at all in that respect. I have stated that the present price of tin plate, although it is in a sense fixed by the American Tin Plate Company, is, in my opinion, a very reasonable price, indeed, and entirely justified by the advance in the cost of materials and labor. I do not know what price may be established ahead.

Q. (By Mr. A. L. HARRIS.) Does the American Tin Plate Company fix the price of the finished product at this time?—A. They fix the price of tin plate as far as their business is concerned. Any outsider, whether he be a dealer, merchant, or manufacturer, of course can sell at what price he pleases.

DOES NOT KNOW OF ANY MONOPOLY OF TINNING MACHINERY.

Q. (By Mr. A. L. HARRIS.) You use machinery in your mill in the manufacture of tin plate?—A. Oh, yes; we use machinery largely in the manufacture of tin plate.

Q. Is there any monopoly in tin-plate machinery in this country?—A. None that I know of. We have had it usually made in Philadelphia.

Q. Does the American Tin Plate Company control the patents upon the best machinery for the manufacture of tin plate?—A. Not that I know of.

Q. Or the black plate?—A. No; not that I know of; there are very few patents in that connection that I know of.

AMERICAN IMPROVEMENTS.

Q. Has the quality of tin plate deteriorated since the American Tin Plate Company has had control?—A. I do not think so; of course I can not speak of knowledge of their product or of their mills. I do not think, though, generally speaking, that there has been any change in the product—the American product.

Q. (By Mr. PHILLIPS.) How does the quality compare of the tin plate made here and abroad at the present time?—A. In my opinion, the quality of the tin plate made in America is very much superior in every particular to what is made abroad, with the exception of some high grades, the quality of which is still kept up abroad, but the quantity of which is unimportant. In some high grades it is fair to say that we have not improved very much over their methods; we think we have, but possibly not to any great extent, but in the rank and file of the steel, improvement has been very marked in favor of the American product. I just said, a while ago, that the quality of the basis of the black plate of the Bessemer quality of the American product was wonderfully in advance of the corresponding Bessemer quality in Great Britain.

Q. You think the tinning also is equal, if not superior?—A. Oh, yes; in every respect.

Q. Do you know anything of the new patent that has been made in regard to tinning—that has been operated some, I believe, in Wheeling?—A. I only know of that as I have seen it in the papers; I do not know anything about it.

Q. Do you know that it is claimed that they can make tin at a very much less price and consume less time in the tinning?—A. I do not think they intended giving out that statement. As I understand it, what they claim—and I think it is a very old claim—is to save something in the intermediate processes before the black plate is made. There is no claim to save in the tinning or of shortening the time in the process of tinning. I believe their claim is simply up to the finishing of the black plate. What their claim is I do not know.

Q. I have been informed that they claim it would require several days less time in finishing the tinning.—A. To tin a sheet of black plate and finish it in the common kinds takes a very short time indeed, and in the better kinds it probably consumes a few hours. The mere tinning process is a brief one.

Q. Then the process is largely in preparing the black plate for receiving the tin?—A. The process is largely in preparing the black plate for receiving tin.

Q. And that is their claim?—A. That is what I think. They claim something by which some of the many processes up to the finish of the black plate can be saved. I think it is an old claim.

UNION LABOR.

Q. You spoke about not employing organized labor, or union labor, in your mills. Do you pay as large wages as those who employ that kind of labor?—A. Yes; I believe we pay about the same price.

Q. Is your firm opposed to organized labor—to employing it especially?—A. That matter never came up before us and we have never thought of it. Our men have simply worked without any organization and we have paid them.

Q. (By Mr. CLARKE.) You say you have had no labor difficulty?—A. We have never had any labor difficulty.

Q. (By Mr. FARQUHAR.) Have your employees at any time made any demands relating to prices or hours of labor?—A. No demands. At various times in a small way they have talked to us about wages and we have simply talked to them. There have been unimportant changes—sometimes reduced and sometimes advanced; but they were quite immaterial. Our men have always been well satisfied. They could not be otherwise, because we feel that we pay our people very full wages indeed, and we are willing to do so in consideration of what we think we get out of it. Our make of tin plate is very largely—three-fourths of it—made up of high grades of bright tin and roofing tin, and we must have good labor for that, and it is not reasonable to suppose that we would hedge in any or that we would be unwilling to pay fair wages to obtain those results.

Q. Have your men at any time attempted to form unions or join the Amalgamated Association?—A. Not that I know of. I never heard of such a thing.

Q. So that your work would be considered entirely open for the hiring of union

labor or nonunion labor?—A. We hire anybody who applies to us if we need him. We would not, of course, hire him as representing organized labor, simply because we never have had that condition.

Q. And you would not hire those that are recognized as men advanced in organized labor circles or anything of that kind—what people call agitators?—A. No; we should not want to have anything to do with them. We have a large command of labor in a city like Philadelphia. If we need labor, we probably have applications a hundred to one for it.

Q. Is it not a fact that nearly all your labor in the tin-plate business is in the Amalgamated Association?—A. I do not know much about the number in the tin mills in the Western mills. I am not a good witness in that respect.

WHO GOT THE M'KINLEY TARIFF PASSED? WHO GAINED BY IT?

Q. Is it not generally understood that the Amalgamated Association, both in the class of employers and the employees of those mills, are sharers in the protection that the tariff has given to American labor and American manufacturers?—A. Well, all labor entering into the manufacture of tin plate is benefited by the tariff.

Q. Is it not a fact that organized labor was one of the great means of your getting this tariff?—A. No; I do not think so. It seemed to be—

Q. (Interrupting.) Do you suppose that Congress made the laws for the manufacturers and not for the American workingmen?—A. No; I understood they made them for the benefit of the consumer.

Q. Did the consumer appear at the halls of Congress to get the tariff put on?—A. I do not know in what way the tariff was obtained. We had no interest in it particularly at that time.

Q. You are not aware, then, that the iron workers of this country were the men that were almost mainly instrumental in getting that tariff on?—A. No; I did not know anything about that at all. As far as our firm is concerned, we simply watched events, believing that the tariff on tin plate was to be imposed. Various attempts had been made in the past to impose it. I think they failed on account of the conditions at those times not being favorable to the establishment of the industry. I think that when the tariff commission—I think in 1880—

Q. (Interrupting.) 1883.—A. 1883. I appeared before it myself at that time and rather advocated the lowering of the duty, because it seemed to be then a tax upon the American consumer, because at that time the conditions did not exist here for making tin plates; but, of course, when favorable conditions existed, I changed my views entirely and have been a strong advocate of a protective tariff ever since. I think that under this tariff not only have our immense industries been established, but labor has been largely benefited by the tariff on tin plate.

Q. Was not the main reason for the McKinley bill, when it was discussed, that it was the creation of a new field of labor and the development of the raw material of this country?—A. I looked upon it—

Q. (Interrupting.) The employment of a larger field for workingmen—was not that the main reason given?—A. I can not recall what the main reason was. I think it came about in a general way, and I think the establishment of the tariff came about from natural causes; that we felt the need of a further development of our resources here and we could not do it without the benefit of the tariff.

Q. You are not sure, then, whether the tariff was made for the benefit of the manufacturers or made for the benefit of the American workingmen?—A. For their joint benefit.

Q. And they ought to be joint sharers?—A. They are, I think.

Q. Are you aware that under the Amalgamated Association scale the workingmen are really sharers, under the sliding scale, with the manufacturers?—A. I do not know anything about the Amalgamated Association's scale. In our tinning works we simply pay, as I have stated, good wages and wages that we have established with our men; and they have been satisfactory.

WITNESS'S BUSINESS NOT AFFECTED BY THE FORMATION OF THE AMERICAN TIN PLATE COMPANY.

Q. As an independent manufacturer, what effect, good or bad, has the establishment of the American Tin Plate Company had with you?—A. Just what effect—in what way?

Q. What effect on your business as a manufacturer?—A. On our business? I can not see that it has had any effect on us whatever; it has simply been a continuation of the Western mills under another organization.

Q. You say it was an enlargement. With your present works running full night and day, do I understand that you manufacture one-tenth of the whole product of this country?—A. I think I stated that if our works were running full night and day and turned out the ordinary kinds of tin plate we could make one-tenth of the tin plate consumed in the United States.

Q. Do you think your opportunities to work up to this one-tenth are good while the American Tin Plate Company is in existence?—A. There is no reason for attempting this large product. We give our attention very largely to the making of high grades, and necessarily we do not get out the product of those grades that we would get out of the common kinds.

THE AMERICAN TIN PLATE COMPANY FIX THE PRICE, BUT THEIR ADVANCED PRICES ARE JUSTIFIED BY THE COSTS.

Q. I think you asserted, or seemed to imply, that the American Tin Plate Company fixed the prices to the consumers of this country. Is it a fact or not?—A. I think I stated that the American Tin Plate Company fixed their prices, and that any other dealer or merchant or independent manufacturer is entirely at liberty to fix his prices; but, as a matter of fact, the American Tin Plate Company, by taking over all the individual mills practically supply the tin plate of the United States, and they have fixed prices at different periods.

Q. You say that practically they are the makers of the going products of tin?—A. I would say that practically they are the makers of prices of current kinds of tin plate.

Q. (By Mr. PHILLIPS.) How much have they advanced the price since their organization?—A. I think I stated that at the time of their organization what is known as canners' tin, I. C. 14 by 20, 100 pounds, was selling for \$2.65; their present price is \$4.65, a difference of \$2. Of course, there are very many kinds of tin plate, but we take that as representing the basis of value.

Q. Do you consider that an exorbitant price, if they make a profit even at \$2?—A. I do not think their profit is any more now than it was then. I think that if you take the foreign market as a basis, where buying and selling is unrestricted and where there is perfect freedom of action, no consolidation whatever, keen competition, you have an advance over there of \$1.50 on that same article. You have a corresponding advance here of \$2. Now, the 50 cents must—

Q. (Interrupting.) In this same kind?—A. In that same period.

Q. In that same period?—A. At the time of the formation of the American Tin Plate Company this kind of tin that I was alluding to was selling for \$2.65, representing practically the lowest price it ever touched at that time or before. That kind of tin is now fixed in price by the American Tin Plate Company at \$4.65. The advance in the foreign market has been fully \$1.50 a box on the same kind of tin.

Q. In that period?—A. In that period; and that 50 cents of greater advance in the American product is entirely justified, within my knowledge and in my opinion, by the difference in labor in the two countries. The difference in labor, as I understand it, is very largely against us in rolling black plate.

Q. (By Mr. FARQUHAR.) To what do you attribute the advance in tin plate in the last year or two?—A. We all know of the great advance in the price of iron and steel and in pig tin, and that, together with the advance in wages and some small advances in minor things like oils, justifies entirely the present price of tin plate.

Q. Have you advanced wages in your establishment since the advance of prices?—A. I think slightly, but we paid very good wages before, and we never reduced them when wages were reduced by the Western mills.

Q. So you say the advance is a normal advance?—A. The advance is normal.

Q. Regulated by supply and demand?—A. Regulated entirely by supply and demand.

Q. Both foreign and American markets?—A. Entirely so; both markets.

Q. You claim there is not an arbitrary price among you tin-plate men in this country in fixing the present price?—A. I do not know enough about the business methods of the American Tin Plate Company. I know they have fixed the price.

Q. In your own business, do you know?—A. In our own business, I was going further to say that we fix our own prices independently always.

Q. (By Mr. A. L. HARRIS.) Do you know what per cent of the product to-day the American Tin Plate Company manufacture?—A. No; I could hardly venture a guess at that, but they make a large part of it.

NO TIN PLATE IMPORTED EXCEPT FOR DRAWBACK.

Q. Is there any competition in the importing of tin?—A. No; it costs more, with the freight and duty. The American product, without the favor or prejudice of the

American Tin Plate Company, or any other dealers or company or manufacturer, is very much less in price than the imported tin plate.

Q. (By Mr. PHILLIPS.) There is, then, no importation of tin plate?—A. None whatever, except in some special lines, the amount of which is inconsiderable. Of course the oil people—consumers of that kind—import the foreign article, because they make it up into cans and export it and get back the duty less 1 per cent.

Q. (By Mr. FARQUHAR.) So that under the present conditions there is no importation to affect at all?—A. None whatever. The selling price of the American product is very much less than the cost of importing the corresponding foreign product.

SUPPOSE THE TIN-PLATE DUTY WERE REMOVED.

Q. Suppose the tariff was abolished; how would the competing power of foreign tin be with the American tin?—A. Well, the immediate result of the abolition of the tariff on tin plate would be to put the foreign market up.

Q. Then you would expect, on the repeal of the tariff on tin plate, that the American product could then enter into immediate competition with the European—that is, European tin could immediately enter into competition with the American?—A. We could not immediately enter into competition with them because our protection would be removed. We should have to adjust ourselves to those circumstances. Those circumstances would be the reduction of wages here immediately and very largely, or the men would be thrown out of work. We should also have to be satisfied with a very much less profit or none at all. To keep our work going we should also have to buy certain material for less prices than we can now, which would mean an adjustment of everything in the iron and steel line. You can not disturb the tariff on tin plate unless you correspondingly disturb it on everything else. I am free to say that this country, with its wonderful development, is gradually becoming independent of a mere tariff per se; but I think, as I stated before, that it is very important that we have the benefit of a tariff, where it is not abused, as it keeps out speculative importations at a bad time.

Q. You have the home market to yourselves?—A. Yes.

Q. That is one reason?—A. And we can supply the whole market.

Q. Of course you know there is the talk all about us, and some discussions through the newspapers, that the remedy for these combinations, especially in the tin-plate business, is to take away the tariff entirely. As you are a manufacturer, I think the commission would like to know just about where it would land the tin-plate interest in this country.—A. That is a good question.

Q. That is just what we want to get at, the fact, and your own opinion as a practical man.—A. I have had some experience in changes of the tariff. We have had a good many of them before the American industry was established. If the tariff on tin plate were removed or largely reduced, as I said before, the immediate effect would be a very large advance in the foreign market. In other words, they would take advantage of that advance and it would be continued as long as they had a demand in this country. Then, in the course of time, the American manufacturer would commence to adjust himself to those changed conditions.

AS TO MONOPOLIZING MACHINERY.

Q. (By Mr. PHILLIPS.) Does the American Tin Plate Company seek to control the machinery that goes into the making of plates?—A. I can say nothing on the subject, except that I have seen it in the newspapers. We are not interested as yet in that.

Q. You would be directly interested if you were going to make your own black plate, would you not?—A. We should.

Q. To know whether you could get such machinery?—A. But I have never found any difficulty in getting any made that I was willing to pay for. In our own works we have employed a great deal of machinery and mechanical knowledge on the part of others. We never had any difficulty in getting anything made.

Q. Have you heretofore ever dealt, however, with persons who had absolute control, or very largely the control, of a great industry?—A. We have never dealt with anyone except with those who have made machinery for the tinning works.

NO GREAT COMBINATIONS IN THE BRITISH TIN TRADE.

Q. (By Mr. FARQUHAR.) Is the manufacturing of tin plate in Great Britain in the hands of a few or many manufacturers?—A. Very many.

Q. Very many manufacturers; they have no large aggregations of capital?—A. None whatever.

Q. In the manufacture of tin plate?—A. Mostly small ones, mostly smaller plants; very many. That has been the natural growth of that industry which we faced here before we established the tariff of 1890.

Q. Has there not since the American tariff went into operation been formed an aggregate of capital or of interests in Wales to find markets and establish prices?—A. No, sir, I think not; nothing except in a friendly way maybe, but no attempt at any establishment of prices whatever. There is, however, I should state in fairness, though a very minor matter—there is and always has been a combination among some English manufacturers of large tinned sheets. That combination has always existed, to my knowledge, 25 or 30 years I think; it never seemed to do any harm—always existed and still exists; the consumers got used to it. I do not mean to say that it at any time established high prices, immoderate prices; but there is, it is fair to state, in England, amongst manufacturers of large tinned sheets—a very unimportant industry—a combination as regards prices.

WITNESS IS HARDLY A COMPETITOR OF THE AMERICAN TIN PLATE COMPANY.

Q. (By Mr. FARQUHAR.) Do you think that the creation of great aggregations of capital like the American Tin Plate Company is an advantage to the whole trade?—A. I think we shall have to wait and see how it works out.

Q. Await the result?—A. At the present their action has been moderate and business-like throughout, as I have said. They have not attempted at any time to fix any higher price for tin plate and have rather kept under the advancing costs.

Q. (By Mr. A. L. HARRIS.) Have they any economic advantage over you in the manufacture of tin plate through the immense combination?—A. Well, it is not exactly fair to them or possibly to us to make a comparison, because we simply tin on a very large scale. We have connection with a large number of mills and have made the product all the way up to tin plate.

Q. (By Mr. PHILLIPS.) Do you employ traveling salesmen in handling your product?—A. We do employ traveling salesmen, but not necessarily for selling our product. It is for business purposes; and then we are dealers—merchants in kindred goods along the line, and have always been, more or less.

Q. Do you employ more now than you did prior to the organization of the American Tin Plate Company?—A. We employ exactly the same number.

Q. And do you come in competition, or do you generally sell at about the same price that they do?—A. Well, as I said, probably three-fourths, or at least 65 per cent, of the entire consumption of tin plates in the United States is east of the Alleghenies. Our own market is therefore more immediately around us, and in that sense we do not exactly come in contact or competition with the American Tin Plate Company, or any more than we formerly did with individual mills whose business is more naturally in the western territory. Also, the American Tin Plate Company, being a very large organization, is desirous of turning out product, and probably would like to make the kinds that entail the least trouble. We, as individual makers, are quite willing to take upon ourselves any trouble if the consumer will pay for it, and, as we make high grades, we do not exactly make the same things as the American Tin Plate Company. When it comes to what I might call the calico end of our business—a small product, comparatively, with us—we do come in competition with the American Tin Plate Company, and our prices are about the same. We can not very well get more, although, in our opinion, our product may be better, and we can not, on account of cost, sell for any less.

SOURCES OF TIN.

Q. (By Mr. PHILLIPS.) Where do your supplies come from?—A. From Oceania entirely—from the producing primary markets, which are largely the Straits Settlements, some from Banca, and some little from Australia.

Q. Nearly all of the American tin is secured from where?—A. There is no American tin.

Q. You use no American tin?—A. It is all imported, mostly from there. There is American tin existing, but we have never been able to get at it in a commercial way.

COST OF TIN PLATE AS AFFECTED BY PRICE OF FIG TIN.

Q. (By Mr. A. L. HARRIS.) Has the price of tin increased?—A. The price of tin has increased enormously, more so than any of the ingredients. We use, we may say, iron or steel and tin. The price of tin was about, as near as I can recollect, 13 or 14 cents a pound a year ago. Two months ago it was 34 cents a pound, and to-day, or yester-

day, it was about 27 or 28 cents a pound. If you consider the enormous advance of an article in a natural way, except by speculation prevailing, you will see how much that has increased the cost of making tin plate. If you take what is known as canner's tin, which we are speaking of, you have about 2½ pounds coating to a box of tin, 14 by 20, and 112 sheets. The cost of that tin plate has increased to that extent by the advance in pig tin; but more than that, in our own individual case, the increase has been enormous to us, because we make bright plates that carry 16 pounds and upward, 14 by 20. We make roofing tin, a large part of tin and alloy, composed of one-third or one-half tin. Although the price of lead has not advanced materially, you can easily see how very much higher our cost is where we use very much tin in our product. Now, as I stated, the advance of tin is natural, without control in any sense whatever. It has simply advanced upon its merits, and the statistics show an increased consumption, due entirely to the establishment of the American industry and the enlargement of our product here, the large increase in our production, and at the same time an improvement in the Welsh output. They have sought, under their adverse circumstances, when they lost this market, other markets, and they have gradually been increasing their production, reopening their old mills, so the consumption of tin has very much increased.

Q. Largely caused by the natural law of supply and demand?—A. Entirely so.

Q. (By Mr. FARQUHAR.) Are you aware of what nationalities the men are that control the production of tin?—A. I can not state from knowledge. I think they are English. The Dutch settlements produce a good deal of tin from the territory of Banca to Billiton. Of course the Australian and the Straits output are very large, also. No doubt they are very largely under English control.

REASONS FOR FORMATION OF AMERICAN TIN PLATE COMPANY—NO BUSINESS NECESSITY.

Q. (By Mr. PHILLIPS.) Do you think there was any necessity for the formation of the American Tin Plate Company?—A. There was no necessity as far as the makers of tin plate were concerned. It was the result of bad management on the part of many of the mills, who were confronted with a proposal to sell out. It should be borne in mind that the American industry started out under very favorable conditions, and there seemed to be before this change of tariff in 1890 a sort of fascination about the article by which a good many outsiders seemed to think they should enter the business; consequently, when the American mills commenced to be formed they were put up on a favorable basis probably, and people attempted to work them who had not a sufficient knowledge of the business to work them right. In my opinion probably 75 per cent of the individual mills had no experience whatever when they started in the manufacture of tin plate; consequently they suffered in that respect, and it was simply, in my opinion, the lack of management on the part of individual mills that necessitated the formation of the present company. In our own case, we have gone through the whole period, always prosperous without exception, and never following the keen competition that existed amongst the Western mills. Then, again, if they faced these conditions they could have remedied this, if they thought they were in danger of excessive competition amongst themselves, by reducing the production at two periods of the year. They could have reduced their production either in July or in December, when the consumption is at a minimum, and prevented the overproduction of stock, and in that respect very largely improved their condition. If they had gone on in that way, I think we should have reached a time when they could have had the additional relief of exporting American tin plate. I think that while some of the individual mills were poorly managed, some of them were very well managed, and I think if the truth were known, a good many have made money in bad times. Others did not; probably on account of conditions and lack of management, through want of knowledge on the subject, and they could not survive. It was the survival of the fittest.

PERSONAL SUPERVISION NEEDED FOR MOST EFFICIENT MANAGEMENT.

Q. Do you believe a large aggregation of mills, a large number of them at different places in the country, can do work under one head as economically as individual owners could operate them, looking directly after their own business instead of employing help?—A. I can only give my opinion, and that is that a reasonable mill, reasonable in capacity, operating in one place, can be certainly managed better and at a lower cost per unit of production than a series of mills that are scattered. The only saving in a large number of mills is in the smaller executive cost. But I think that is very much neutralized by want of proper superintendence; and tin plate is an article that should be watched very carefully, and requires personal supervision.

We often feel ourselves as if we ought to have a superintendent to watch our superintendent;¹ not that there is any necessity for it, but it is an article that goes through so many processes before it is really boxed up, that it should be watched very carefully. I do not see how that can be done by visiting superintendents. The American Tin Plate Company themselves are business men and conduct this enterprise for business purposes; and they are adopting that principle in dismantling outside mills and concentrating their product.

SAVINGS OF CROSS FREIGHTS—NO DISCRIMINATION.

Q. (By Mr. A. L. HARRIS.) Does the large combination get any advantage in freight rates?—A. None whatever. There are no advantages to be obtained in freight rates at all, on account of their size. Oh, no; none whatever. They have an advantage in being able to ship from the nearest mill to the consumer; that is all.

Q. (By Mr. PHILLIPS.) There is not a great deal of difference, you consider, by entering others' markets and cross shipping, where they would naturally, when combined, ship from the nearest point?—A. Oh, the American Tin Plate Company must save a considerable amount over the practice of the individual mills in that respect. They deliver from their most convenient mill.

Q. But they lose, perhaps, you think, in efficiency of management as much or more than they make?—A. I have no right individually to make any reflection on the management. I did not intend that. I merely said that in my opinion central mills could be managed more efficiently than a series of mills, and especially in the tin-plate business, because tin is an article that requires much care if you want to make it right.

(Testimony closed.)

¹ See Mr. Griffiths, p. 900.

NATIONAL STEEL COMPANY.

WASHINGTON, D. C., October 17, 1899.

TESTIMONY OF MR. WILLIAM E. REIS,

President of the National Steel Company.

The commission met at 1.35, Mr. Clarke presiding. At 1.45 Mr. Clarke introduced Mr. William E. Reis, of Chicago, Ill., president of the National Steel Company, who, being first duly sworn, testified as follows:

Q. (By Mr. JENKS.) Will you be kind enough to give your name and address?—
A. W. E. Reis, Chicago.

NATIONAL STEEL COMPANY—STOCK BOOKS—TRANSFER AGENTS.

Q. You are the president of the National Steel Company?—A. I am.

Q. When was this company organized?—A. February, 1899.

Q. Under the laws of what State?—A. New Jersey.

Q. Can you give us any regulation that you yourselves made with reference to the keeping of the stock books and transfer books, and to the degree of accessibility that should be given them?—A. I can give you a copy of the resolution passed by the stockholders.

Q. Will you be kind enough to read it?—A. (Reading:)

[Extract from the minutes of the stockholders' first meeting of the National Steel Company.]

"*Ordered*, (1) That in compliance with the laws of the State of New Jersey, this corporation have and continuously maintain a principal office and place of business within the State of New Jersey, and have an agent at all times in charge thereof, upon whom process against this corporation may be served, and therein keep the stock books and transfer books for the inspection of all who are authorized to see the same and for the transfer of stock. That the books in which the transfers of stock shall be registered, and the books containing the names, addresses, and number of shares, respectively, of the shareholders, shall be at all times during the usual hours of business open to the examination of every stockholder at said principal office.

"That the name of this corporation be at all times conspicuously displayed at the entrance of its principal office in this State.

"*And be it further ordered*, until this resolution be duly rescinded,

"(2) That such office and place of business be in and at the office of the New Jersey Registration and Trust Company, No. 525 Main street, East Orange, N. J., and that this company be registered with the said trust company.

"(3) That the New Jersey Registration and Trust Company, being by statute authorized to act in New Jersey as the agent of corporations, be, and hereby is, appointed the agent of this corporation in charge of said principal office, and upon whom legal process against this corporation may be served within the State of New Jersey, and also the transfer agent of the stock of this company."

Q. Does this New Jersey Registration and Trust Company still remain your New Jersey agent?—A. It does.

Q. And has this resolution been lived up to strictly with reference to the keeping of the books there continuously?—A. So far as I know, yes.

Q. Has the National Steel Company any other transfer office?—A. We have a registrar in Chicago and one in New York.

Q. What is the transfer agent in Chicago; also the one in New York?—A. The Merchants' Loan and Trust Company in Chicago and the Guaranty Trust Company in New York.

CAPITALIZATION—PREFERRED STOCK AT PAR, COMMON AS BONUS.

Q. Will you tell us what the capitalization of the National Steel Company is?—A. Fifty-nine million dollars.

Q. And how it is divided?—A. Twenty-seven of preferred and 32 of common.

Q. Will you explain to us briefly the general method of organization of the National Steel Company?—A. I do not know that I can; it came to me after it was organized; I was not one of the organizers.

Q. You are not one of those who got into it first?—A. I came into it, but I did not create it.

Q. Were you one of the original members; that is to say, was your plant one of those that went in?—A. We put the plant in, but I had personally nothing to do with the preliminaries prior to the organization of the company.

Q. So far as your own plant was concerned, you can perhaps tell us the general arrangements that were made with reference to your coming in; for example, did you give an option on your plant for cash?—A. Yes.

Q. For a certain amount. And then how did you understand that the preferred stock was to go?—A. We gave an option in this way; we gave an option for cash with the privilege to take all cash, or part cash and part stock, or all stock at our option. We exercised the option at the completion of the company and took all stock.

Q. At what rates was the stock taken?—A. We took 1 share of preferred stock for each \$100 of cash, and with each share of preferred stock we got 1 share of common; so we got a share each of preferred and common for each \$100 of value.

Q. The cash value that was given was estimated, when you agreed to sell, on the basis of what that plant would be worth as put into an organization of that kind?—A. Well, we put it in at the same price we were offered for it by another company.

Q. How long before had this offer been made by another company?—A. Thirty days.

Q. (By Mr. FARQUHAR.) Where was this plant?—A. New Castle, Pa.

Q. (By Mr. JENKS.) What is the name of this company?—A. The Shenango Valley Steel Company.

NATURE OF PRODUCTS—SELL TO ANYBODY WHO WANTS TO BUY.

Q. Will you explain to us briefly what the nature of your business is in the National Steel Company—what your product is and your raw material?—A. What we produce?

Q. Yes.—A. Our products are steel billets and slabs, 4-inch and larger billets, small billets, sheet and tin-plate slabs or bars, as we call them. We do not go to the consumer with any of our product at all.

Q. To whom do you sell?—A. The American Tin Plate Company and other finishers of material who go to the consumer with the finished product. We do not sell anything in the finished shape.

Q. So far as your material is concerned, have you sold any to tin-plate companies besides the American?—A. We sell to anybody who wants to buy.

Q. Have you sold to anybody since your organization besides the American Tin Plate Company?—A. Yes, we have.

Q. Could you mention one?—A. We are shipping bars to Cincinnati now.

ORE—MINES—BOATS.

Q. Are you yourselves the owners of the mines where you get your raw material?—A. Partially.

Q. Would you explain a little more in detail as to the nature of your raw material, what proportion of it you produce yourselves and what proportion you buy?—A. Well, based on the coming year, our requirements of Lake Superior ore will be about 3,000,000 tons. With our present equipment we expect to produce about 1,250,000 or perhaps 1,400,000 tons from our own mines. The balance of that we expect to purchase on contract.

Q. Do you own your own ships for transporting ore?—A. We own 9 boats, yes.

Q. Do you own any railroads or any inland transportation?—A. No; we do not own any railroads; only narrow-gauge local roads around the works.

Q. (By Mr. FARQUHAR.) What mines are they?—A. The Chapin Mining Company in Iron Mountain, Michigan, and the Winthrop mine in Marquette County, at Ishpeming.

Q. How long have you been the owners of the Chapin mine?—A. Sixty days probably; very recently; we have been negotiating for it since last fall a year ago.

Q. You say you have your own transportation line on the lakes?—A. We have 9 boats, which will carry about a million tons of ore; a little short of carrying our own products.

STEEL WORKS AND FURNACES—COST OF FURNACES—WORKING CAPITAL.

Q. (By Mr. JENKS.) How many plants have you in your company?—A. Six, I believe. It depends altogether on what you call a plant; we have 6 steel works and we have 15 furnaces.

Q. (By Mr. JENKS.) Where are your steel works?—A. Newcastle, Youngstown, Sharon, Mingo Junction, Bellaire, and Columbus.

Q. What is the average output of one of your moderate-sized plants?—A. Well, our total output I could give you. We are producing about 5,000 tons of steel per day.

Q. What is the output of your largest?—A. About 1,800 tons.

Q. Can you give us an estimate as to the cost of building one with an output of, say, 1,000 tons?—A. I do not think I could.

Q. A general estimate along the line you heard with reference to the tin-plate plants?—A. In the first place, I do not think you could build one in 3 years, anyway. We can not get the material. We are building 3 new blast furnaces; I can give you a rough idea of what that would be.

Q. Yes.—A. We used to have a table that 100 tons' production, I think, would cost \$100,000. That was a rough way of getting at it. That would go 3 years ago. That is, 500 tons of pig iron a day would cost \$500,000.

Q. That was your estimate?—A. That is just a rough way of getting at it. It is like building a house—the result is always a little more. We are building 3 to-day, and I think every one of them will cost us 3 times that.

Q. Where are the added elements of cost in the last 3 years?—A. Increased cost of machinery and structure and labor.

Q. Added cost all along the line?—A. All along the line.

Q. Can you give an estimate as to the relative amount of running capital that is required in a large steel plant as compared with the cost of the plant itself?—A. Oh, I think it would require at least 50 per cent for the working capital.

Q. With 50 per cent of the value of the plant itself for running capital you would operate it easily?—A. You understand, of course, the nature of the business. The ore has all to be brought down during the open season of navigation; it requires considerable money to freight it and store it.

THE COURSE OF PRICES.

Q. Can you give us an account of the general course of prices of your product, we will say, for the last 3 years?—A. I think so, approximately.

Q. If you have the data at hand you may go back a little earlier.—A. I can give you the data compiled by the iron and steel people. I have here the Annual Statistical Report for 1898 of the American Iron and Steel Association of Philadelphia.

Q. (By Mr. JENKS.) That gives the data that I have asked for with reference to the course of prices back for how many years?—A. It runs back to 1891.

Q. You will give us some figures with reference to the last 3 years, and be kind enough to let us have this book?—A. Yes. Bessemer pig iron in 1894—these are prices at Pittsburgh—averaged about \$11.38; 1895, \$12.72; 1896, \$12.14; 1897, \$10.13; 1898, \$10.33. The present advance commenced in December, 1898, and continued moderate through January and February, and then became very radical.

Q. And the price now is?—A. The price now is \$22.50 to \$23.

Q. To what do you ascribe this very great increase in prices?—A. Not enough to go around, I guess. Why, in the last two years our exports, as you all know, have been very heavy, and we were completely cleaned up of all surplus material in the iron and steel line. Our own consumption increased naturally, and we discovered a shortage, and the fear that there would not be enough to go around probably advanced prices a good deal.

Q. Are you also working on contracts that have been made some months ahead, or do these market prices represent the prices you are getting?—A. These are the market prices of pig iron. We are not sellers of pig iron at all; we use our own and buy quite largely.

Q. Now, with reference to the prices of your own finished product of steel billets, what has been the course of prices there?—A. Upward.

Q. Can you give it to us in general terms?—A. The corresponding price of billets in 1894 was \$16.58; 1895, \$18.48; 1896, \$18.83; 1897, \$15.08, and 1898, \$15.31, at Pittsburgh.

Q. And then the average last year, the price?—A. That is 1898; but since January of this year the advance has been rapid.

Q. So that the price is now?—A. Price is anywhere from \$34 to \$38. I saw some quotations in the paper up to \$44; that is imaginary, though, I think.

MARKET QUOTATIONS, \$31; ACTUAL DELIVERIES, \$21.

Q. Now, these are the market quotations. Are you yourselves selling generally upon market quotations, or are you working on contracts, so that your real income from these sources is considerably less than this?—A. Well, our average price is very materially less than that. From the nature of our business, we have got to carry a good deal of tonnage ahead. We have got 700,000 tons of steel on our books still to be delivered; so that the idea that the manufacturer is getting all this advance that is reported every day in the papers is simply erroneous.

Q. Perhaps you would like to develop that somewhat further with reference to the differences between the price that the manufacturer is getting and the quoted price?—A. I think the average price we received for one hundred and some thousand tons shipped in August was \$21 and some cents, while the market quotations in the papers were for the same time anywhere from \$31 to \$44.

Q. (By Mr. KENNEDY.) I should like to ask if you are getting contracts now with these market quotations upon which you manufacture and deliver in the future?—A. We are as far as we can in the future. We are selling material every day, and we expect our average selling price to advance materially each month as we get away from the old business.

Q. What was the average quotation in July and August?—A. You mean our quotations to customers?

Q. Yes, and the market quotations, too?—A. Well, I do not know as I can give you that; I should judge somewhere about \$34.

Q. Your quotation or the market price?—A. Our price.

Q. And the market price?—A. Well, I do not know what you would call the market price. As to trade-paper prices, if somebody's necessities are urgent, as I see in Pittsburg occasionally, and he buys a carload at \$44, that is heralded all over the country as the price of material, which it is not.

Q. (By Mr. FARQUHAR.) That extreme price is not an indication of the real price?—A. None, whatever.

Q. (By Mr. JENKS.) But I understood that you, yourselves, were selling in July and August at about \$34? A. Thirty-four dollars; in that neighborhood.

WAGES—THE AMALGAMATED ASSOCIATION.

Q. Will you make some statement, please, with reference to the course of wages in your industry for the last 3 years; that is, before your organization was effected and since that time?—A. Well, our wages are adjusted the 1st of July of each year, running a year.

Q. By the Amalgamated Association?—A. For the skilled labor—not all Amalgamated, no; our common labor and mechanics are adjusted when occasion requires it. There was an advance in January; I think another one in March, and another one in June; so that the labor has had three advances—the unskilled labor—since January. We adjusted the scale the 1st of July, running until July of next year—in some cases an advance of 15 per cent, and in others 20 per cent.

Q. (By Mr. KENNEDY.) Most of your skilled workmen are members of the Amalgamated Association, are they not?—A. No; I judge we are about evenly divided on that.

Q. In making the scale with the Amalgamated Association, do the unorganized workers in the same department in the different works get the wages that are allowed to the Amalgamated men?—A. Steel works are different from tin-plate and puddling mills. There the rate is uniform. There are no two steel works that pay the same rate per ton, owing to local conditions and different productions.

Q. The sliding scale of the Amalgamated Association would take those differences into consideration?—A. They give more allowance to a more modern mill than they do to an old mill, if you have increased mechanical appliances and increased tonnage.

Q. What I want to know is, are the unorganized workers given the benefit of the arrangement you make with the Amalgamated Association?—A. Relatively, yes; the men not in the Amalgamated Association get relatively the same wages that the Amalgamated men do.

Q. The Amalgamated men keep up, practically, the wages for the unorganized men?—A. Practically, yes.

ADVANTAGES OF CONSOLIDATION—CHIEFLY GETTING MINES.

Q. (By Mr. JENKS.) What advantages do you get from the consolidation of these different plants under one management? What are the special advantages that come from consolidation?—A. The ability to strengthen our position and the acquisition of ore property and coal property.

Q. You say that is substantially the only advantage?—A. That is the greatest advantage.

Q. You get more capital to handle, so that you can secure your coal and your ore at much better rates?—A. And we are put in better condition to compete with our competitors. We are only producers of about 18 per cent of the steel that is made. We have some pretty strong competitors, and we had to equip ourselves as well as we could for that business.

Q. Do you have any opportunity for making any large saving through specialization of the work in different plants, or through freight rates that come from shipping from a nearer transportation point?—A. We avoid cross freights; that is all.

Q. There is a considerable saving there?—A. Yes.

Q. Is there any saving that comes in the manufacture itself, the process of manufacture, that you get through consolidation?—A. I think not.

Q. (By Mr. FARQUHAR.) As to the acquisition of your mines in northern Michigan, do you regard it as a positive necessity in your business to possess the raw material?—A. Absolutely so; yes.

Q. Are you much advantaged in the owning of your own mines there and your own transportation?—A. We think so. We have control of our own supply to that extent.

TARIFF ON BILLETS, BARS, AND SHEETS CUTS NO FIGURE.

Q. (By Mr. JENKS.) Will you give us your opinion with reference to the effect of the tariff on the steel industry?—A. Well, we have not seen much effect one way or the other for the last 8 or 10 years.

Q. Are you exporters of steel now?—A. No, we never have been. We are making material that has been largely exported, but that was before the National was formed.

Q. Would you say, then, that at the present time, so far as your judgment goes, there is no need for a tariff on iron and steel and you see no effect from it at all?—A. Not to us individually.

Q. On the industry as a whole?—A. There are different branches, and I am only speaking for one branch, billets, bars, and sheet; but I should say that in our particular branch I do not see that the tariff cuts any figure one way or the other.

Q. There is no need for a tariff on that?—A. I should say not.

Q. (By Mr. KENNEDY.) There is no need to have a tariff on that portion of your products that enter into the manufacturing of tin?—A. Of course we are affected by anything that affects that industry, but for us individually we do not need any tariff. Of course if it should be taken off the tin industry we should be affected with others.

Q. So that indirectly you need the benefit of the tariff?—A. Yes, indirectly. I say that in the steel business they need the tariff; but we individually do not.

Q. (By Mr. JENKS.) You say you do not need any tariff on steel billets used in tin plate?—A. We do not need any on steel billets, because there are none imported.

Q. (By Mr. CLARKE.) Suppose there should be a large accumulation of the stock of billets in Europe or any other country and the owner should need to realize and put those billets on the market at a sacrifice price, would the tariff be of any advantage to you then?—A. Well, in the first place, we do not make our material ahead of specifications. We do not pile it up like tin plate or nails.

Q. Have they not been known to do it on the other side?—A. Not to my knowledge. All of it is made on specifications.

RELATIONS BETWEEN NATIONAL STEEL, AMERICAN TIN PLATE, AND AMERICAN STEEL HOOP.

Q. (By Mr. JENKS.) What relations exist between the National Steel Company and the American Tin Plate Company?—A. Friendly. There are no official relations existing between us.

Q. What are the business conditions between the two as regards buying and selling; do you furnish them material to any great extent?—A. Yes.

Q. How large a proportion of your product do they take?—A. I judge in the neighborhood of between one-fourth and one-fifth.

Q. Can you tell how many of the directors in your company are directors in the Tin Plate Company?—A. Indeed, I could not.

Q. Several of them, you think?—A. Quite a number of them; they are interwoven with each other.

Q. Are any of your regular officers also officers in the Tin Plate Company?—A. Only as to the executive committee.

Q. Vice-presidents, treasurers, etc.?—A. The treasurer of the National Steel Company is also the treasurer of the Tin Plate Company.

Q. Is he treasurer also of any other?—A. The Hoop Company.

Q. Of the American Steel Hoop Company?—A. The American Steel Hoop Company.

Q. In your dealings with the American Tin Plate Company do you make separate individual contracts with them as you do with other companies that do not have similar members or directors?—A. Absolutely so.

Q. Everything is done by means of a special contract?—A. By general contract, the same form of contract in force with other people.

Q. Are your relations with the American Steel Hoop Company of a similar nature?—A. Yes.

Q. Owing to the fact that you have the same men to a considerable extent, the same stockholders in the different companies, your relations are rather more confidential than with others?—A. We hope so; that is the object we have—to get a market for our material.

Q. As regards the management of the companies, they are kept entirely separate?—A. Absolutely.

Q. You deal with them as separate customers?—A. Absolutely.

Q. (By Mr. FARQUHAR.) Are those members or directors the main stockholders in your company; are they very large stockholders?—A. They are all large stockholders, so far as I know. You say the directors; I do not recall all of them. The members of our executive committee, which consists of 7, are all large stockholders in the different companies.

Q. So they are conserving their own interests in being on the directorate?—A. Yes.

MANY MORE STOCKHOLDERS THAN BEFORE CONSOLIDATION—WORKMAN STOCKHOLDERS.

Q. (By Mr. JENKS.) Can you tell about how many stockholders you have?—A. Well, I saw the list at the last dividend in September; I think about 1,100; between 1,000 and 1,100.

Q. How does that number compare, if you have any means of knowing at all, with the number of stockholders in these different concerns before they were combined?—A. Oh, well—

Q. (Interrupting.) Larger or smaller?—A. One hundred to one, probably.

Q. Very much larger?—A. Oh, yes; the other corporations were close corporations before; they were small in number.

Q. To your knowledge are there any goodly number of workmen that took stock in the National Steel Company; any who are working for you?—A. Individually I do not know of a goodly number; I know of individual employees who are stockholders.

NO STRIKES—ALL SKILLED LABOR ON AN ANNUAL SCALE.

Q. Have you had any troubles with your employees that have resulted in strikes?—A. No.

Q. You have these regular arrangements with most of your workmen with reference to scales of prices running through some months or through a year?—A. With skilled labor. You will remember that our skilled labor is all controlled by the annual scale.

Q. (By Mr. KENNEDY.) You said that only about half of them are controlled by the Amalgamated?—A. By the Amalgamated, but we give the other mills a scale at the same time.

STOCK ON THE MARKET—DIVIDENDS.

Q. (By Mr. FARQUHAR.) Have you any idea how much of your stock is on the New York market?—A. There is just about one-third of the preferred.

Q. One-third of the preferred?—A. Yes, that is my recollection, on the 30th of September.

Q. How much of the common?—A. That I did not see, as we have never paid a dividend on the common. I did not go over the stockholders' list.

Q. What is the latest quotation of the preferred stock in New York?—A. About 95 or 96.

Q. Is there any quotation for common that you recollect?—A. 50 to 52.

Q. How much variation have you had in your figures for the last three months on stocks?—A. 98½ I think was the highest for preferred and 94 the lowest; I think 55, probably, and 50, on the common.

Q. How often have you declared dividends?—A. Quarterly.

Q. You have paid, then, three dividends?—A. Two.

Q. What was the dividend?—A. One and three-fourths per cent; 7 per cent cumulative stock.

THE ODD \$5,000,000.

Q. Between your preferred and your common there seems to be a difference of \$5,000,000?—A. Yes.

Q. As it was issued share by share, what became of that \$5,000,000 in making up your account?—A. I know where it went in the accounts, but where the \$5,000,000 went I do not know anything about; that was before my day.

Q. Have you a general idea as to what the \$5,000,000 was for?—A. Oh, I suppose, general expenses; that covers a multitude.

Q. If it is a fair question, was there such a thing as promotion in your company?—A. I do not know how you use the term promotion. Mr. Moore was instrumental in bringing these different interests together.

Q. (By Mr. JENKS.) Was he acting at the instance of the different manufacturers that approached him and asked him to see if he could arrange the matter for them?—A. I could not say; I did not ask him. I do not know what the rest may have done.

Q. (By Mr. KENNEDY.) Was the promoter paid in common stock?—A. Indeed, I can not say. No, I was not conversant with the conditions at that time.

Q. Well, you know by public rumor what the promoter was paid?—A. The general supposition is that the difference between the preferred and common stock is used in the promotion of the scheme. That is the ordinary common belief.

Q. The difference in the value of the stock or what?—A. The difference in the issue.

Q. Oh, the difference in issue; \$5,000,000, then?—A. Yes.

Q. What is the present market value of your common stock?—A. About 50 or 51.

Q. That would be \$2,500,000, then?—A. If he sold it. You can not tell what he did with it, if he got it.

EARNINGS—DIVIDENDS ON COMMON.

Q. (By Mr. FARQUHAR.) Does that 1½ per cent quarterly dividend represent the amount of your profits?—A. That is, up to this time?

Q. Yes.—A. No, it does not; our profits have been in excess of our dividends.

Q. Has that extra profit gone into betterments or in what form is it?—A. Well, we are making improvements.

Q. What is the working capital that you set aside?—A. About \$8,000,000.

Q. That entered largely into the acquisition of these mines and transportation properties, did it not?—A. Some of it; yes.

Q. (By Mr. KENNEDY.) Is there any prospect of paying dividends on the common stock?—A. We have hopes.

Q. Can you say anything about the earnings of the common stock that would give the public an idea of what the prospect is—what the hopes are?—A. Why, we have not published any statement of our earnings.

Q. Can you offer any statement in regard to the earnings of the common stock?—A. I could; I don't know whether I should like to; I know what we are earning.

Q. Well, I shall not press you. I will just ask you if you will make the statement?—A. Well, I had rather not have the publicity given to it.

Q. All right.

EXTENT AND VALUE OF ORE LANDS.

Q. (By Mr. CLARKE.) What is the extent, the number of acres of your mineral lands?—A. The Winthrop property embraces 160 acres in fee.

Q. And the other?—A. The Chapin Mining Company has a lease, I think, of five forties, on which we pay a royalty.

Q. Both produce the same quality of ore?—A. No.

Q. Are those properties extensively developed?—A. There has been taken from the Chapin property—we shall ship this season about 900,000 tons of ore.

Q. How many years has it been worked?—A. I think the total shipments from the mine have been about 7,000,000. It has been through two or three hands, and idle at times during the depression.

Q. How much more do you estimate there is there?—A. We have in sight, without going below our feet, about 6,000,000 tons. We know, as near as we can know anything under ground, that it is there.

Q. How much do you estimate there is in the other?—A. Well, it is so much that we never estimated it.

Q. What do you consider the money value of these mineral lands?—A. That would depend on conditions in the ore business. They are, perhaps, to-day worth 200 per cent more than they were a year ago to-day.

Q. Have you a supply for your works for the next 25 years?—A. Well, I should hate to even venture an opinion on that.

Q. Which do you consider the more valuable, the material properties that you own or the opportunities that you possess to do business?—A. Well, to-day I think the opportunity is worth more than the other; combined, they are both of them very valuable. The opportunity to do business a year ago was not worth as much as it is now.

FAILURES IN IRON MINING.

Q. (By Mr. FARQUHAR.) Is it not a fact that there have been a great many failures in the iron mines there, in northern Michigan and Minnesota?—A. That is the rule and not the exception.

Q. There have been some of the largest failures, have there not, in this whole country up in that section?—A. Yes; you go back to the Gogebic, the first development there, and it almost bankrupted the country.

Q. And many of those mines for years have been run at a loss?—A. Yes.

Q. (By Mr. CLARKE.) Why was that; do you know?—A. Why they were run at a loss?

Q. Yes.—A. Well, the extreme competition for a limited amount of business doing, low prices prevailing, \$9 Bessemer pig iron from the two valleys, \$10 in Pittsburg.

Q. (By Mr. FARQUHAR.) Was there not also an important development of new mines there?—A. The development of the Mesaba region coming into competition with the Gogebic and the Ishpeming and Marquette regions, the Mesaba proposition being simply a steam-shovel proposition in its early history, putting ore on the cars for 10 cents a ton.

Q. (By Mr. CLARKE.) When those properties failed, was that at the time when we were importing a great deal of iron and steel into this country from abroad?—A. No.

Q. When did they fail?—A. During the depression and low prices.

Q. Can you name the year?—A. From 1892; 1893, 1894, 1895; it has been continuous right along since 1892.

Q. During the general depression of industry in this country, then?—A. Yes.

STRUCTURAL STEEL.

Q. Has there been a very large increase in the demand for structural iron and steel in this country within the last 2 years?—A. Very large.

Q. Have wooden bridges pretty generally given place to steel bridges?—A. Yes.

Q. Is that true in regard to frames of buildings in cities?—A. The larger office buildings, yes.

Q. Does not that demand greatly increase the business of the various steel companies?—A. That branch of the industry takes a great deal of our tonnage.

Q. And to that class of business is largely due the advance in the price of the product?—A. Unquestionably so.

Q. Is that special demand likely, in your judgment, to continue and increase?—A. I should say yes, emphatically.

Q. Then, in your judgment, it adds largely above normal conditions that existed a few years ago to the value of steel properties?—A. Yes.

OUTPUT NOT INCREASED—PAY ROLL INCREASED, BUT PARTIALLY FOR CONSTRUCTION.

Q. (By Mr. JENKS.) Has the output of the National Steel Company for the last year exceeded materially the output of the several plants the year before?—A. We have only been in operation since February or the 1st of March. I should think not; they were all operated full before the combination and they have all run full since.

Q. About the output of this last year compared with the preceding 2 years, has it increased materially?—A. They have all been moderately successful concerns; they have all run full.

Q. Regularly for the last few years?—A. Yes.

Q. As to the number of workmen, is it substantially the same as before the organization and as it has been for the past 2 or 3 years?—A. A little more; our pay rolls show more men to-day than we had in March. Of course, that is due partially to the fact that we are on considerable construction. We probably have 1,800 more men to-day than we had in March.

Q. About how many men are you employing?—A. About 8,000 at the steel works; that does not go into the ore country or the coal country.

Q. The pay roll has increased more in proportion than the number of men taken on?—A. Yes.

IDLE FURNACES—NONE IDLE NOW.

Q. (Mr. KENNEDY.) I should like to ask if a large number of pig-iron furnaces have not closed down in different parts of Pennsylvania in the last 5 or 6 years?—A. Quite a number; yes.

Q. Quite a number in eastern Pennsylvania, particularly?—A. They have suffered the most. There have been quite a number in western Pennsylvania in the Shenango Valley; quite a number of what we call antiquated plants—not modern—unable to live through the prices prevailing in 1896, 1897, and 1898. They have all started up now.

Q. All started up now, you say?—A. As far as I know. I do not know of an idle stack east or west.

Q. Have not some of them moved away from the localities where they were operated 5 or 6 years ago?—A. When a furnace closes down there is not much to move.

Q. The business is moved?—A. They can revive it again, such as it is; but they can only live through these high prices.

Q. Did the combinations have anything to do with the closing?—A. Nothing whatever. There is no combination in pig iron.

Q. The combination in your trade would not have any influence on them?—A. None whatever. We are buyers of pig iron largely.

18 PER CENT OF BESSEMER STEEL—COMPETITORS.

Q. (By Mr. FARQUHAR.) How many great combinations, great corporations, are there in your line of business in this country?—A. The Carnegie Steel Company, the Federal Steel Company, the Pennsylvania Steel Company, the Maryland, Jones & Laughlins Steel Company, Wheeling Steel and Iron Company, Loraine Steel Company. These are the principal large ones. We are not a trust as you generally hear the word used.

Q. I want to know just the line of competition in your business.—A. As I remarked, we produce probably 18 per cent of the Bessemer steel. We are not a monopoly as I understand the term.

PUDDLING A THING OF THE PAST IN PENNSYLVANIA—SOUTHERN WAGES.

Q. (By Mr. KENNEDY.) Are a number of men formerly in the iron and steel industry in Pennsylvania now in the Alabama fields?—A. Quite a number of iron workers, puddlers, have gone south. Puddling is practically a thing of the past in Pennsylvania.

Q. Can you say what the wages are in the Alabama field as compared with that part of the country?—A. The Amalgamated Association controls the Alabama mills as well as the Pennsylvania mills.

Q. You are not disadvantaged by cheap labor in that industry in the South?—A. Not in the mills; no.

AMERICAN STEEL HOOP COMPANY.

WASHINGTON, D. C., October 17, 1899.

TESTIMONY OF MR. CHARLES S. GUTHRIE,

President of the American Steel Hoop Company.

The commission met on Tuesday, October 17, 1899, Senator Mallory presiding; Mr. Charles S. Guthrie appeared, and after being duly sworn, testified as follows:

Q. (By Mr. JENKS.) You may state your full name.—A. Charles S. Guthrie.

Q. Residence?—A. Pittsburg, Pa., and New York.

AMERICAN STEEL HOOP COMPANY—ORGANIZATION—CAPITALIZATION.

Q. You are president of the American Steel Hoop Company?—A. I am.

Q. In what State is this company organized?—A. New Jersey.

Q. Will you explain to us what provisions, if any, have been made by the company with reference to keeping its registration office?—A. The questions asked Mr. Reis would practically cover the same as regards our company. The rule is practically the same with us.

Q. What is the amount of your capital stock?—A. \$14,000,000 preferred and \$19,000,000 common.

Q. Is the general plan of your organization substantially that of the American Tin Plate Company and the National Steel Company?—A. Substantially the same in every respect.

Q. (By Mr. FARQUHAR.) The authorized capital is how much?—A. \$33,000,000.

Q. (By Mr. JENKS.) Will you explain to us the nature of your product? How does it differ from that of the National Steel Company?—A. We manufacture everything in the line of light iron and steel hoops, bands, cotton ties, bars, rounds, half-rounds—everything in that line that goes into the manufacture of hinges and general hardware, barrels, etc.—all rolled on very high speed rolls. We get all the raw material from the large producers, like the National Steel Company, with the exception of the little open hearth we make ourselves.

SAVINGS OF CONSOLIDATION.

Q. Can you tell us what especial advantages come in your line of business from having a large organization and the combination of a number of different plants instead of individual plants?—A. There are so many I can hardly give them all. In the first place, we have very great advantages in manufacturing. We make in the neighborhood of 85 to 90 different sizes, which necessitates frequent changes of rolls. If we give a mill 1,000 tons of one size, there is an economy of \$1 to \$1.50 a ton. We can not tell the exact figures, but we do know the saving is very great along that line. Aside from that, there is great economy in having all the management in one office; the economy goes through every department and every mill from one end to the other. Then we have the benefit of the good work of one mill to compare with that of another. If one mill makes 12-inch stuff, 10 or 9-inch stuff, different sizes, and gets out 60 tons and another 40, we can say to the one that got out 40, "What is the trouble, this other mill gets out 60?" We have an absolute check on the tonnage from the beginning to the end on all the mills, and in that way we think we have accomplished a great deal of saving. In another direction we have savings in freight by preventing shipments from crossing each other. We ship from the mill nearest the consumer. For instance,

we ship from Youngstown west to Cincinnati; from Pittsburg and the Eastern mills we ship east or south. We gain great advantages from this consolidation which we can not tell until the end of the year. We are figuring this thing out, and at the end of the year shall know absolutely what each ton costs to make and what the savings are relatively to the other plants. We have more or less of those data.

Q. What is the date of the organization?—A. The 17th of April.

Q. It has often been suggested that from a combination of this kind there would be disadvantages, because, it is said, profits are secure, and the different superintendents would become careless and not do their work so efficiently and thoroughly as if acting solely upon their own responsibility?—A. I do not think that is so at all. With our company I am sure it is not so. We aim in every department to get active young men. Their record is compared with that of the other men, and it is really a merit system. And the man whose mill does the best work will be paid and promoted accordingly.

PLANTS—THE OLDER MEN DROP OUT.

Q. How many plants have you?—A. Nine.

Q. (By Mr. FARQUHAR.) Where?—A. Union Iron and Steel Company, at Youngstown. They have mills at Girard and Warren as well as Youngstown. The Kimberly Company mills, at Sharon and Greenville, Pa.; J. Painter Sons & Co. mills, at Pittsburg; William Clark Sons & Co., at Pittsburg; Monessen Steel Company, Monessen, Pa.; Lindsay & McCutcheon, Allegheny; Portage Iron Company, Duncansville, Pa.; Pomeroy Iron and Steel Company, at Pomeroy, Ohio; the Isabella Furnace Company, in Pennsylvania. And we have coke works in Blair County which belong to the furnace property.

Q. These are different companies that came together as your organization?—A. Yes.

Q. (By Mr. JENKS.) Have you kept in the different establishments substantially the same men as superintendents?—A. Substantially so. In the organization of this company a great many of the older men dropped out, and we retained the young men familiar with the business and tried to pick out the talent in the companies.

MISCELLANEOUS EXPENSES GREATLY LESSENED.

Q. In order to check up these establishments one with the other you have frequent reports?—A. Every day; the tonnage from each mill. We are working on a cost system, which I hope will be as complete as can possibly be had to check the tonnage of each mill. In July or August we kept a very close account of the cost per ton, distributed over our product, of our fixed charges; that is, officers' salaries, traveling expenses of agents selling—everything outside of labor; office rents, everything of that kind; and we got it down to 40 cents a ton. The selling charges alone of any company, as far as I can get it, have never been less than 50 cents, and usually they figure \$1 to sell material.

Q. Before the organization?—A. Yes; and now we have our charges down to 40 cents a ton, based on 70,000 tons a month. That includes everything outside of dividends, of course.

Q. Since your company was organized have you shut down any plants?—A. None; we are running everything full.

THE COURSE OF PRICES.

Q. What has been the course of prices in your product?—A. They have advanced very materially; advanced gradually with the prices of raw material. When the company was organized we were getting \$1.40 base.

Q. What do you mean by base?—A. That was the base price for certain sizes.

Q. What size do you take for base?—A. It depends on what you are making. It varies for bar iron and steel and everything of that kind. I could not give you that without the figures; that is the basis of all prices. Above that we have what we call extras; that is, for small sizes. We run into wire gauge—about 20 gauge. Of course we get higher prices for rolling very light material. It is rolled out into long strips, and we have to get more for it. We have a regular card for extras. When the company was organized, steel was in the neighborhood of \$18 and \$19; you have heard what the gentlemen say the price is to-day. It varies anywhere from \$34 to \$38. Our selling price to-day is \$2.15 for iron, and \$1.40 was the price at the organization of the company. Our price to-day for hoops or bands is \$2.50; that is, \$50 a ton. The price of raw material is \$34 to \$38, so you see we have not advanced our price relatively as high as raw material.

WAGES.

Q. (By Mr. FARQUHAR.) What has been the course of wages?—A. They have advanced all along the line in every department from 15 to 25 per cent.

Q. Are you working mostly union men?—A. About one-half.

Q. You make with your men a regular annual agreement?—A. A regular annual agreement. About half of our men belong to the Amalgamated Association. The Pittsburg mills are nonunion mills. We pay them practically the same wages as the Amalgamated men. We make individual contracts with these men. It has been so for a number of years and before the organization. The men are satisfied.

Q. (By Mr. KENNEDY.) Do the members of the Amalgamated Association very largely control the fixing of their wages in your mills?—A. It is a matter of negotiation every year. We get together on the best basis we can. For instance, the puddled iron, bar iron, and that sort of thing is based on the sale card. As the selling price advances, the price of labor advances. It is figured out on the tonnage and the average selling price of our product. If we get an advance, the men get an advance. It is the same as the Tin Plate Company.

Q. Do you have a committee of conference?—A. We meet the Amalgamated Association and get together and fix a scale of wages for the year.

Q. That scale of wages applies to unorganized men?—A. No; it does not, because conditions are different.

Q. I mean the skilled workers?—A. The conditions are different in every mill. We have special machinery in some of the mills. The Amalgamated Association recognizes that fact. We pay some salaries. One of our head rollers at Youngstown gets a salary whether the mill runs or not.

Q. You say, other things being equal, you pay some men less than you do others for the same work?—A. No; I don't think so. It is distributed. For instance, a roller in the Amalgamated Association gets more than the men in our mills that are nonunion, but some of the other men in the nonunion mills get more. It makes the average practically the same; we have divided the question so as to equalize wages in the mills.

Q. Does not the conference with the Amalgamated men generally settle the scale of wages?—A. Practically so.

Q. So when you are conferring with the Amalgamated men you are fixing a scale of wages for them and those outside of the Amalgamated Association?—A. That is practically the case.

Q. They are doing a work for the unorganized men?—A. In a sense that is so.

COULD NOT COMPETE WITH ENGLISHMEN IN GALVESTON, BUT FOR THE TARIFF.

Q. (By Mr. JENKS.) Can you give an opinion as to the effect of the tariff in your special line of business?—A. I can give you my opinion. I think it is very material. We ship our product from one end of the United States to the other. We ship to Maine and San Francisco, Seattle and Galveston. We go from one port to the other with cotton ties, bands, everything of that kind. We have a rate of freight which is higher from Pittsburg to the ocean points than the Englishman can send the stuff for. He can ship for 4, 6, 8 shillings a ton to Galveston, Charleston, or any of these ports, and our freight from Pittsburg is heavier by the railroad than the freight across the water. Now, if we had not any tariff it would mean that we should have to meet that price; that any time England had a surplus and wanted to dump it in America—my idea is that the English and German manufacturers invariably make a dumping ground of America when they are slack of work; they distribute their fixed charge over a full tonnage; they get their profit out of the home trade and dump their surplus into America, and that affects the workmen. If we have to meet that competition—we can manufacture more cheaply than anywhere else in the world if it comes to certain conditions, but we could not reach out over all this country and compete with the foreigner in certain ways if we had not a tariff. We should have to take it out of the labor or shut up. While it does not directly affect the National Steel Company, it does affect us, and what affects us affects them. We consume their stuff and the Tin Plate Company does the same. We want to take a leaf out of the book of the German and the Englishman, and we want to send stuff abroad. We are now exporting at present prices, but that is due to the world-wide demand; prices are high on the other side.

EXPORTS NO SIGN THAT PROTECTION IS NOT NEEDED.

Q. You spoke of the fact that you are exporting now in spite of the great demand here. It is often assumed that when an industry is exporting it does not need any tariff for protection.—A. That is erroneous in every way. I think the steel business has shown that. The Carnegie Steel Company were practically the pioneers in exporting steel. They were doing it to make a market. They started largely in 1893. They wanted gold and could not get it. Everything was shut up and they came to us—I

was in Naylor & Co. at the time—and we were exporters and importers of steel, and we sold it on the other side. They proposed to sell for 20 per cent less than it sold for at home, lower than their cost price; and it was done to keep things moving and bring gold back to this country.

EXPORT PRICES NEARLY THE SAME AS DOMESTIC.

Q. As regards the products which you are exporting now, how do the export prices compare with the prices here?—A. At the present time we can not export unless we cut the market. A year ago we were exporting quite freely; and we expect to get back to a time when we shall export ten times what we do to-day.

Q. When you were exporting considerably, how did the export prices compare with the prices here?—A. Nearly the same.

Q. Haven't you found it advisable to do the same thing you complain of, put out your surplus abroad at a lower rate?—A. We expect to.

Q. So that you want to make a dumping ground of England, do you not; a dumping ground for yourselves?—A. Not especially Germany and England, but their colonies. We do not care particularly to go to Germany and England; we have other places. We want our shipping lines to put us on an equality. If we can get rates to the ocean and have our own ships to South America and across to England and the continent, we can go anywhere, and even if we have to sell at cost we keep the mills and the men busy and the country gets the benefit of the policy. Prices are now high in America, England, and Germany; it seems to be a world-wide demand; they are just as busy as we are.

CONSOLIDATION HELPS EXPORTS.

Q. Is there any relation between this matter of export trade and the making of a great organization such as yours compared with the smaller individual companies?—A. By having an organization such as we have we are able to employ agents all over the world and go to the expense of pioneering for business as a smaller concern could not. They could not afford with a tonnage of 10,000 a month to send a man abroad, but with 60,000 or 70,000 tons a month we can send men all over the world and make money by doing it; it is perfectly clear.

CAN COMPETE WITH ENGLISHMEN IN ENGLAND.

Q. (By Mr. FARQUHAR.) How do you manage to undersell the Englishman in the English market?—A. Cut his prices, usually.

Q. You must certainly have a saving and better machinery or advantage in output?—A. The great advantage is the raw material. England's coal price is \$4.50 and coke \$5.50; our coal is \$1.50 at Pittsburg, our ore costs less, and transportation rates on the lakes are lower than anywhere else in the world. Just now is an exceptional time, and the demand is ahead of the supply.

Q. In ordinary times you can keep up American wages and beat the Englishman in his own market?—A. Without the slightest doubt; we can whip him and make money.

Q. When you take the general run, you think Americans are able to compete with the English and Germans in their own market?—A. Without the slightest doubt, and make a profit.

Q. (By Mr. JENES.) You can lay down steel rails, for instance, in China cheaper than an English or Belgian or German firm?—A. We are doing it right along.

Q. (By Mr. FARQUHAR.) And build bridges in Egypt, I suppose?—A. Yes, and everything else. The truth of the matter is, the Creator of all things has been good to us. We have the raw material, the coal, the coke, the ability, the intelligence, and we are pushing it for all it is worth; and I think it is only a question of time, and a very short time, when we shall control the iron and steel markets of the world. I have one partner over there in the Northeastern Steel Company and another with Dorman, Long & Company, and they have absolutely given up the idea of competing with us if it comes to a close fight.

CLOSE RELATIONS WITH STEEL-MAKING COMPANIES.

Q. Is it not one of the real strong incentives you have, to make these great aggregations of capital?—A. One of the strongest and most talked about. You gentlemen have all asked the question about the directors of these companies, the American Tin Plate Company, the Hoop Company, and the National Steel Company. We think

we have pretty good directors. We think we have gotten the ability of all the steel companies, the best men, men of intelligence, men who understand the business; and we all get together and consult about these matters, and we can do a great many things we could not do in any other way.

Q. (By Mr. JENKS.) You consider that a decided advantage, having these relations existing between these different lines?—A. Decidedly so. If we want to buy steel we go to the National and talk with them. "We have an inquiry for 10,000 tons of hoops from Germany—we have sent quite a number there—we must have a certain price for this business, some of our mills are practically idle; we want to run the mills and you want a large tonnage." Mr. Reis will say, "What do you want in our line? We will make the price and you go ahead." That is where the advantage comes in.

Q. So, having these relations as to directorship, by explaining the circumstances you are placed in you get a special rate from the National Steel Company?—A. Yes, and I think individual concerns can do so. They have gotten this from the National. They want tonnage. They want to run their mills full. Their idea is to put out a big tonnage and manufacture at the lowest cost price.

Q. By having the same directorate you have more freedom?—A. Yes, though our relationship with Carnegie is very close, and frequently we buy a great deal of steel from Carnegie.

HOME MARKET.

Q. (By Mr. CLARKE.) As to the economy in production, is there not a great advantage in having an assured home market?—A. Oh, yes; no doubt about it.

Q. (By Mr. FARQUHAR.) Unless you control the home market you could not compete in foreign markets?—A. I think not; we should have a hard time of it; our home market is the best of all, and always will be.

PROMOTION.

Q. (By Mr. KENNEDY.) Who promoted this combination of which you are president?—A. It was handled by Judge Moore.

Q. Do you know how Judge Moore was compensated for this work?—A. I presume in the same way as he was compensated in other cases.

Q. Five million dollars divided between common and preferred stock?—A. I do not know that Judge Moore got \$5,000,000.

Q. You say you presume as in other cases. Do you know in what way that was?—A. I do not. Manufacturers, as a rule, recognized the point and Judge Moore has not had to go to them; they have come to him; he has had a happy faculty of organizing these companies so that the public believe in them.

Q. You do not have to go to the public, they come to you?—A. It has been so all along the line.

TIN PLATE AND

COMPANIES.

WASHINGTON, D. C., October 17, 1899.

TESTIMONY OF MR. WILLIAM H. MOORE.

The commission met on Tuesday, October 17, 1899, Mr. Clarke presiding. Mr. William H. Moore appeared at 3.30 p. m., and, being duly sworn, testified as follows:
Q. (By Mr. JENKS.) Will you give your name and address?—A. William H. Moore, Chicago, Ill.

SEVERAL CORPORATIONS ORGANIZED BY THE WITNESS.

Q. You have been active, I understand, at different times in bringing together into one organization some of these different lines of business—acting as a promoter?—A. I have at different times furnished capital for a number of organizations.

Q. Were you the promoter of these three—the American Tin Plate Company, the National Steel Company, and the American Steel Hoop Company?—A. I organized them; yes.

Q. Did you also organize somewhat earlier the Diamond Match Company and the National Biscuit Company?—A. I did.

Q. About what time was the Diamond Match Company organized?—A. I could not state the exact year; several years ago. The assets of the Diamond Match Company in Connecticut were purchased and afterwards transferred to the Diamond Match Company of Illinois.

Q. Can you tell about what time that was—within a year or two?—A. At least 8 years ago.

Q. With reference to the National Biscuit Company, when was that company organized?—A. Just before the breaking out of the war—the Spanish war; I can not give you the exact time.

Q. Will you explain to us the method employed by you in organizing the National Biscuit Company?—A. The assets of the National Biscuit Company were purchased at an agreed price in cash; not the assets of the National Biscuit Company, but the assets of several biscuit companies—the New York Biscuit Company and two or three other companies. They were all large organizations. They were purchased for cash and put together under one organization.

Q. Will you explain a little more in detail the way in which they were put together in one organization?—A. It is comparatively a simple matter and yet a difficult thing to do. At that particular time these modern organizations—there were very few of them, and capitalists did not understand them, and, therefore, it was very difficult—next to an impossibility—to get this organization through. That organization went through successfully, and possibly it has been easier for me to organize these other companies later on account of the organization of that particular company.

GENESIS OF THE AMERICAN TIN PLATE COMPANY.

Q. Was the general method followed in the organization of that company substantially the same as that followed in the organization of these later ones?—A. Practically the same as you have heard here to-day. In other words—I do not wish to volunteer anything.

Q. I should be very glad if you would state it in your own way; I was going to ask you to do so.—A. Practically the same thing applies to the American Tin Plate Company as to the other organizations. If I recall, there were 35 or 40 different plants.

Q. In the American Tin Plate Company?—A. Large and small; some owned by individuals and some by corporations, all or many of them having floating indebtedness, some of them mortgages, and practically all of them a number of stockholders

and various interests to deal with. I had organized the National Biscuit Company—or while I was organizing the National Biscuit Company a committee of manufacturers called on me in New York and requested me very urgently to take hold of the organization. At that time (they stated afterwards) they thought I was not very enthusiastic about it. I was very busy, and I knew it was a very difficult thing to do. The result was, it was delayed 2 or 3 months. As I learned, they had meetings at Pittsburg and possibly other places, and they came to me again. So it ran over a period of a year or a year and a half from the time they first called on me until the final organization of the company. In a nutshell, I found it necessary to deal with each one of the manufacturers individually and to buy their property on a cash basis. I found it was going to be necessary to have a very large amount of money, not only for working capital, but also to pay each individual manufacturer, because they did not know me; they did not know much of the organization. They were afraid they would get into some company where they would be much worse off than before. I finally prepared myself with the proper amount of capital to pay them in cash and also to furnish the working capital for expenses. Then I organized the company, and I said to the manufacturers, "Here are so many plants—35 or 40 plants. I propose to pay you cash for all these plants if you want it, each or any one of them, and I propose to put in so much working capital."

Q. How much did you put into the Tin Plate Company?—A. I think it has been stated here.

Q. Five millions?—A. Four and a half or five. You have it already stated in the testimony.

BOUGHT AND OWNED THE PLANTS PERSONALLY.

That amount of money I furnished. In other words, I practically bought and owned the plants personally, and the manufacturers did not compensate me for organizing the company. In other words, I was the lawyer and the banker as well. I obtained money from many different sources. I borrowed large amounts of money myself in order to carry it through, and, as stated, there was no prospectus issued. I did not think it the proper thing to issue a prospectus, but it was stated in the subscription paper, mentioning the number of plants: "Whereas it is proposed by a syndicate to organize a company known as the American Tin Plate Company, with a certain number of plants"—mentioning the names of the plants—"and with so much capital, and for that amount of capital the syndicate shall receive so much stock, which is all preferred stock"—you have heard it here—"and also all the common stock." So it went together in one lump sum. There was an extra amount of common stock over preferred stock. You gentlemen know that it is necessary to pay commissions, and the expenses run up very largely, and sometimes you are in danger of falling down. You will find on investigation that hundreds of organizations have fallen down in the last few months.

COST OF PROMOTION AND ORGANIZATION.

Q. If I understand the plan with reference to the American Tin Plate Company, it was this: It was stated here that there were \$46,000,000 of capital stock issued altogether, \$18,000,000 of preferred and \$28,000,000 of common, in payment for all these plants and a certain amount of cash, and there were \$10,000,000 extra left. Do I understand this extra \$10,000,000 would be considered the cost of promoting the organization?—A. The cost of promotion and organization. I have in mind a case where it was necessary to give away all the common stock and a good deal more to get it through. In other words, in order to organize a company of this kind you must prepare in advance for an amount of money sufficient to carry it through. The tin-plate men were anxious to have this company organized. If I handled it I wanted it to go through; I could not afford to have it fail. Therefore I had to have sufficient compensation to distribute as I saw fit in obtaining money necessary to carry it through. The manufacturers change their minds, often at the last minute. The manufacturers say to you, "I do not care to have any stock in the organization;" but at the last moment, when they find it is to be a success and the capital is there, they believe in its success and come in and subscribe for the stock. But you must provide for all of the capital you need to put it through.

BOUGHT THE PLANTS, SOLD THE STOCK.

Q. In the organization of the American Tin Plate Company you had taken cash options on all these plants; so, practically, you had bought all of them for cash?—A. Yes.

¹ See Mr. Reid, p. 806; Mr. Griffiths, p. 911.

Q. Then you had also this \$46,000,000 worth of stock for sale, and it was in your power to allot that stock to the different manufacturers as you thought best?—A. Yes. At the last moment, when they saw it was going to be a success, they wanted the stock which had been provided for the capitalists. In other words, the capital had been gotten together and was ready and waiting; the manufacturers saw it was going to be a success, and then they wanted a large amount of stock themselves.

Q. You held this practically in your own hands so that you could allot it as seemed to you wisest and best?—A. Yes; I owned it.

Q. (By Mr. FARQUHAR.) At any time did any manufacturer know the option of any other manufacturer?—A. Not if I could keep it from him.

Q. So there was no opportunity for comparisons?—A. It was a business transaction. Each manufacturer imagines his plant is better located, better than his neighbor's; he knows it is; he has no doubt about it.

Q. Did you have in some cases, to gain the manufacturer, possibly, to give him a little more concession than the figures showed?—A. I do not remember about that. I started the company and put it through and made it a success, and they would not think much of me if I had not. The point in the organization is this: It had to be organized on such a basis that the manufacturers would believe in it and take the stock. If I had not organized it on that basis they would not have believed in it. If they believed in it the capitalists would believe in it.

ALL HAVE MADE MONEY.

So in all these companies I have organized the stock has sold in round numbers, the two stocks together, common and preferred, at from 40 to 50 or 60 per cent premium, and sometimes even higher, within a reasonable length of time. So the practical operation has been that the labor by reason of the advance in wages—there has been an advance, as you have heard from the testimony here to-day—and the capitalists and the manufacturers have all made money, and are all satisfied. That is, I say all in the general acceptance of the term.

Q. (By Mr. JENKS.) In describing the method you have followed here, you have stated that you owned all these plants. This was your company; you had its stock for sale, and sold it as you thought best. The suggestion has been made here that this \$10,000,000 of common stock was to be for the purpose of promotion. As I understand the matter, technically it was this: You had \$46,000,000 of stock in your hands to dispose of?—A. The whole matter was at my disposal.

Q. You had to take, yourself, the risks; you had to pay, yourself, all expenses of lawyer's fees, registry fees, commissions—as you suggest, everything necessary?—A. Yes; and I had to go to the bank and borrow two or three million dollars personally, in some of these cases, and take my own chances of carrying it through.

Q. You, as promoter, took all the risks and the manufacturer none?—A. Yes. I have not gone to the bank in the usual acceptance of the term to put it through—bankers have been subscribers; the employees of these various companies also. The manager would come to me and say, John Jones wants to get a hundred or two hundred dollars' subscription, and invariably, even if it was scarce, I would arrange it so he would have it. So I should say a large percentage of the employees have made money, more money than they ever made before, by reason of the organization of the company. In many of the individual companies they were not allowed to be into

FREE OF DEBT—NO MORTGAGE WITHOUT CONSENT OF TWO-THIRDS OF THE PREFERRED

These various companies more or less owed money to the banks, and on account the different conditions you could not expect them to go into a combination and let them to take stock, because they had to have the money to pay off indebtedness. The result has been the indebtedness of these various constituent companies has been paid off.

Q. In every case you bought it free; offered a certain amount of cash for the plant free?—A. There may be some particular instance of a mortgage which could not be removed, but whenever it could be removed it was removed. It came to the public as a clean proposition, and I have especially provided in the charter that the company could not be mortgaged without the consent of two-thirds of the preferred shareholders.

Q. Is there any limit of time with reference to that?—A. No; it was a permanent arrangement in the charter, so that the directors can not run the company into debt and mortgage the property.

CAN NOT TELL WHAT HE PAID FOR THE PLANTS.

Q. (By Mr. KENNEDY.) Can you say what the value of all these plants was as turned in to you?—A. I could not.

Q. I mean the value fixed on them?—A. I could not tell that; no. It would require quite a memory to go over the various plants.

Q. What would have happened if at the last moment all these manufacturers had insisted on cash instead of stock for their plants?—A. They would have gotten it.

Q. The cash was there for them?—A. It would have been there. Of course it all has to be done simultaneously. The capitalist does not want to put in his money unless he knows the plant is going in, and the capitalist relies on me to see that it is going through right.

Q. (By Mr. JENKS.) There was a general understanding among the manufacturers that went into the American Tin Plate organization that the cost of the plants plus the cash capital furnished amounted to substantially \$36,000,000?—A. I do not know about that. They were talking originally about compensating me with a certain amount of stock, but I could not handle it that way. I had to buy the properties and own them, and handle it as I saw fit. When I got the company organized, I put the best talent in the tin-plate business into the company. And on that account it is worth a great deal more money, and if you were to take out the talent—in other words, put it this way: I believe that the talent and the good will of the tin-plate business—the trade—is worth as much as the plants themselves. In other words, in other lines of business I have in mind the good will is worth several times as much as the assets—one notable one, the Lipton Company, where £700,000 of assets are selling on the basis of £5,000,000.

Q. In purchasing these plants from the manufacturers— A. (Interrupting.) At least let me correct that; I was so told by an English gentleman but a few days ago; he said he had to do with it.

Q. In buying these plants from the different manufacturers you took all of the options as cash options?—A. Yes.

Q. So that the value that the manufacturer put on that plant, if you agreed with him, included the value of the plant itself, as it stood; included the good will that went with the business, and included, I suppose, any contracts that he had?—A. Yes; there were certain contracts that he had, and then each manufacturer was situated differently. Some had real estate in large cities, and there was no rule of three by which you could go. You had to be governed by circumstances.

Q. But then the option, the cash option, really included everything?—A. Really included everything; there may be some exceptions, that a manufacturer wanted some stock and put it in himself, in the way of stock, in case the company was organized.

Q. The general statement that has been made here to-day, as I understand it, 2 or 3 times, is that the 18 million of preferred stock and 18 million of common stock represented substantially—that is, the 18 million of preferred stock represented substantially in round numbers—the values of the plants, the amount paid for the plants. Do you agree with that?—A. I can not say; it may not be exactly.

Q. I did not say exactly; I say substantially.—A. I would not even go to that extent, substantially. That I do not know. I simply know that I owned these plants and presented this plan to the manufacturers. There were so many plants to go in at so much money. "Now, do you want any stock of this company which I own? the capital is thus and so," and he wanted the stock, because he could get, within 30 or 60 days, 40 or 50 or 60 points better.

SELECTED THE OFFICERS.

He knew before—of course he did not know exactly, but he knew toward the close that certain people would be in the management; I studiously had to avoid that, because each manufacturer wanted to be the president of the company—not every one of them, but quite a number of them—and vice-president, or in the executive committee; that all had to be kept quiet until toward the close. Then they discovered that I had selected the very best talent in the tin-plate business.

Q. You yourself selected the first board of directors?—A. I did arbitrarily. I had to do it for the protection of the capitalist as well as the manufacturer.

Q. When it came to the payment for these plants, did you quite generally give the manufacturers the opportunity of taking, instead of cash, 1 share of preferred and 1 share of common?—A. That was the general rule.

ACTUAL AND REPUTED CONNECTION WITH OTHER COMPANIES.

Q. Have you organized other companies besides these 5 that have been mentioned, the Tin Plate, National Steel, and others?—A. The Union Bag and Paper Company.

Q. Any others?—A. I have had applications to organize hundreds of others, from the marshes of Maine to the Pacific coast.

Q. These are the only ones that you have carried through?—A. These are the only ones that I have carried through.

Q. Is the plan of the organization of the Union Bag and Paper Company substantially the same as these others?—A. Yes; practically the same.

Q. Is your plan of promoting them the same?—A. Yes.

Q. In any one of these last cases have you called in banks and bankers to underwrite the stock?—A. There has been no underwriting, what is technically known as underwriting, in any of these. Bankers and capitalists all over the country, after it was known I had made a success of this organization, applied by wire, letter, and telegram to subscribe for the capital stock.

Q. If they have done so, they have subscribed for capital stock the same as any private individual would have done?—A. Yes; I can not say that bankers and brokers have not been allowed commissions in some instances. I can not say about that.

Q. (By Mr. KENNEDY.) Have you had anything to do with the bicycle combination?—A. I did not.

Q. I understood you had, that is the reason I ask.—A. I have been accused of being connected with quite a number of properties that I have not been.

NOT OVERCAPITALIZED, FOR \$100 PREFERRED + \$100 COMMON SELLS FOR MORE THAN \$100.

Q. (By Mr. FARQUHAR.) There is a public impression that these companies are capitalized far beyond their worth; any of the companies you have mentioned to-day.—A. That is erroneous, from the fact that in the companies that I have mentioned—take the two stocks together—everybody knows what they are getting when they get common stock; they know they are not getting anything that represents assets. Take the two stocks together, and they have always sold—there might be depressed and panicky times, or something of that kind—they have always sold at a very large premium. That is why they stand so well with the bankers, trust companies and societies, and private individuals, that are pretty rapidly absorbing the preferred stocks of these companies.

Q. When you were organizing these companies did any of the parties to the organization know the amount to be set aside for you as promoter?—A. There was no amount set aside for me as promoter. That question is frequently asked, "What do you charge to put these organizations together?" My reply was, "I will not charge you anything; I will buy your properties and formulate a plan, and if you do not want to go into the new plan you can take cash. That is the only way I can do, and I must organize them on the basis that you are a manufacturer, and that you believe in the organization, assuming that you have the right management, and the capitalists rely upon me to put in the right managers.

Q. Then, practically, you as founder or promoter made your own margin?—A. I made my own margin. I owned the properties, and I made my own profit in my own way, which apparently up to the present time has been satisfactory to everybody. It is a very difficult thing to organize these companies. It is a very difficult thing to get capital to go into these companies, and the public is discriminating between the good and the bad. It would be impossible to put anything now to the public which was not A No. 1, first class. The public know it right away.

Q. Are there organizations of this character, organized by other parties, that are nothing but stock-jobbing concerns?—A. That I can not say.

Q. I mean from your general knowledge?—A. I should not like to talk about anybody else's business.

Q. Without naming anyone, have you any knowledge that there are really organizations of this character that are nothing but stock-jobbing concerns?—A. I have not any personal knowledge; I merely know of rumor, newspaper talk, the same as you do, exactly, and no other way.

REASON FOR ORGANIZING IN NEW JERSEY—NEW JERSEY IS THE BEST PLACE.

Q. Is there any particular reason why all of your companies should be organized in New Jersey?—A. I think there is.

Q. Will you state them, if you please?—A. Yes; for the New Jersey law is very much better for the organization of these companies, very much better.

WE SHOULD COPY THE ENGLISH LAW.

Nearly all of these laws of the different States contain some objectionable feature. My idea is that by and by legislation in this country will be practically the same as in England. Their laws were very severe a long time ago in England against any large combination or corporation. They were all repealed, and now you can organize a corporation and do almost anything which is legitimate, and the securities of the industrial corporations are selling on the London Exchange, London market, on a basis of 3 or 4 per cent. Capitalists have said to me frequently in this country, "We do not know where we are going to put our money. We only get 2½ or 3 per cent on a bond, whereas these preferred stocks of the better organized companies, where they do not owe anything, we get on a basis of 7 per cent, and we do not know why it doesn't stand as well as a bond." Some of the most conservative men of this country are arguing that way, and there are some men and some women of minor means, whose incomes are small, that naturally are enabled to have a larger income by being able to buy preferred stock in these companies.

Q. But when you draw a comparison between English law and American do you not take into account that you have only one kingdom to deal with there and one lawmaking power and one supervision, whereas you have all the corporation laws of 45 States to deal with, with no national control?—A. We have 45 States, but we only incorporate under the laws of one State, and we have a right to sell goods in any State of the Union.

EACH STATE SHOULD PROTECT ITS OWN CORPORATIONS.

Q. You spoke as if the law of New Jersey was more liberal than that of any other State of the Union for these organizations. Is it fair that the State of New Jersey should give an incorporation with more liberal features and possibly less safeguards than the State of Illinois, and that New Jersey could do Illinois business?—A. I think not; I think the Illinois law, until recently, the past 3 or 4 years, has been very similar for organization.

Q. Well, the State of New York?—A. I do not know very much about the State of New York. All companies look more or less to what the taxation will be, whether it is reasonable or unreasonable. I do not think it is fair for different States to tax these companies and drive them out of the State, and drive them into the State of New Jersey. I think the State is working against its own interests.

Q. But is not there such a thing in law and justice as a comity between States, so that one State ought not to permit an unjustly formed corporation, or one with greater powers and more powers to issue stock and sell stock than it can have under its own laws? Is it not a right that a State ought to have, the protection of its own corporations?—A. I think each State ought to protect its own corporations. I think they will do so more and more as they understand these organizations and the situation they are in; the same as railroads.

NEED OF CORPORATE ORGANIZATION.

My idea is that if it were possible to dissolve all the industrial organizations we should have the greatest panic this country has ever known. There is the strongest kind of a demand all over the country, in almost every line of business, to organize, and the trouble is they do not know how. It takes time; it takes education; and I think, incidentally, this commission is doing the right kind of work; it educates the people and they will understand it better.

Q. Do you see any difficulty in the future, the same as overcame a great many of the English companies under the limited copartnerships or incorporations of years ago, that may come out of the issuing of stock under the New Jersey law that is not covered by any value in the assets or the business?—A. I do not see any difficulty; I think the New Jersey law is a fair law. I think many provisions of the New Jersey law will be adopted by legislatures in other States. The trouble is they do not understand the New Jersey law.

Q. Is there any more liberty in the laws of West Virginia than in the laws of New Jersey?—A. I think there is; yes.

Q. And where you have more liberty you have less safeguards?—A. Yes; perhaps it becomes fashionable to go to New Jersey to organize, and there is a large amount of capital, as is well known, in New York, and the New York capitalists like to have companies organized under the laws of New Jersey. Ordinarily, being a Western man, I would rather have an organization in the State of Illinois; but there has been a good deal of persecution of corporations in Illinois, which makes it unpleasant at

times. I do not think there is as much there now. My experience is that the laboring man in all corporations I know anything about favor them; I mean intelligent laboring men. We can afford to pay them larger wages. As an illustration, this tin-plate business. If it had run along the way it was, as you heard in the testimony of Mr. Reid, several of these tin-plate companies would have gone into bankruptcy. I know, because I paid them the money to clean up their indebtedness.

A NATIONAL CORPORATION LAW NOT DESIRABLE.

Q. Do you think it would be an advantage to have a national law for incorporations which would give supervision over all the States?—A. I think not. I think this is all going to regulate itself; I think it will legislate itself—the law of supply and demand. There can not be a monopoly in this country.

CONSOLIDATION TENDS TO REDUCE PRICES.

Q. You do not think that this large capitalized association of 50 millions can arbitrarily make prices for the consumer?—A. I think not. I think the tendency is toward very much lower prices. In fact, corporations that I know of that have been running for a long time—for instance, the Diamond Match Company; matches are sold at constantly reduced prices each year. Of course, the company could not do it in the first place, because the plants were not in proper shape and proper condition. They are getting in new machinery and improving their plant, comparing the cost of one factory with the cost of another, and in that way they have reduced the cost of production; and in that way the prices have been reduced to the consumer. It has got to be so with all of these companies; the companies can not live unless they do business on that basis. All of these companies have got to put their plants in proper shape to meet the severest kind of competition, and if they can not get a fair, reasonable price for their product they can not afford to pay a fair price for labor.

IF OTHER STATES MADE LAWS AS LIBERAL, WOULD NEW JERSEY CORPORATIONS GO TO THEM?

Q. (By Mr. KENNEDY.) You say that you think the New Jersey law is very liberal, and that the other States will follow in the wake of New Jersey in this matter?—A. I think the New Jersey law is not only liberal, but fair.

Q. You think that the other States will follow, eventually?—A. Adopt many of its provisions.

Q. Assuming that nearly all the industries have combined and have been incorporated under the laws of the State of New Jersey, then other States model their legislation upon this New Jersey law. What would be the effect; would those corporations give up their organization in the State of New Jersey and go to other States?—A. That would be a difficult question to answer; it is frequently done, but I can not answer that.

Q. What do you believe would be the result?—A. You mean if all the business in the country organized under the laws of New Jersey?

Q. Yes; it is rapidly being organized under the laws of these three States—New Jersey, Delaware, and West Virginia. Now, it is probable that within a very short time, within a few years if it goes on as it has been going on, all industries will be organized and incorporated under the laws of one of these States. Then, if the other States, Illinois, for instance, should enact legislation the same as those States, would Illinois be apt to get any of these corporations?—A. I think before that is done the other States will change their laws. I think the State of Illinois is inclined to be a little more liberal now; for instance, the gas companies were attacked seriously for a few years, and finally the legislature passed a law legalizing the incorporation of this gas company, so that a person investing in the stock should be sure he had something safe and secure.

Q. Is it your idea, if there were a dozen different States in the Union with laws as favorable as these of New Jersey are, that the American Tin Plate Company and the Steel Hoop Company would continue as New Jersey corporations?—A. Probably in the case of these particular companies, yes; because it is necessary for them to get together and consult more frequently, and as they have already been incorporated under these laws they probably would not be changed, those particular companies. It might be different with reference to other companies. That is, as long as the State of New Jersey treats the companies fairly.

Q. Well, these corporations are great sources of revenue to the State of New Jersey are they not?—A. No doubt they are. I do not know exactly what they do, but I

understand some portion of it goes to the improvement of roads, schools, etc.; and the laws in the State of Delaware are somewhat similar, in competition with the State of New Jersey.

Q. And if the other States participate in this rich revenue, they will have to be pretty lively with their legislation, will they not?—A. I think so, sir. I think the tendency is more liberal; I do not mean liberality which does not mean protection to the shareholders. In every well-organized company the stockholders are allowed to see the books, and there is no reason why they should not see the books, and practically see what is going on. It is only some shareholder who holds a few shares that wants to make trouble.

AS MUCH WATER IN MASSACHUSETTS COMPANIES AS IN OTHERS.

Q. (By Mr. FARQUHAR.) On account of the anti-stock-watering laws of Massachusetts there is not much likelihood of any of these companies going there?—A. I think they have as much water in Massachusetts companies as in any others.

Q. Have they not got some pretty strict laws in the State of Massachusetts as to watering stock?—A. They have, apparently so. I think the water is there just the same.

ENGLISH CORPORATION LAW.

Q. (By Mr. JENKS.) I understood you to say that you thought that as time went on we should gradually approach nearer the system of the English law. In what particulars do you think English corporation law is superior to that of New Jersey?—A. Well, I do not know that it is. Perhaps the New Jersey law is somewhat on the lines of the English law; and as a gentleman said to me not very long ago, a man well versed in law: "If my son was going to be a lawyer I would advise him to go to England and study for a year, because English laws, with reference to corporations, are going to be the laws of this country."

Q. Can you designate any special particulars in which you think the English laws are superior?—A. I can not. I do not know whether this cuts very much figure or not, so far as the practical operation of the corporations is concerned, or as far as the public is concerned, but under the English laws, just before the annual meeting, a printed copy of the condition of the company is sent, I think, to each stockholder, and then after this statement Mr. Jones retires and offers himself for reelection as a director. I do not know whether this is of much benefit or not, but each of these companies must make a statement to the stockholders before each annual meeting. The general impression is that in the organizing of these large companies there is a great concentration of power. On the other hand, it is a distribution of power; and instead of a few persons owning these various companies, the stock is widely distributed.¹

DESIRABILITY OF PUBLICITY.

Q. Would you favor a greater degree of publicity with reference to the condition of these companies, such as you imply there is under the English law?—A. I do not know that you need any more publicity than that the company should present a statement to the annual meeting; and, as I understand, it is required by the New Jersey law—a full statement of the affairs of the company.

Q. (By Mr. C. J. HARRIS.) Does it have to be a sworn statement, or is there any safeguard taken that that statement should be correct? What I am trying to get at is, can not the corporations that are so disposed present more or less of a doctored statement?—A. They can; it does not make any difference what the laws are.

NO FEAR OF ADVERSE LEGISLATION.

Q. Do you apprehend any trouble from the fact that you are incorporated in 1 State and are doing business in 45 other States?—A. I do not. We have the right to do it under laws of Congress.

Q. But suppose there are certain States, as there are, that pass legislation adverse to these national companies?—A. That exists now. We are doing business in those States now. They want our products and they have to have them.

Q. Might not that style of legislation become rather dangerous and burdensome after a while?—A. It might be, yes; but that will all regulate itself. This country is never going to pass legislation that drives the manufacturer out of business.

Q. Would not national legislation do away with that and give companies more security than they have under the present system?—A. I do not see how it would.

Q. (By Mr. FARQUHAR.) Is there a lower taxation in the State of New Jersey than

¹ Compare Mr. Stetson, p. 973: "Nine-tenths of the corporations are controlled by boards of directors which either own or absolutely represent a large majority of the stock."

there is in any other State for corporations?—A. I can not say that; I do not think so; Judge Dill can tell you that. My impression is we are paying a good, strong tax in the State of New Jersey; that is my impression.

Q. But the pro rata; the larger your capital the less you pay?—A. Yes.

Q. Proportionately?—A. Yes.

THE OLDER MEN WANT TO RETIRE.

Q. (By Mr. C. J. HARRIS.) What will become of all of these men who have been owners of these companies, these individual owners, when they are all consolidated into one—under one management—what avenue is there for them?—A. That question is frequently asked me by the men who sell out—"What am I going to do?"—and I say to them "Are you running your plant well?" "Yes, I am;" "Do you imagine you could run it just as well under the organization?" "I can." Well, if he can do it, he runs it; there will be practically no change; in other words, there are not enough good men to go around in these organizations; that is the trouble we have.

Q. (By Mr. KENNEDY.) Do you find men of middle age, or past middle age, generally in control of these establishments?—A. I find in nearly every one of these establishments, the capitalists, or bankers, of middle age, or past middle age, who want to retire, want to leave it with the younger men, who are now running it to-day.

Q. You have eliminated the older generation and brought in new blood?—A. Who wished to be eliminated.

Q. I notice the presidents are all young men now?—A. Well, you have a pretty good idea of what the management of these companies is from what you have seen here; and the public believe in them, because the management is good.

PREFERRED AND COMMON TOGETHER BEAR A PREMIUM—WHY?

Q. (By Mr. CLARKE.) I understand you to say that the preferred and common stock of these companies together bore a premium?—A. Yes.

Q. How, then, are they selling at less than par on the market?—A. I mean the two together; that is, if you were the owner of a plant and sold it, you received a hundred shares of preferred and a hundred shares of common, and those two together are selling at a premium, and have done so, selling at 40 to 50 points premium; take, if you please, the preferred at 95 in the case of some company, and the common at 50 and add the two together and it makes a premium. In other words, if your common stock had not been there, the preferred stock would have been selling at that premium.

Q. What, then, is the basis of the value of the surplus of the common and preferred stock over the cost of the properties and the good will involved?—A. I can not tell you that; I merely know that I had the plants and organized the companies on that basis, and practical men believe in them and subscribe to them.

Q. In your opinion, are any of these companies overcapitalized, taking the preferred and common together?—A. I think not. The management and the common stock together will in turn be of more value than the plants themselves.

Q. Are you a stockholder in these companies?—A. I am.

Q. Are you a director or other officer of any of them?—A. I am. I am one of the executive committee.

Q. Are you earning something on both classes of stock?—A. We have money in the treasury.

Q. And are you likely to continue if there is a condition of general prosperity?—A. If there is a condition of general prosperity we shall continue to do so, as much so as the railroad earnings; and the industrial companies are here to stay.

(Testimony closed.)

FEDERAL STEEL COMPANY.

WASHINGTON, D. C.,
Thursday, October 19, 1899.

TESTIMONY OF MR. FRANCIS LYNDE STETSON,

Counselor at law.

The commission met at 10.45 a. m., Senator Mallory presiding. Senator Mallory introduced the witness, Mr. Francis Lynde Stetson, of New York City, counselor at law, who, being first duly sworn, testified as follows:

Q. (By Mr. JENKS.) Will you give your name and address?—A. 15 Broad street, New York; Francis Lynde Stetson.

Q. And your business?—A. Lawyer.

Q. How long have you been practicing law?—A. I was admitted in May, 1869, in the city of New York, and have practiced there ever since.

FEDERAL STEEL COMPANY—CAPITAL—ORGANIZATION.

Q. Were you familiar with the organization of the Federal Steel Company?—A. I was.

Q. At what time was it organized?—A. In September, 1898.

Q. Will you be kind enough to explain to us the main provisions of the charter of the Federal Steel Company?—A. It was intended to be self-explanatory; I thought we had so made it. I can answer you any questions you desire to ask.

Q. If you will kindly outline some of the leading provisions of it, there may be some questions in connection with it that may develop a little further on.—A. I am most willing to do it, but unless my attention is directed to a particular point I should not know what to say. It is like a sailing master who is looking out on the surface of the ocean; he does not see anything unusual, but the passenger does.

Q. (By Mr. C. J. HARRIS.) Is not the amount of capital stock rather unusual for that industrial combination?—A. Well, perhaps it bears a closer relation to value than it did in some of them.

Q. (By Mr. JENKS.) What is the capital stock of the Federal Steel Company?—A. You will have to let me look at that memorandum. I go through these matters and they pass out of my mind, and I could not tell you just what it is. [Looking at paper.] The authorized capital of the Federal Steel Company was \$100,000,000 preferred and \$100,000,000 common.

Q. How much of that was issued?—A. Oh, that I can not tell you, but it was understood—my recollection is that \$98,000,000 was originally issued. I have never had anything to do with the Federal Steel Company—that is, since the time of organization, October, 1898, and it has entirely passed out of my mind.

Q. Did the Federal Steel Company itself acquire directly the properties which are now managed, as it is supposed, under the direction of the Federal Steel Company? Did they acquire the properties themselves?—A. What has been done since I can not tell you, but at the outset it was the acquisition of the stock of three companies—the Minnesota Iron Company, the Illinois Steel Company, and the Elgin, Joliet and Eastern Railway Company.

Q. That is, the company acquired the stock instead of acquiring the properties?—A. The company acquired the stock instead of acquiring the properties.

Q. Did it acquire the total stock of all these companies, or simply a majority of the stock?—A. It invited—I do not say it invited—but the vendors invited the stockholders of these companies to sell their stock, it being understood that not less than a majority would be accepted; and as a result, substantially all the stock of each of those companies came in, according to my best recollection.

Q. To whom were those sales of stock made?—A. That I can not say without reference to the papers, which I have not with me. I had no intimation until this morning of what subject I was to be examined on, so I speak with some difficulty;

but my recollection, my best recollection is that the shares were deposited with the Colonial Trust Company of New York for the purpose of their purchase by a syndicate of which J. P. Morgan & Co. were managers; and that when deposited in an amount exceeding a majority of each company, then J. P. Morgan & Company in behalf of the syndicate exercised the option of delivering to the Federal Steel Company the shares thus deposited. Judge Gary is here and knows better than I about it and will correct me if I am in error.

Q. And your memory is that the shares were to be sold substantially to this syndicate by the stockholders of these different corporations, and that this syndicate then was to deliver them to the Federal Steel Company?—A. No; that the stockholders were to sell and deliver to the company upon and under an arrangement made for such sale and delivery by the syndicate through its managers, J. P. Morgan & Co. I do not think that the title of the shares ever passed into the syndicate or into the syndicate managers.

Q. What was the special relation of the syndicate, then, to this deal—simply acting as agents?—A. Well, I should say that this syndicate, under these conditions, is a good deal like the ordnance bureau down here when it calls for tenders for a gun. It calls for one part from one manufacturer and one part from another, and then it assembles them. I should say on the whole that the syndicate, or any other syndicate rather, assembles and collects the properties or securities to be transferred.

Q. And then transfers them?—A. Then transfers them, or causes the transfer to be made; sometimes transfers them and sometimes causes the transfer to be made.

Q. What was the general nature of the contract that the syndicate had with the Federal Steel Company with reference to this transfer?—A. I have no recollection of that; and if I had, I could not say.

Q. Why?—A. Because I should consider that a matter between myself and my clients.

Q. On the ground that you were counsel for them?—A. That it is not my secret. They can tell if they will; that is theirs.¹

Q. I asked this question to learn if you were acting as counsel?—A. Yes; I was counsel for the syndicate.

Q. As you understand it, does the Federal Steel Company, by holding a majority of the stocks of these different companies, control them? Do these separate companies still have a separate, individual existence?—A. I assume that they have. As I say, I have paid no attention to these matters since September, 1898.

Q. That was the form in which they were organized?—A. That was the initial form.

ACQUIRING PROPERTIES—ACQUIRING STOCK.

Q. Would you explain to us from the purely legal point of view how that arrangement differs from the old form of trust organization as it was in the Standard Oil Trust?—A. That I do not know anything about; I have never paid any attention to that. I do not know anything about the Standard Oil Trust.

Q. You do not know what that was?—A. I do not know anything about it; I never saw a certificate or had anything to do with it. I can say, on the other hand, how it differs from the International Paper Company, which I organized.

Q. Well, if you will.—A. That corporation was organized under the laws of the State of New York. It acquired the physical properties of 12 or 15 corporations, and those were immediately dissolved. There was absolute ownership and no existence continuing in the former corporations. They merely got the other corporations by purchasing the physical properties which were owned by the others.

Q. That was the point of my question. So far as these larger corporations are concerned, that we have been getting testimony about here, they have usually acquired properties?—A. I should say not. It is mostly the other way.

Q. Those that we have examined?—A. Oh, I beg pardon; but I should say it was not the general plan of incorporation.

Q. As regards the instance you spoke about, the Federal Steel, they had acquired the stock. I wish to have you explain, if you can, the different methods of management. We can leave that to the next witness if you are not familiar.—A. Oh, I do not know anything about that.

WHY INCORPORATED IN NEW JERSEY.

Q. Will you explain to us why it is better to incorporate under the laws of New Jersey than under the laws of New York? What special advantages, if any, do the New Jersey laws give to incorporations?—A. Well, it depends upon what you wish to do. If the Federal Steel Company had had a considerable property or plant in the State of New York I should have advised its formation under the laws of the

¹ See page 987, footnote.

State of New York, as I did in the case of the International Paper Company, where the principal property was in that State. But the Federal Steel Company contemplated the acquisition of interests in properties that are situated only in Minnesota, in Illinois, in Ohio, and in Pennsylvania. The question then came, shall we organize in any of these four States. There were sufficient reasons why it was not desirable to organize in any one of those four. I will say briefly that the laws of Pennsylvania do not permit the ownership of real property by a foreign corporation, and the rate of taxation in Pennsylvania upon a domestic corporation is very high. The laws of Ohio, under the constraint of their constitution, impose a double liability upon all stockholders whatever the conditions. The laws of Illinois, as they have been administered and interpreted—not only there but in the State of Ohio as well—are exceedingly inhospitable to the development of large business enterprises; and the laws of Minnesota also impose a double liability upon stockholders. By that process of exclusion, in consequence of those four features as well as others, they drove these corporations out; the laws of those four States. Then being foot-loose, of course we looked for the most favorable conditions, and at that time I suppose the most favorable conditions were those presented by the laws of West Virginia and the laws of New Jersey. The statute of West Virginia fixes a limit on the amount of corporate capital; and, by the way, I should say that the laws of Pennsylvania did the same until this winter, when they have been enlarged. And that left New Jersey certainly as available as any other, and there was no reason why we should not go to New Jersey as well as New York, because neither is the home of the corporation.

STOCKHOLDERS' RIGHT OF EXAMINATION—THE STATUTORY RIGHT ONLY.

Q. I notice, with reference to the power that should be given to the board of directors to determine what power or what privilege shall be given to the stockholders as regards the business of a corporation, that this provision is made [reading]: "The board of directors from time to time shall determine whether and to what extent, and at what times and places, and under what conditions and regulations, the accounts and books of the corporation, or any of them, shall be open to the inspection of the stockholders; and no stockholder shall have any right of inspecting any account or book or document of the corporation, except as conferred by statute or authorized by the board of directors, or by a resolution of the stockholders." What are the special privileges of examination that are conferred by statute in New Jersey?—A. I forget. I do not pretend to retain them. I never testify as to what a statute contains unless I have got it before me; certainly where you have to examine similar statutes and provisions of different States.

Q. You do not recollect whether the New Jersey law is more or less liberal in that particular than the laws of the State of New York?—A. I do not. I do not think that that was the point. I think the point there was to cut off all the right except that which the statute gave, and not leave an indefinite common law or equitable power to be exercised, which, it has been held in some cases, does continue in addition supplementary to the statute. It is very difficult for an administrative officer, usually a clerk not of high class who has charge of the books, to know whom he shall recognize and whom he shall repel when a request is made for an examination of his books. Certainly, the mere idle curiosity of a volunteer does not justify the interruption of the business of the corporation, while most respectful attention should be given to anyone who has a real interest. My theory, and I think the theory of most corporation lawyers, is that it is most desirable that the rights should be defined in something that can be read so that "he who runs may read;" and that is the purpose of that; not undertaking to affect the statute, but to say, "you shall have the rights that are given you by statute and you shall have no others." And that is permitted by the general provisions of the corporation law of New Jersey, permitting the articles to define or restrict the rights of stockholders.

POWER OF THE CORPORATION TO BUY ITS OWN STOCK.

Q. There is a further provision here with reference to the powers of directors in other particulars that perhaps you can explain in a similar way. It says [reading]: "The corporation may use and apply its surplus earnings, or accumulated profits authorized by law to be reserved, to the purchase or acquisition of property, and to the purchase or acquisition of its own capital stock from time to time, to such extent and in such manner and upon such terms as its board of directors shall determine." Is it usual to make a provision of that kind that a company may purchase its own stock?—A. No; it is not.

Q. Can you explain why?—A. But I have always put it in in any place where the law permitted me to do it. In the laws of the State of New York there has been, though I do not suppose it survives in all cases, an absolute prohibition against a cor-

poration using any of its own funds for the purchase of its capital stock; but I have never seen in reason and justice why a corporation, out of its surplus, might not be reducing its capital stock. Of course, it is entirely improper that any of the funds of the corporation, other than those constituting the surplus, should be paid back to the stockholders under a guise of purchase of corporate stock. But when the corporation is solvent and has a surplus, I can see no good reason why that surplus should not be so used. It was intended here to confer this right.

Q. To give the directors the power, if they had a large surplus, to use it in that way, instead of allowing it to remain as a surplus?—A. It is simply a more convenient form of reducing capital, which is permitted by all laws. It is another form of doing that.

POWER OF THE DIRECTORS TO INCREASE THEIR NUMBER.

Q. That is what I wished. Is it usual in the case of corporations to give to the directors so much power as there is here in the way of increasing the number of directors by the board of directors itself? [Reading]: "The number of directors at any time may be increased by vote of the board of directors, and in case of any such increase the board of directors shall have power to elect such additional directors, to hold office until the next meeting of stockholders, or until their successors shall be elected."—A. Well, is it usual?

Q. Yes.—A. Yes, with those corporations properly formed. This will show you exactly what is needed.

Q. That is what I wish.—A. You start a corporation and it is exceedingly unhandy at the outset to have 13 or 15 directors. You have a small body, say 3 directors, as in this case. You go through all the preliminary work and establish your corporation and do your work and then you want to complete your original organization. It is a very unwieldy and difficult thing to call together a stockholders' meeting in compliance with all the forms of law for the purpose of an increase. But if you put in such a provision as that, your directors can immediately increase, and that creates a vacancy which the directors are able to fill until the next annual meeting. That is all the purpose of that.

Q. The purpose, then, is really to provide for the convenience of the organization?—A. At the outset. If it operates badly afterwards the stockholders can ordinarily overcome that. It is a mere matter of convenience for organization.

NOTHING IS UNDUE THAT IS AGREED TO—ABSOLUTE FREEDOM IS BEST.

Q. And in your judgment it does not in any way limit the power of the stockholders themselves unduly in the control of their organization?—A. Well, that word "unduly" is the word that troubles me. That it limits them I have no doubt. But it is a mere question of what the parties choose to agree to. It is like any bargain; two parties get together and say, "We will do this and this under these conditions," and, having entered into this compact, nothing in conformity with it can be unfair; nothing can be undue.

Q. If you will permit me to explain the purpose of a question of that kind. The commission wishes, of course, to find out as fully as it can the effect of the different laws in some of the different States along these different lines; and when I ask you the question as to whether this gives undue power as against the stockholders, the question has this bearing: In your judgment, is a provision of law of this kind wise or not? Is it best to put so much power in the hands of the board of directors? Is there danger of its being abused?—A. I understand your question, and that is where I come to the greatest of all judges of his time, Sir George Jessel, who says that nothing is so desirable as liberty of compact; that the greatest of all liberties is the liberty of compact. Now, there is no such thing as due or undue amongst men of mature mind who are competent. Give them absolute freedom of compact. That is not, I say, due or undue. If the parties want to make a corporation of that kind, let them make it. It does not do anybody any hurt except themselves, and "Volenti non fit injuria." It can not hurt a man that wants to do it. Therefore, I say again the word "undue" disturbs me.

Q. Your proposition is, as a lawyer, that it is wise to give the utmost freedom in all matters of that kind?—A. Absolutely. This paternal system or idea is at the root of most of the evils that underlie what the public complain of in corporations. They have been coddled into the belief that when they deal with a corporation they have got to have some kind of protection and may rely on some kind of protection that they do not invoke in their dealings with individuals. Every man who deals with an individual inquires as to his credit before he makes up his mind as to whether he will extend to him the facilities of his credit or not; but in some way, when he comes to the same man organized into a corporation, then he is taught that he can rely on something besides the credit of that institution, can rely on a report or statement it makes, which is fallacious. He may, if the report is untrue, punish

that man criminally, which he seldom does; but that does not pay him for the credit that he has extended. And that false prop and delusive support upon which the public are invited to rely by many of these laws is a real injury, in my honest belief, and is not any benefit.

THE DUTY OF THE TRUSTEE IS LIMITED BY THE TRUST.

Q. (By Mr. C. J. HARRIS.) The tendency in all this, it seems to me, would be to give the directors, as was said here, an undue power in relation with the stockholders. The powers of the stockholders and the directors of a corporation are not on an equality. I understand that the directors of a corporation are the trustees for the corporation; they have the whole power in the corporation where the stockholders have not; and for the sake of putting them on an equality, they should be subjected to all those laws which are specially established to prevent a trustee from doing wrong to those whose interests are intrusted to him?—A. A trustee, as I understand it, is never held to any trust other than that created by the instrument appointing him.

Q. Yes.—A. Therefore the question is, What is put into that trust? I agree with you absolutely that a director must be absolutely faithful to his trust and fulfill his trust; but what is the trust? There is the charter, and when the parties came together they expressed their duties and powers and rights there; and the rights of the trustee under his trusteeship and under that instrument are just as sacred as the rights of the cestuis que trustent; the one is just as sacred as the other.

LEGISLATION CAN NOT MAKE THE WEAK STRONG; EXPERIENCE MAY.

Q. I do not question that from the legal standpoint that may be true; but my idea is that in these large aggregations of capital where men, women, and children are holding stock the stockholder nowadays may need a little more protection than you seem to be inclined to give him?—A. The legislature can not give it to him, nor can you or I. There is not anything yet that takes incompetents, lunatics, and paupers and makes them competent, responsible business men. You can not do it, and you have got to trust to the development that comes from the experience of having your property at risk. Othello's great point was, "I have had losses, too," and I would not give anything for the business qualifications of a man who has not had something at risk. As long as he thinks he is buoyed up by some life-preserver he will not make a success, nor will the community and the world get on through the efforts of that kind of coddling.

Q. You think there would have to be some kind of legislation other than that done through the legislature?—A. Which?

Q. What we are trying to find out is whether there is any demand for that sort of legislation?—A. Of course, you have asked me before this commission not alone to testify to facts, but also to express opinions. I have these opinions with great positiveness, and I have delivered them, I hope, with courtesy—but certainly with great positiveness.

DIRECTORS GENERALLY OWN OR REPRESENT A LARGE MAJORITY OF STOCK.

Q. (By Senator MALLORY.) Do you think now, as a corporation lawyer, that it is good policy to give directors of corporations power to increase their own number without consulting the stockholders?—A. I think so.

Q. You think that is good public policy?—A. I do, for the reason that nine-tenths of the corporations are controlled by boards of directors which either own or absolutely represent a large majority of the stock. This theory that there is a large body of unknown stockholders that have got particular interests that they want to control and can not do it because they are fettered by a board of directors without any substantial interest is absolutely fictitious. The interest and the agonies are in the board of directors, and they are not in the stockholders. When it comes to a question of financial stress, the men that have to go about and put their names to papers are not the stockholders; they are the directors that put their backs under the load and their fortunes at risk, and I would give always—all that I have in this world is in the form of corporate investments—and I am only too glad to put it at the risk of men who are directors where I am not, for I am a director in very few companies.

Q. Well, that is hardly an answer to the question?—A. It is; pardon me, I should not have said that it is, Senator, but it is intended to be.

LIBERTY OF CONTRACT—NOT LIBERTY OF ACTION.

Q. The only point I want to get at is your view, and you seem to be under the impression that there is too much law restraining the liberty of action of the gov-

erning powers of corporations. I think you expressed an opinion to that effect?—A. Liberty of contract. I did not say liberty of action—liberty of contract. I would allow the corporations, if they so wished it, to contract there again. I would have it—if I may illustrate it, pardon me, by a story of John Van Buren. When he organized the Manhattan Club in the city of New York, he put all the powers in the board of directors, and some one said to him, "Why do you do this? Up at the Union Club"—which was a social club of a very high order—"they do not do that." He said, "They are different clubs. We will trust the body up there, but we will not down here." And the question, after all, is what are you going to do in any particular body. If a man wants to contract with the directors and protect himself, I will give him that freedom, and I will say that in the absence of a contract exempting the board of directors from limitation, I would leave them under general limitations of law.

STOCK BOOKS SHOULD BE OPEN TO STOCKHOLDERS.

Q. (By Mr. JENKS.) As regards the provisions of law which permit stockholders to examine the stock books of corporations at any time so that they can find who their associates are, the amount of the holdings of each associate, and so on, do you favor that kind of a law giving that privilege to stockholders?—A. I do, certainly. I think the law of New York, which I assisted in framing, has that provision—that is, that every stockholder and every judgment creditor should have that right.

Q. You would not give the power to the board of directors to refuse to permit stockholders to examine the books?—A. No; but I would give the power to the board of directors of providing a convenient hour. Simply say, "You must come at such an hour, otherwise the books can not be examined"—but only for the purpose of convenience. I think that every stockholder and every judgment creditor should have the right of knowing who the stockholders of a corporation are.

DIRECTORS GENERALLY FAITHFUL, IN SPITE OF PRIVATE INTERESTS.

Q. If I may continue for a moment what you were saying a little while ago as to the powers of the board of directors—you say that the board of directors represents regularly the interests of a majority of the stockholders?—A. Generally.

Q. Of course, that is true so far as the stockholding is concerned—very frequently not as far as numbers are concerned, usually not. Would you think that it is often the case that half a dozen, or not over a dozen, leading stockholders, who hold a majority of the stock among them, may have interests opposed, say, to a thousand or several thousand stockholders, so that the few holding a majority, who themselves are probably directors, might find it for their individual interests to so direct the affairs of the corporation that it would be for their interest and not for the interest of the majority of the stockholders in number?—A. That is conceivable.

Q. May I follow that up a little further? Is it particularly uncommon in your judgment?—A. Oh, no; it is not at all uncommon; it is not at all uncommon; but I have never, in a case where I have been called in, been conscious that that power was exerted in that way. I think that I have seen men in two different corporations become as keen on one side as they were on the other when they passed into different boards.

Q. Do you think that the danger is one that would call for any limitation by law?—A. I do not. I think you would lose on the other side what you might gain on this. You lose efficiency of action.

LIABILITY OF STOCKHOLDERS SHOULD BE ABOLISHED.

Q. The question is suggested here as to whether you would abolish the limit on the liability of stockholders that we have in most States, I suppose; the limitation to the amount of capital stock held?—A. I would put into every constitution what there used to be in the constitution of Kentucky and what there is in the constitution of West Virginia, that there should be no liability. Instead of abolishing the limitation or increasing the liability, I would abolish the liability.

Q. Will you explain just what you mean by that?—A. It is not a question of public policy there; it is a question of credit. And I have explained that I would drill this into every man: That when he deals with a corporation, he is dealing with it just as he deals with an individual. He has got to find out whether that corporation is responsible; and the law, the common law, is abundant and adequate to provide remedies for a man who makes the inquiries and who is told untruly at the time of the particular transaction. This whole question of individual liability has been better stated by Mr. Morawetz in a letter he wrote me at one time, in which he said that it was "a pitfall for the unwary and a windfall for the undeserving."

WHY INCORPORATORS GO TO NEW JERSEY.

Q. (By Mr. FARQUHAR.) Is it a fact that under the laws of the State of New Jersey a good deal of New York capital and Eastern capital has gone into that State?—**A.** A great deal of New York capital has gone into the State of New Jersey, and the reasons why it has gone there have been of two entirely distinct classes. The one concerns the question of taxation. The taxation of corporations in New Jersey has been less than that in New York. The other is concerned with the liabilities and immunities of stockholders and directors in New Jersey. In New Jersey there is no personal liability of stockholders in addition to the amount paid in for the capital stock; that must be paid in full. There is a mistaken idea abroad that the law of New Jersey permits stock to be issued as fully paid when it is not fully paid. That is not so. The law of New Jersey merely declares what is the common law anyway and has been so interpreted by the Court of Appeals of New York, that the judgment of the board of directors exercised in good faith as to the value of property received for stock—and value is always a question of opinion and not of fact—is conclusive, if there be good faith. That is merely the common law. Another is the general immunity of directors from statutory liability. Another, and quite as important in most cases, is that in New Jersey there is no limitation on the amount of indebtedness which can be created by a corporation in comparison with its corporate stock. In many States the law says that you shall not create an indebtedness in excess of the total capital stock. That is not prohibited in New Jersey. I think those three particulars of the New Jersey law are quite as agreeable to investors or to proposing incorporators as the comparative immunity from taxation.

PUBLICITY FOR COMPANIES ORGANIZED FOR PUBLIC WORK, NOT FOR THOSE IN TRADE.

Q. Is it or is it not a fact that the corporation law of the State of New Jersey is framed in nearly all its sections to safeguard the stockholders; supremely to take care of the company as an organized company; that the law is framed for the benefit of the stockholder of the company and for the company itself and not to protect the public?—**A.** If I understand you, it is this: That the theory of New Jersey is that which is really the theory of every State that grants a corporate charter, namely, that it is for the benefit of the State that the corporation should be created. That must be the theory of every act of incorporation, either general or special; that the State, having invited this creature to come into existence, gives it a chance to live.

Q. Now comes the other question. From all your associations and relations, as far as the public know and this commission know, you have not been associated, either you or those who have financed and carried on these operations, in what is commonly called stock gambling. Now, would you state how it is possible so to amend the laws of New Jersey, or any other State, which are so liberal in providing for company organizing, that the public will be safeguarded in knowing what the worth of the stocks is, their intrinsic value; that there may be publicity sufficient to show exactly the state of the companies in their financial concerns? In other words, how far should the laws of a State lend publicity to the whole operations of every company chartered under it?—**A.** I think that with reference to companies that are organized for public work, like insurance companies and railway companies, that should be done. I think that to put that obligation upon companies engaged in trade, who have rivals that do not have to make such publications, would be an unjust discrimination; and there is no reason for it whatever, if you are going to permit corporations to engage in trade. That is a way of throttling the infant that has been born at the request of the State.

FAKE COMPANIES MAY ORGANIZE UNDER ANY LAW.

Q. Now another question. Is it not generally known in New York City and all our principal cities where banking and brokerage are carried on that there are in New Jersey possibly one-fourth of the chartered companies that are nothing but fakes and wildcat companies?—**A.** I do not know.

Q. Do you take it from public reports, I mean?—**A.** I never pay any attention to public reports. They do not constitute information; they deal with impressions. When you treat of property rights, you have got to get specific information.

Q. Do you think that under the laws of New Jersey there is a possibility for fake companies to be chartered and impose their stock on the public?—**A.** Not any more than there is under the laws of New York or any other State. That often happens. You may organize a company and put in \$100,000 or \$300,000, as was done under the strict laws of Massachusetts in the Cape Cod Canal Corporation, and it is an improvident investment, an unwise investment of capital, and it is gone almost immediately—as soon as it is put in—and yet that corporation is created and abundant litigation has ensued under that, although it was as honestly organized a corpora-

tion as you could make under those strict laws. In other words, the question must always come back to, What is the capital; what are the assets of the particular corporation at the time of the particular transaction? and the fact that at some time or other it had as much money as its capital represents is of no consequence, for it all may have been lost; it may all have been unwisely invested. Take a conspicuous instance under the law of New Jersey, the corporation that was formed for building the Stevens Battery, which General McClellan was in charge of. There was a corporation which was absolutely of no consequence when it got through, and it swallowed up millions and millions by unwise investment.

Q. It was simply a scheme to make money?—A. No; I don't say that. My point is this, that nothing is more illusive and delusive than the idea that if a corporation's stock be only paid in in money at the outset it is therefore better off than one that has issued its stock for property that could not be converted for 1 cent on the dollar. The question is what assets the corporation has got at the time of the particular transaction, and that can be ascertained only by present inquiry.

A REMEDY FOR STOCK WATERING.

Q. (By Senator MALLORY.) Have you any suggestions to offer?—A. I had only one point which I thought proper. I have not obtained information, but only impressions, as to what was going on in this commission from the public prints. In January, 1892, a report was made by a committee, of which I was a member, on the question of corporations, to the Bar Association of New York; and the third provision of that report is the only one, I think, that I should like to bring before this commission for its consideration. As it is addressed to a subject about which a great deal of complaint has been made, namely, stock watering, I should like to indicate a remedy or relief which we thought was desirable [reading]:

"Third. To permit the formation of a distinct class of business stock corporations whose capital stock may be issued as representing proportional parts of the whole capital without any nominal or money value.

"The effect of such amendment would be to provide for the measurement of the interest or shares of the members of such a corporation by a statement of proportion, as in case of the part owners of a ship, and not by an arbitrary assignment of money value, which is delusive in the case of every corporation whose capital stock has a market value either more or less than its nominal par value.

"Such an amendment, though somewhat radical, is not altogether novel. It embodies a principle adopted in corporation laws in Germany.

"It would relieve any possibility of injury to the public from misleading representations as to the money value of corporate stock, and would also relieve from embarrassment conscientious corporate officers often compelled to deal with legal fiction as to which they have no personal knowledge, as though it were a reality within their own observation." (Proceedings of New York State Bar Association, January, 1892, p. 138.)

Q. (By Mr. FARQUHAR.) Do you choose to amplify that in any way further than you have presented it?—A. I think that states the case.

PURPOSE OF ISSUING LARGE CAPITAL STOCK.

Q. Will you state the circumstances that brought this about? How many were concerned in it?—A. That was never acted upon; it was merely presented as a report and never followed up. But the real desire of corporate management of stockholders is not always fully understood. The real desire of the issue of large capital stock is generally to get a very large common divisor and to get as many persons interested in the enterprise as may be, and the nominal amount of each share is of very slight consequence. You will see \$100,000,000 of stock issued and the next day after it goes on the stock exchange it sells for from \$10 to \$12 a share. Nobody supposes that stock is worth \$100,000,000. The total stock is only worth \$10,000,000 to the public at large, if it expressed its opinion about it, and its par value becomes immediately a fiction. On the other hand, the Central Trust Company stock of New York, say, sells at \$1,500. That is just as much a fiction; it is just as fictitious to say that it is \$100 stock as it was in the other case to say that the \$13 stock was \$100 stock. No one deals with reference to par; they all deal with reference to the fact. Now, as the fact in many of these cases is obscured by this assignment of a nominal or par value, under this theory of freedom of contract, I would permit a corporation to say, "Here are our shares; we have so many shares and you have such a proportion of the property, be it worth more or less." Then dividends need not be made by per cent, but as they are in the case of mining companies—so much a share—and there would be no one deceived, and every purpose would be accomplished that I can think of that is desired by the creation of these large nominal capitals.

RAILROAD REORGANIZATIONS CAUSED BY REDUCTION OF RATES, NOT BY OVERCAPITALIZATION.

Q. (By Mr. C. J. HARRIS.) Have you been connected with the legal part of the organization of some railroads in this country?—A. I have.

Q. Can you name some of them to the commission?—A. The Richmond Terminal, now constituting the Southern Railway, the Northern Pacific, the Reading, the Erie, the Memphis and Charleston, the Hocking Valley, and the Detroit, Bay City and Alpena, now the Detroit and Mackinac.

Q. Any others?—A. There are others, but I do not now recall them; those are what come to me now.

Q. I do not know exactly how far you are connected with the business portion of those reorganizations; I suppose mostly with the legal questions?—A. Entirely with the legal; I have nothing to do with, and I have paid no attention to, the business part.

Q. Why are these reorganizations made, as a general thing; what are the reasons? On account of their bankruptcy, or failure in business to a certain extent, as they were organized before you took hold of them?—A. In every case it was the inability of the corporation to earn its fixed charges; not the question of dividends, but fixed charges. It made promises to pay which it could not keep; foreclosure was imminent, and it was necessary to make some arrangement by which the interest in the property could be preserved.

Q. Was this in some cases from a lack of ready capital, or was it generally from a certain mismanagement or lack of business capacity?—A. I should say it came from a lack of income resulting from the ruinous reduction of rates, partly by legislation and partly by the foolish competition of railroads with each other. If the rates in this country were a fraction of a per cent higher, no one of these companies that I have mentioned need have gone into bankruptcy.

Q. What was the state of their capitalization? That is what I want to get at generally. Are they generally overcapitalized?—A. In none of these cases—now I am speaking of facts—did share capital have anything to do with it, or money. They had created a bonded debt for the money they had borrowed and could not pay. It was money, dollar for dollar. Take for instance a fair sample, the Richmond Terminal. Its stock declined to a fraction of 1 per cent on the dollar. It did not make any difference what its share capital was; it disappeared; this body of share capital was wiped out.

PRINCIPAL OFTEN INCREASED—ANNUAL CHARGES ALWAYS DIMINISHED.

Q. In these reorganizations, for instance, this you have just mentioned, was the capitalization, bonds and stock, under the reorganization greater or less than it was before you took hold of it?—A. In some cases they were more and in some cases they were less. It was intended generally for the purpose of inducing those who had been interested before to make fresh contributions of cash, which was necessary. That was always the real case. I do not think that more than three of those corporations received less than \$20,000,000 to \$25,000,000 of new cash to help it along and to start it anew. To get those contributions in cash it was necessary to make concessions, and in some instances the capitalization, if you so choose, the bonds and stock—I call the stock only the capitalization—was greater than it was before. But this was for the reason that the old bonds would bear various rates of interest, running from 6 to 8 per cent. In every instance the new bonds have been as low as 5 per cent, and they have gone down to 3 per cent; and as compensation for that reduction of interest, the nominal amount of bonds would be larger. In every case the annual charge, the fixed charge, has been very much smaller. And that is the whole point of the reorganization, to get a smaller annual charge.

Q. You have stopped the high-priced bonds and got lower ones?—A. The high-interest bonds. And to do that you have got to make concessions. People would say, "I will take 4 per cent where I otherwise would be getting 6 per cent, if you will make it up to what is equivalent to 5 per cent by giving me a larger amount of principal." That is what it comes to.

Q. You speak of some of these roads that have been reorganized during the last 6 years—that is, during the period of dull times, we might say. Now, if they will not earn enough to pay their expenses, how does the magic of reorganization enable them to go on as they have done and pay not only expenses, but, I think, also interest on the bonds?—A. I did not say they do not pay expenses. Every one of those roads paid its operating expenses, but none of them paid its fixed charges.

OTHER GAINS BY REORGANIZATION.

Q. On the bonds?—A. It came down to a point at which these old bonds were certain to pay; then we ascertained an indefinite amount, the intermediate, and reduced to

that. That is just the process; and there are very few of those roads that to-day would pay interest on the bonded debt as it existed before reorganization. Then, two other things have happened—three other things. First, you have got these contributions of cash which I have spoken of, which carried off a lot of floating debt; next, all of these mortgages—and that is very important—provided for a reserve fund of bonds which may be issued ordinarily at a rate not exceeding one million or a million and a half a year, say, for 20 years, to provide for these constant demands upon a railroad which are necessary to be met and which it can not meet out of its current earnings, and which go to the betterment of the property. That was the real cause of the breaking of the railroads in this country in 1893. It was the cause of the panic in 1893. At the time of the Baring failure in 1893 it was computed that there were over \$250,000,000 of the floating debt of the railroad companies of this country to be funded and being pressed for payment. Now, to-day, they have got credit; they have got a breathing spell; they have got ahead. I do not believe one of these reorganized railroads has a dollar of floating debt to-day.

HIGH ABILITY OF RAILROAD MANAGERS.

Q. In this system of combinations of railroads, what can you state, if anything, about the character of the men who are placed in charge; have you not a rather more skillful professional class of railroad men than under the old system?—A. The railroads have never been so well officered as they are to-day. The railroad managers of this country—I am not testifying about personal characteristics, but simply as a business matter—the railroad managers of this country represent the highest class of management of any kind of business of any government in the whole world to-day, in my judgment. I do not mean great statesmen, but the thing we have in mind. It is one of the greatest credits to America that it can exhibit such a body of men as our railroad managers to-day.

Q. I was speaking of their professional qualifications as such, and the reason I asked that is: Has not that been a very important item in the apparent success of these organizations?—A. In one sense it has, but the most of these gentlemen were connected with roads prior to 1893—prior to these failures; but they did not have the opportunity to work that they have now. They were harassed by the pressing necessities of the roads and financial necessities, and could not show what the character of the management was.

ABSOLUTE PUBLICITY FOR RAILROAD COMPANIES; NOT FOR TRADING COMPANIES.

Q. (By Mr. KENNEDY.) You have expressed yourself in favor of publicity of the affairs of the railroads?—A. Absolutely; that, I think, can not be made too strong.

Q. (By Mr. C. J. HARRIS.) That is a question that has been brought up here a great deal in regard to the railroads, whether there should be, as in the case of national banks, some such public investigation and certification to their records as that to show that they were, in the first place, not false, and, in the second place, that they were fully and correctly made. Have you any idea in regard to that?—A. I think that is entirely reasonable. You will understand, when I answered the question before, I was referring merely to the control of competition—those engaged in competition with traders who did not have to make these disclosures. The moment you come to this class of corporations publicity is absolutely desirable.

SUBMIT POOLING CONTRACTS TO A COURT OF LIFE JUDGES.

Q. (By Senator MALLORY.) You would be willing to give to the railroad corporations the same wide latitude of contract among themselves that you would give to the mercantile and ordinary private corporations?—A. I would not give the same; I can not tell you why, because I have not thought that out, but I should want to consider it. The comparative monopoly of any railroad in any particular place or in some particular place may call for a different rule than with reference to the ordinary corporations.

Q. Would you, with your knowledge of the railroad business— A. I will say this: I would give all railroads a right to make any corporate contract that they choose with each other, provided that the contract must be submitted to the Interstate Commerce Commission which we have in this country, and should be subject to annulment by the Interstate Commerce Commission for reason to be assigned.

Q. Now, to come specifically to a case; some years ago the House of Representatives was asked to pass a bill permitting railroad corporations to pool their traffic, to make pooling contracts, validating pooling contracts when made, and the difficulty that seemed to intervene to prevent the success of the movement arose out of the restraint which was sought to be imposed through the Interstate Commerce Commission upon the formation of this pooling business. A large number of gentlemen

in Congress favored the idea of allowing the Interstate Commerce Commission to have a veto absolute on the contract; that the advocates of the railroad side of the question would not listen to. They were willing to have power vested in the Interstate Commerce Commission to disapprove the contract, but to let that contract go into effect and be operative until some power above the Interstate Commerce Commission—a court probably—should sustain the Interstate Commerce Commission; in that case the contract was not to be in effect. In other words, the railroads were apprehensive that the Interstate Commerce Commission would arbitrarily interfere sometimes and prevent them from getting the benefit of a reasonable rate. Now, there is a movement in that direction again, I think very apparent, upon that point of giving the Interstate Commerce Commission, or some other body, absolute power to say, this thing shall not go into effect, and stop it there. What would be your opinion?—A. I would allow the power of contract, and I would let that contract continue until disapproved by the Interstate Commerce Commission or such other body as you might name, for reason. And I would then have it continued until the reasonableness had been tested by the courts. In other words, I should be glad to see the system they have in England. If you could get a system of life judges, such as they have there, constituting a court on this question, I would leave it to that court absolutely.

Q. Turn the Interstate Commerce Commission into a court?—A. Provided they were appointed for life.

Q. (By Mr. C. J. HARRIS.) Would they not get pretty arbitrary if appointed for life?—A. They do not in England; it has been running there for 40 years and there is no complaint at all, and originally there was more turbulence than we have. England is so small, it has a smaller mileage and all these points are close together, and they had tremendous difficulty; but they have had no opposition and no trouble, and I do not see why we should be floundering along on this side. But to pass over the greatest amount of property in this country to the decision for its existence of a board which is subject to political determination every four years is simply to kill your greatest property in this country. You give these powers to the Interstate Commerce Commission and you will never have another Presidential election on the silver question or anything else. It will be on the subject of which can grab the railroads. You are entirely changing our system of government when you do it.

IF THERE WERE ANY UNREASONABLE RATES, THERE SHOULD BE SUMMARY POWER TO ABOLISH THEM.

Q. Take these 4 railroads in pooling—A, B, C, and D. In their pool, of course, they agree upon a certain line of rates with regard to all sorts of things. Now, they agree upon that, and if A does not keep the agreement none of these others have any legal hold upon him. Now, we can easily see why that is an injustice to the railroads.—A. To which is it unjust; to the one who does not keep his bargain or the others who do?

Q. The others who do.—A. To that I agree.

Q. That is a contract to be carried out among the railroads as among others, unless against public policy. Now, of course, the thing we have in mind in our inquiries here is, where will the shippers or general public come in? If this pool makes an unreasonable rate and the law permits them to sustain that contract, then the general shipping public is at a disadvantage; and the proposition is that the Interstate Commerce Commission should come in and say whether those rates are right or not. If they are fair and reasonable, then your contract between railroads is just as good as between you and me or any others.—A. I never heard any railroad men ever object to that particular proposition you are now mentioning; nor would I. I think the power to determine whether a rate is reasonable or unreasonable is now lodged in the Interstate Commerce Commission, and should continue there. It is not the point of difference. The Interstate Commerce Commission wants the power to make a rate; not to declare a given rate unreasonable, but to make a rate, and that is the real stress. Of course, if there are any unreasonable rates in this country there should be a positive and summary power to abolish those rates; but now when you come to the other question as to the agreement to make reasonable rates, not to make unreasonable rates, I do not see why that agreement should not continue until the Interstate Commerce Commission or the other body should have been sustained by the courts; but as to the unreasonable rates, I do not say for a minute that such an agreement should prevail.

BUT THERE ARE NO UNREASONABLE RATES.

Q. (By Senator MALLORY.) As the practical working of the interstate-commerce law is exhibited to us now, that would practically amount to the railroads fixing their own rates for a number of years?—A. Perhaps, Senator, you have heard of unreasonable rates somewhere; I do not hear of any complaint anywhere over the country.

Q. The testimony is that there are no unreasonable rates to speak of now.—A. Those have all disappeared.

Q. The point is, it is a fact that we can not get a decision on an appeal from the Interstate Commerce Commission inside of 2, 3, or 4 years.—A. Therefore I do not think this great property, the greatest property of this country, should be exposed to the injury that results from that delay. I think it is a great deal better to wait a little longer to get the question decided for them. We are dealing with that on which the country lives—its industry.

MAKE THE INTERSTATE COMMERCE COMMISSION A COURT, WITH LIFE TENURE.

Q. My inquiry was made to elicit a suggestion, if possible, of any way of expediting this thing. No one wants to take advantage of the railroads. If the Interstate Commerce Commission should decide unjustly, it would be declared an unjust decision and the railroads should be vindicated, and vice versa. But the great difficulty with anything of that kind is the tremendous delay.—A. I have endeavored to make a suggestion. My suggestion would be to make the Interstate Commerce Commission a judicial body; but I want to put in a caveat there, subject to constitutional difficulties; there is a serious matter there. Even if it required a constitutional amendment, I would make the Interstate Commerce Commission a judicial body, appointing its officers for life; and I would let that body determine; and then you have a judicial determination, and it would not expose us to the delay you have mentioned, and I think everybody would agree to that.

Q. (By Mr. C. J. HARRIS.) That would involve that all of the members of the commission should be lawyers?—A. Not necessarily; not at all. I think they would all have to have, or should have, the judicial attribute of judicial fairness.

THE LINE BETWEEN PUBLIC AND PRIVATE CORPORATIONS.

Q. You made a distinction some time ago between public and private corporations, and intimated that the railroads, telegraphs, and corporations of that kind were public and that all manufacturing corporations were private; the suggestion has been made many times here that a corporation, such as the American Sugar Refining Company, which I have taken as a special example, that manufactures about 90 per cent of the output of sugar, according to the testimony given here, so affects the interests of the public that it should be considered a public corporation. The competition against that is no more vigorous, it is suggested, than the competition against railroads and telegraphs, and therefore any restraints put on railroads might very properly apply to any manufacturing company that controls so large a proportion of the manufacture in any one line as that, for example. Can you draw the line sharply between public and private corporations?—A. I think I can. I think the American Sugar Refining Company is not a public corporation. At the trust conference I see it reported that Professor Clark, of Columbia, said that combinations might deal with the competition of all the mills that were built, but can not deal with the competition of the unbuild mills. Notwithstanding Mr. Havemeyer's greater familiarity with the matter, I venture to say Mr. Arbuckle will "cut some ice" if he has not done it yet, and you will find that if the American Sugar Refining Company does not keep down the price of its commodity to a reasonable point, Mr. Arbuckle will find great success in that department of his industry. The natural law will work better than the interference of positive legislation.

RIVALRY BETWEEN CORPORATIONS AND INDIVIDUALS.

Q. With reference to the degree of publicity that should be given to a corporation like the American Sugar Refining Company, I understood you to say that much publicity would be unfair on account of the fact that it would have rivals whose affairs would not be made public. What would you say if there was a general law providing that all corporations should be given an equal degree of supervision; it would not be unjust then?—A. I am not speaking of rivalry between corporations, but between corporations and individuals engaged in the same business.

Q. You think it would be impossible to exercise the supervision over the individual?—A. You could not do that; you have no right to do that. If a man is not violating the law you can not inquire how he is investing his property here and there, and that is all that inquiry means. You do not go and call on a person and ask how his health is; but what they owe, what they have, and how they made it.

THE DEVELOPMENT OF BUSINESS WILL BREAK ALL FETTERS.

Q. Do you think if at the present time there were such rigid laws it would drive capital out of the corporate form into the hands of men acting as partners or private

individuals?—A. I do not know that it would. I am not equal in ingenuity to the task of determining how the positive growth and development of business is going to meet the embarrassments and fetters which legislators are trying to put on it, but it will. It will come in some way or other no matter how many embarrassments are put upon it; it will come in time.

NATIONAL INCORPORATION LAW UNDESIRABLE.

Q. (By Mr. FARQUHAR.) There is some testimony before this commission looking for a remedy in the corporation laws of the States, where in so many States it is impossible to attain uniformity, and the suggestion has been made and somewhat of an argument made before this commission that a national incorporation law ought to be passed for the regulation of all manufacturing and other companies engaged in interstate commerce; have you any views on a question of that kind?—A. I have, very decided.

Q. We should like to hear them.—A. It is an unnecessary law and therefore a harmful one; that is my judgment; it would be a harmful one.

Q. Would it be your opinion that Congress had the power under the Constitution?—A. Under the present Constitution I do not think it has the power at all, except as to the matters pertaining to interstate commerce. How far the courts may go in extending that term I do not know.

Q. Do you think it would come under the general-welfare clause of the Constitution?—A. I do not understand that the general-welfare clause—notwithstanding the great Chief Justice Marshall—confers any independent grant of power. I think the general welfare is the purpose for which the express powers are to be administered.

Q. But there is no positive authority conferred on Congress to frame laws covering—A. Not independent, because if that were so, we should not need any other Constitution. If Congress were to be the judge of the general welfare that would end it. You might as well say, in the first place, "Congress is hereby created to legislate for the general welfare of the public," and stop there. That would be all of your Constitution.

ADVANTAGES OF CORPORATE ORGANIZATION.

If the commission will permit me, I think perhaps it is proper that I should call your attention to what I think is the best statement of the purpose of a corporation in this country. It is found in Mr. Cook's treatise on the law of corporations having a capital stock (4th ed.), volume 1, page 21, § 6, as follows:

"In large enterprises the partnership has been found to be clumsy, dangerous, and insufficient. If unsuccessful, it brings ruin upon all of its members, because each partner is liable absolutely for all debts. Any member may bind the firm by his contract, and each one has an equal voice in deciding its policy. Its capital and credit, and consequently its amount of business, are limited necessarily by the capital and credit of a very few men—the members themselves. The death of a member or the transfer of his interest dissolves the firm. Any member may arbitrarily cause a dissolution at any time, and the insolvency of a member renders the partnership property subject to levy of execution for his debt. Upon the death of a partner the surviving partners have the sole charge of winding up the business, and the executor of the deceased partner is not allowed to come in. A partner may withdraw his money only at a sacrifice or by long and expensive proceedings. He can not conveniently sell his interest or borrow money upon it. New partners can not readily or safely be admitted.

"The partnership is restricted in its capital, dangerous in its liabilities, narrow in its exclusion of new members, too free in its mode of making contracts, and too contracted in its opportunities for withdrawal. It is becoming obsolete as a mode of doing business on a large scale.

"In a corporation all this is changed. The members are not liable for the debts. The amount already invested may be lost, but the private fortunes of the stockholders are not involved. The business is done and contracts made not by all, but by a select few called directors. A large capital is created by the union of funds from many sources. A person may safely invest in many enterprises and yet not take part in the management nor watch the business of any one of them. The leading spirit in an enterprise may hold a majority of the stock and may admit associates, employees, or strangers as holders of a minority of the stock, and yet he will retain the management as though he were the single owner of the concern. Persons may easily buy into or retire from the enterprise. Dissolution is not brought about by the death or withdrawal or dissatisfaction of a stockholder. The insolvency of a stockholder does not affect the business of the corporation. Upon the death of a stockholder his executor votes his stock and has a voice in the continuation of the business. A stockholder may sell or pledge his interest readily and intelligibly by

reason of the reports, dividends, and market quotations of his stock. The corporation is a protection in that the liability is limited; it is capable in that it renders possible the collection of a great capital; it is efficient because the directors, and they alone, govern its policy and its contracts; and it is convenient because it is easy to sell or buy or pledge or bequeath one's interest in the concern.

"The advantages of incorporation are set forth in the Law Quarterly Review for April, 1895 (p. 185), as follows: 'Incorporation secures first of all the benefit of limited liability. It further preserves the continuity of the partnership unaffected by the death, lunacy, or bankruptcy of the members, or by other contingencies. It minimizes the dangers of a dishonest partner by restricting the agency of the directors in articles of which all persons dealing with the company have constructive notice. It facilitates dealing with the shares of the partners by sale, mortgage, or settlement. It affords greater facilities for borrowing, more particularly for raising money on debentures. A shareholder who lends money to the company is not at the disadvantage of being postponed to other creditors as an ordinary partner is who lends to the firm.'"

Testimony closed.

WASHINGTON, D. C., October 19, 1899.

TESTIMONY OF MR. ELBERT H. GARY,

President of the Federal Steel Company.

The commission met on Thursday, October 19, 1899, Senator Mallory presiding. Judge Elbert H. Gary appeared at 12.10 p. m., and, being duly sworn, testified as follows:

Q. (By Mr. JENKS.) What is your full name?—A. Elbert H. Gary.

Q. Your address?—A. New York.

Q. You are president of the Federal Steel Company?—A. I am.

PROPERTIES AND BUSINESS OF THE FEDERAL STEEL COMPANY.

Q. Will you be kind enough to explain to us the nature of the business done by this company and the different companies that were brought together by its organization?—A. The Federal Steel Company is the owner of all the capital stock of the Minnesota Iron Company, the Illinois Steel Company, the Lorain Steel Company, and the Elgin, Joliet and Eastern Railroad Company. The Minnesota Iron Company is the owner of about 150,000 acres of iron-ore property. It is also the owner of the capital stock of the Duluth and Iron Range Railroad Company, which is a railroad connecting the ore property of the Minnesota Iron Company, located principally on the Vermilion and Mesaba ranges, with Lake Superior at Two Harbors and Duluth. The Minnesota Iron Company also owns the capital stock of the Minnesota Steamship Company, which owns about 22 steel vessels running on the lakes. The Minnesota Iron Company is also the owner of very large ore docks at Two Harbors. The Lorain Steel Company has a manufacturing plant at Lorain, Ohio. It is engaged principally in the manufacture of steel girder rails for street railways, and also to some extent in the manufacture of steel billets. It is also engaged in the production of pig iron, producing about 500,000 tons of pig iron per year. The Lorain Steel Company is the owner of a terminal railroad at Lorain. I should say that the Federal Steel Company is also the owner of the capital stock of the Johnson Company at Johnstown, Pa., which formerly belonged to the Lorain Steel Company. The Johnson Company of Johnstown is engaged principally in the manufacture of frog switches and crossings for street railroads—these complicated crossings which you see on the streets—and is also engaged in the manufacture of electric motors, etc. The Illinois Steel Company has plants at North Chicago, West Chicago, South Chicago, Milwaukee, and Joliet. It is engaged in the manufacture of pig iron. It produces about 1,500,000 or 1,600,000 tons of pig iron per annum. It is engaged in the manufacture of steel rails, billets, plates, rods, merchant steel, etc. The Illinois Steel Company is also the owner of the capital stock of the Chicago, Lake Shore and Eastern Railway Company, which connects its plants in Chicago and South Chicago with various railroads running into or near Chicago. The railroad runs down into Indiana; it is a terminal railroad, but a pretty extensive railroad. The Illinois Steel Company is also the owner of large tracts of coal property in Pennsylvania and West Virginia. It is also the owner of iron mines in Wisconsin and Michigan. The Elgin, Joliet, and Eastern Railroad Company is called the Outer Belt of Chicago. It runs from a point on Lake Michigan, in Indiana, around Chicago

about 90 miles from the center of the city, to a point on Lake Michigan at Waukegan, Ill. Neither the Federal Steel Company nor any of its constituent companies has any monopoly of any line of business, nor does it seek any. Its plan is to produce and deliver finished products at a minimum expense. It takes the ore from the ground, transports it, manufactures it into pig iron, manufactures the pig iron into steel, and the steel into finished products, and delivers these products. The Outer Belt, of course, crosses every railroad which enters Chicago.

ECONOMIES OF CONSOLIDATION—FEWER OFFICERS.

Q. Will you explain to us briefly what are some of the economies that have been made by bringing together these different companies engaged in different lines of work?—A. There has been quite a considerable economy in the management of the office. That applies more particularly to the employees or officers, who have received larger compensation in the aggregate than they are getting at the present time. It does not apply, of course, to the laboring men.

Q. Would you mind developing that a little further—going further into detail?

Q. (By Mr. FARQUHAR.) Have there been many displacements of the skilled employees, or do you maintain your works?—A. I would not say of skilled employees.

Q. Skilled officers?—A. We are looking for skilled employees all the time.

Q. Skilled officers?—A. I might say skilled officers; the officers have been fewer and the aggregate of salaries has been less.

Q. (By Mr. JENKS.) The aggregate of salaries?—A. Yes. The number of skilled laborers has been somewhat increased, and the amount paid skilled laborers has been increased, and we are looking for more all the time.

THE AMALGAMATED ASSOCIATION.

Q. (By Mr. FARQUHAR.) Are your skilled men usually members of the labor organizations?—A. Some of them are and I think some of them are not.

Q. Are you controlled in any way in the payment of wages by the Amalgamated Iron and Steel Association?—A. I think perhaps in the past, at least, the question has been influenced by those associations. Since the organization of the Federal Steel Company there has been no difficulty of any kind between any constituent companies and the laborers. Wages have been advanced at different times, but the question has been decided on its merits entirely; the result has been reached by conferences, and everything has been satisfactory so far as I know.

Q. For this year has the scale of the Amalgamated Association been presented to you as an officer, or anyone under you in the Federal Steel Company, for signature?—A. No scale has been presented to me; indeed, it would not be presented to me. Substantially every question that comes to me for advice comes to me through the presidents of the different companies. I am inclined to think that, in some cases, the officers of some of our companies have agreed to what you call the scale, the Amalgamated scale.

OFFICERS DISPENSED WITH.

Q. (By Mr. JENKS.) Can you tell us, specifically, how much the increase of wages has been in any of these different companies?—A. It has been, on the average, about 16 per cent.

Q. Does that apply also to railroads?—A. Yes.

Q. You said that a number of administrative officers could be dispensed with; can you give us any more definite information as to the amount saved, or the number whose places were no longer needed on account of the amalgamation of the constituent companies?—A. As an illustration, the Illinois Steel Company had a president, a first vice-president, a second vice-president, and a general sales agent, and several assistants. The office of one of the vice-presidents and the position of general sales agent were dispensed with. The two railroad companies each had a corps of officers, and now the officers of one are the officers of the other. That principle applies in all the companies on down the line until you get to the skilled laborers, and there there has been no change.

Q. The saving has been then almost entirely on the higher officials of these different companies?—A. Yes, in the higher officials entirely.

PUTTING THE DIFFERENT COMPANIES IN CLOSE TOUCH.

Then there has been a material advantage in dollars and cents resulting from the fact that the management of the Federal Steel Company is in close touch with all the business of all the companies, knowing the wants and the prices of each of the companies. For instance, the Lorain Steel Company may desire to purchase steel of

a certain kind; the Illinois Steel Company may at the same time desire to sell that very class of steel; the result is that the management of the Federal Steel Company brings about that sale or purchase or puts the officers of the different companies in close touch, so that the sale is made to the best advantage of both. That is only one illustration of the various kinds of business.

EACH CONSTITUENT COMPANY MANAGED INDEPENDENTLY.

Q. As a matter of fact, the business of each of these separate companies is managed entirely independently; the Illinois Steel Company would sell directly, as an entirely independent concern, any of its products to the Lorain Steel Company?—A. Generally, yes; each one looking out for its own interest as much as if the ownership of the capital stock was in entirely different hands.

Q. Why should they look out for their own interests in that way as much as if the stock were in different hands? Why would it not be advantageous for the Illinois Steel Company to sell at a relatively low rate to the Lorain Company, if they are going to share in the profits?—A. The Illinois Company has no interest in the Lorain Company any more than if it were an independent company, owned by other persons. Each company is seeking to make the very best record it can for itself.

Q. As I understand you, the stockholders of one are the stockholders of the other?—A. That is true; but that has no influence whatever on the management of the different companies. I am frequently called upon myself to settle disputes or differences arising between the different companies.

Q. The Illinois Steel Company and the Lorain Steel Company are purchasers of iron ore of the Minnesota Iron Company?—A. The Minnesota Iron Company sells a large proportion of its product to the Illinois and the Lorain steel companies; not quite half, perhaps.

Q. Do they buy all their ore from this company?—A. No; the Illinois Steel Company buys more outside ore than it buys from the Minnesota Iron Company, for the reason that the Minnesota Iron Company mines a very high grade of ore—the very best Bessemer ore—and the Illinois Steel Company can take a part of that Bessemer ore and mix it with cheaper ores purchased outside and produce a good quality of iron. On the other hand, the Minnesota Company can sell its proportion of higher grade ore to outside parties at a higher price; and the location of ores, which determines freight rates, also has an influence on this question.

RAILROAD AND SHIPPING INTERESTS.

Q. Is the ore shipped entirely in the vessels belonging to the company?—A. Not entirely. The carriage capacity of these vessels is about 2,000,000 tons. The Minnesota Iron Company will probably produce next year more than 3,500,000 tons of ore. The Duluth and Iron Range Railroad Company will carry more than 4,500,000 tons of ore next year.

THE CONSTITUENT COMPANIES PROTECT EACH OTHER.

Q. You say the different companies are managed entirely independently, but there is what you might call a community of knowledge between them as to the relative wants of one another?—A. It comes to them through the Federal Steel Company largely.

Q. Would that knowledge be rendered so efficient, that one of these companies—say the Illinois Steel Company—would not be allowed to suffer from the lack of ore, because it would be assured of getting its ore at all times from the Minnesota Iron Company?—A. Both are protected; the Illinois Steel Company is protected by the fact that it may get all its requirements from the Minnesota Iron Company, and the Minnesota Iron Company is protected, on the other hand, by the fact that it may secure customers in the Lorain and the Illinois Steel Company.

Q. So the officers of the Federal Steel Company, by furnishing information from time to time to these companies, may be assured that all the plants are kept running to the best advantage?—A. If the companies need ore it is furnished them.

Q. So long as it is more for their advantage to sell any part to outside parties it is done; but that would never go so far as to stop work for some one of these companies on account of lack of material?—A. No.

DIFFUSION OF KNOWLEDGE.

Q. You have mentioned these two sorts of economy—the saving in administration and saving through accuracy of information as to the business. Do you recollect any other sorts of economy you make with this organization?—A. In the number of

offices; in the methods of doing business. For instance, I do not care what plant one goes into, there are beneficial features in that plant that are not in other plants. In talking with any expert in any branch of the business, information is received that will be beneficial if applied or given to an official perhaps very remotely located; and, of course, the effort is to utilize to the very best advantage everything that is a benefit in any particular plant, or any ideas or knowledge or information that one person has that another has not.

PER CENT OF TOTAL PRODUCT MADE BY THE FEDERAL STEEL COMPANY.

Q. You have said the Federal Steel Company in no one of its lines of activity had anything like a monopoly of the product of the country. Could you tell us the percentage of the output in some of these lines—say the line of steel rails—that the Federal Steel Company has through its companies?—A. The Illinois Steel Company produces about 33 per cent—30 per cent—of the steel rails that are produced in this country.

Q. With reference to girder rails used by the street railways, about how much of the output of that product do you control?—A. Excuse me for interrupting you. The Illinois Steel Company, I should like to say, is also the owner of large coke works in Pennsylvania, and produces a very large quantity of coke. It will produce next year about 1,500,000 or 1,600,000 tons of coke, I think.

Q. Could you tell about what percentage that is of the total production of the country?—A. I do not think I can; I am inclined to think you are better posted than I with reference to the total production of pig iron. But if you know what that is exactly, I can give you items from which you can get the desired information. The Illinois Steel Company and the Lorain Steel Company probably will produce next year about 2,000,000 tons of pig iron, possibly a little more. I presume the total production of pig iron next year will be at least 14,000,000 or 15,000,000 tons; perhaps you know better than I. It probably requires, as a near enough estimate, about 1 ton of coke for 1 ton of pig iron; therefore, if the total production of coke next year will be 15,000,000 tons, it will be easy to ascertain what percentage of coke the Illinois Steel Company will produce.

INFLUENCE OF THE FEDERAL STEEL COMPANY OVER THE CONSTITUENT COMPANIES.

Q. (By Mr. KENNEDY.) Is this arrangement you speak of, between the Lorain Steel Company and the Illinois Steel Company and the Minnesota Iron Company, by which the Lorain and Illinois steel companies are assured of raw material all the time and the Minnesota Iron Company is assured that they will take its product, an arrangement by contract between them?—A. There is no arrangement of any kind between these companies, directly or indirectly, expressly or impliedly, or tacitly. The Federal Steel Company, of course, is aware of the requirements of the Illinois Steel Company, and has more or less influence on the action of the officers of the different companies; and if the Illinois Steel Company is desirous of purchasing iron ore it purchases it from the Minnesota Iron Company direct. It gets it just as cheaply as it can, and the Minnesota Iron Company gets just as large a price as it can. They deal at arm's length between themselves. Of course the officials or the management of the Federal Steel Company know the situation and have an influence in bringing these parties together, saying to one or the other, "Perhaps you had better do so and so;" but there is no understanding between these companies.

Q. Can the Federal Steel Company direct them to do so and so?—A. In the same way as you, as the principal stockholder of any corporation, would direct the affairs of that company, and no other. For instance, I have no doubt some very large stockholders of the New York Central Railroad Company who are not on the directory influence the management of the company, and yet technically they have nothing whatever to say about it.

Q. If it should come to pass that other steel companies than these two offered the Minnesota Iron Company a higher price for its raw product than these companies could afford to pay, what would be the result?—A. The Minnesota company would sell to the highest bidder.

Q. And these two constituent companies of the Federal Steel Company would be left in the lurch?—A. They would shift for themselves.

DOES NOT TRY TO RESTRICT COMPETITION.

Q. (By Mr. FARQUHAR.) Could you give this commission the reasons that impelled the owners of these various properties to form this Federal Steel Company, so long as they have no immediate cooperating features in their business? Was it a stock company simply to get the stock together and keep down competition, or what?—A. I have endeavored to give in a slight degree some of the benefits that have been derived. It was for the purpose of taking advantage of these benefits, I think. It

was in no instance intended to keep down competition. There is no possible way in which the Federal Steel Company or any of its constituent companies could keep down competition if it desired. It is in the field; it is an open business fight all the time. Our company has never attempted to buy the capital stock of any companies for the purpose of getting these companies out of the competitive field. It is not our plan at all. The plan is to have a knowledge of the whole business, and to have control of the companies who do the business from the beginning to the end, so that if there is any profit in any line, in any part of this line of business, we shall have the benefit of it.

METHOD OF ORGANIZATION—CAPITALIZATION.

Q. Was it an original purchase when this Federal Steel Company got the stock of all these companies or the properties of all these companies?—A. No; the Federal Steel Company made an arrangement with J. P. Morgan & Co. whereby J. P. Morgan & Co. agreed on their part to deliver to the Federal Steel Company the stock, or the majority of the capital stock, of these different companies on a certain basis, and the Federal Steel Company on its part agreed when the stock was delivered to give in exchange for it the stock of the Federal Steel Company. Now, perhaps in that connection I could make a little plainer what Mr. Stetson intended to say, if you care to have me. Perhaps I am more familiar with the transaction than he is in some respects. Mr. Stetson was the counsel of J. P. Morgan & Co., and they were the managers of a syndicate, so called. I am not quite so familiar with that branch of the business as Mr. Stetson, but I am more familiar with the value of these properties which the Federal Steel Company was interested in. The Federal Steel Company has an authorized capital stock of \$200,000,000—\$100,000,000 preferred and \$100,000,000 common. The amount of capital stock actually issued is about \$53,000,000 of preferred stock and about \$46,000,000 of common stock, making about \$99,000,000 issued—a little more than that, but not quite \$100,000,000. The actual book value of the plants and properties, not including the cash, of these constituent companies, was about \$45,000,000; the cash on hand which these companies had was about \$10,000,000—making \$55,000,000. There was an increase in the value of these properties, being largely in lands, amounting to about \$30,000,000—a little more than \$30,000,000, say \$31,000,000—making a total of \$86,000,000, which was estimated to be the actual value of the properties of these constituent companies. Now, the Federal Steel Company said to J. P. Morgan & Co., If you will give us the stock of these companies, and with it \$14,075,000 in money, making \$100,000,000 in all, we will give you \$100,000,000 of the capital stock of the Federal Steel Company—\$53,000,000 in preferred and \$46,000,000 in common. Then J. P. Morgan & Co. entered into an arrangement with—I am not quite so familiar with that perhaps, but an arrangement with the syndicate, whereby the syndicate agreed to furnish such part of this \$14,075,000 as was not furnished by the stockholders of the constituent companies. Then J. P. Morgan & Co. gave to the stockholders of these constituent companies the privilege of bringing to them their stock, together with their proportion of cash, and receiving in exchange stock of the Federal Steel Company, which J. P. Morgan & Co. received from the Federal Steel Company. Now, in making that trade, the Federal Steel Company issued its stock and obtained in exchange \$14,075,000 in cash, besides the stock of these constituent companies, which represented property of the value of about \$85,000,000 or \$86,000,000, including about \$10,000,000 in cash. The stockholders of the constituent companies received for their stock—and by the payment in cash, in the case of the Illinois Steel Company, of \$20 in money with each share of stock, and in the case of the Minnesota Iron Company, of \$27.10 in money with each share of stock, and in the case of the Elgin, Joliet and Eastern Railroad Company, of \$17.50 with each share of stock—the stock of the Federal Steel Company, about 1 share of preferred and about eight-tenths of a share of common. In making this exchange and doing this business J. P. Morgan & Co. made a profit of about \$200,000; I will not be exact; they paid all the expenses, including about \$40,000 for incorporation fees to the State of New Jersey. So that, you see, in the case of the Federal Steel Company—not comparing it with any other company, but with companies generally, perhaps, or at least with some other companies not necessary to mention by name—the Federal Steel Company instead of issuing for each \$100 one share of preferred and one share of common, or a little more of the common, to the syndicate managers or promoters, issued only a sufficient amount of preferred and common stock of the company to make up actually the value, what was considered to be the actual value, of the property of the constituent companies; and instead of issuing a lot of surplus common stock issued only about eight-tenths, or 80 per cent, of common stock—common stock equal to about 80 per cent of the preferred stock. Instead of paying a very large price for promotion fees or whatever it may be called, it paid practically nothing; comparatively a small sum.

Q. (By Mr. JENKS.) You mean this contract with J. P. Morgan & Co. was such

that J. P. Morgan & Co. received something like two or three hundred thousand dollars profit in their trade?—A. Not that for promotion purposes; they paid a large sum, of course, for expenses.

THE CAPITAL STOCK REPRESENTS THE ACTUAL VALUE OF THE PROPERTIES.

Q. There was one point not quite clear; you said there were, on the whole, about \$45,000,000 book values, \$10,000,000 in cash, and then \$31,000,000, you said, increase. That \$31,000,000 is not clearly brought out. Why did not that appear on the books in the accounting?—A. Let me give you some illustrations: The Illinois Steel Company had coal property in Pennsylvania—Connellsville coal property. It was on the books at just what it cost. There was one particular tract of 1,132 acres estimated to be worth about \$500 an acre. That has recently been sold for about \$1,000 an acre—that is one piece. The Illinois Steel Company had one iron mine that cost with improvements about \$75,000; they have just been offered \$600,000, all cash. The Illinois Steel Company has in the neighborhood of 858 acres of land within the city limits of Chicago that cost a nominal sum compared with its present value. The Illinois Steel Company has not made money doing business. It has done business at a loss too long; but it has made considerable money by the fact that it has owned property which has been increasing rapidly in value. The Minnesota Iron Company has one mine that we estimated at the time of this organization to contain about 25,000,000 tons of ore; on a basis of 25,000,000 tons of ore, there was a value in it over and above its cost of, say, \$10,000,000 or \$15,000,000. As a matter of fact, our recent investigations have shown us that there is at least 75,000,000 tons of ore in sight. That is only one of a number of pieces. That applies to a great many different cases of increase in the value of property.

Q. You had these different properties examined by experts and an estimate put on them; the book accounts examined also by experts; and then, as regards this surplus increase, that was added by these experts who were making the valuation; so the capitalization, as you have put it in here, was all on the basis of their estimate of the cash value, plus the cash in hand?—A. That is right. Different examinations were made for this reason: in the first place, the Federal Steel Company was desirous of so organizing the company that no more should be paid for the properties than they were worth, naturally; in the second place, the stockholders of the other companies were offered the privilege of exchanging their old stock for new stock in the Federal Steel Company. Now, when they took stock in the Federal Steel Company they not only got the benefit of the property of their own company, but were advantaged by the disadvantage of the other companies; and they were jealous of one another, and each one examined very carefully by committees the properties of the other companies. It was good-natured antagonism.

THE CONTRACTS WERE PUBLIC.

Q. In the case of these different companies that went into the Federal Steel Company there was absolute publicity among the different companies as to the amounts paid for the properties of the other companies?—A. Absolutely so.

Q. This contract made with J. P. Morgan & Co., the nature of the contract—that was public?—A. Yes.

Q. So that the contract between the Federal Steel Company and J. P. Morgan & Co. was known to all the stockholders, and practically open to the public?—A. Yes.

Q. (By Mr. KENNEDY.) Then, Morgan & Co. and the Federal Steel Company acquired these properties?—A. No; the Federal Steel Company acquired all the stock—the capital stock. First J. P. Morgan & Co. acquired the capital stock of these constituent companies, and then the Federal Steel Company acquired the stock of these companies from J. P. Morgan & Co.

Q. (By Mr. JENKS.) You say this matter was entirely public; perhaps you can furnish us with these contracts, so we can make it perfectly definite?—A. I think so.¹

¹ [Federal Steel Company with J. P. Morgan & Co., syndicate managers—Agreement—Dated September 9, 1898.]

AN AGREEMENT made this 9th day of September, 1898, by and between Federal Steel Company a corporation organized and existing under the laws of the State of New Jersey (hereinafter called the "steel company"), party of the first part, and J. P. Morgan & Co., of the city of New York (hereinafter called the "syndicate managers"), acting in behalf of a syndicate, parties of the second part:

Whereas the steel company has been organized with an authorized capital of \$200,000,000, of which one-half is 8 per cent noncumulative preferred stock and one-half is common stock, as shown by the certificate of incorporation of the steel company, which was recorded in Hudson County, N. J., on the 9th day of September, 1898, of which stock there have been issued 30 shares of common stock of the par value of \$100 each for \$3,000 in cash; and

Whereas, as hereinafter stated, the steel company desires, by means of an issue of its capital stock, to purchase or to acquire certain property necessary for the business of the steel company, and to pur-

CAN CONTROL CONSTITUENT COMPANIES THROUGH THE ELECTION OF DIRECTORS.

Q. I wish to go back again to the question suggested by Mr. Kennedy a little while ago as to the relations existing between the Federal Steel Company and these constituent companies. The Federal Steel Company owns all the stock of these different companies; the Federal Steel Company then, of course, directs or makes the election of the directors of each one of these different companies. It does elect directors in these different companies?—A. Well, of course, it is a stockholder. That is practically the effect; that would be the result in the case of a contest. As a matter of fact, one share of stock is kept in the hands of each director of the different companies; that has to be done under the laws. They will elect their own directors; we do not have to be present.

Q. Simply in case of a contest you would control?—A. Of course, we would control.

EACH CONSTITUENT COMPANY LOOKS OUT FOR ITSELF.

Q. I wish to go back to the example suggested a little while ago. If the Minnesota Iron Company could make a better contract with an outsider than it could with the Illinois Steel Company, as you said, it would sell to the outsider?—A. That would not be the result. You see what the practical result would be. Assuming that the Illinois Steel Company offered \$2.50 for ore, and the outsider offered \$2.60, the Minnesota Iron Company would say to the Illinois Steel Company, you must pay \$2.60, and the Illinois Steel Company would be forced to pay that price rather than shut down its mill; that would be the practical effect.

chase or to acquire the property or stock of certain companies owning, mining, manufacturing, and producing materials necessary for the business of the steel company; and

Whereas, after careful investigation and appraisal, the board of directors of the steel company have ascertained, adjudged, and determined that the value of the property and stock so to be acquired is equal at least to the par value of the stock of the steel company to be issued therefor; and

Whereas, in order to obtain such property and such stock for the necessary purposes of its corporate business, the steel company has desired, and now deems it important, to secure the assistance and cooperation of J. P. Morgan & Co., bankers, of the city of New York, who, upon the terms of this agreement, have rendered their assistance to the undertaking, and have consented to endeavor to form a syndicate to provide \$14,075,000 in money, for the purposes of the steel company, and to enable it to acquire the property and the stock of certain other companies hereinafter set forth, and

Whereas J. P. Morgan & Co. have aided and are willing to continue to aid the steel company by the formation of such a syndicate for such purposes, but only upon condition that a contract be made in the terms hereof; and

Whereas the outstanding capital stock of the Minnesota Iron Company consists of 165,000 shares, of the par value of \$100 each; Illinois Steel Company consists of 185,506.35 shares, of the par value of \$100 each; Elgin, Joliet and Eastern Railway Company consists of 60,000 shares, of the par value of \$100 each;

Now, therefore, in consideration of the premises and of the sum of \$10 to it in hand paid by Messrs. J. P. Morgan & Co., the receipt whereof is hereby acknowledged—

I. The steel company covenants and agrees to and with J. P. Morgan & Co., acting in behalf of a syndicate, substantially as follows:

(1) on or before December 15, 1898, J. P. Morgan & Co. shall make, or shall cause to be made—

(a) A transfer of not less than two-thirds of the shares of the capital stock of each of the following companies, viz, Minnesota Iron Company, Illinois Steel Company, and Elgin, Joliet and Eastern Railway Company; and

(b) A payment of \$14,075,000 in cash, the new company thereupon will issue to Messrs. J. P. Morgan & Co., or to such persons and in such proportions as may be indicated by them, 56,806 shares of the preferred stock of the new company and 454,285 shares of the common stock of the new company, and, in addition thereto, such preferred stock to an aggregate amount equivalent to the surrendered shares of constituent companies, estimated at rates of exchange severally and respectively as follows:

(One and three hundred and fifty-five one-thousandths shares of preferred stock of the new company for each share of the Minnesota Iron Company;

(One share of such preferred stock for each share of the Illinois Steel Company;

Eight hundred and seventy-five one-thousandths of one share of such preferred stock for each share of the Elgin, Joliet and Eastern Railway Company;

II. Messrs. J. P. Morgan & Co. agree in good faith to use their best efforts and influence toward bringing about such transfer and payment, and, in behalf of the syndicate, agree that, as a part of, and in connection with, the proposed transaction, and conditioned upon the consummation thereof, any and all shareholders of the Minnesota Iron Company, of the Illinois Steel Company, and of the Elgin, Joliet, and Eastern Railway Company, upon the surrender of their shares to the syndicate (together with a cash payment as hereinafter required), shall have fair and reasonable opportunity, for a period of at least ten days, to acquire and to receive, from the syndicate, preferred stock and common stock of the Federal Company on the following basis, viz:

"Each share of Minnesota Company (on payment by it of \$27.10 in cash) to receive 135 $\frac{1}{2}$ per cent in preferred stock of Federal Company and 108.46 per cent in common stock of Federal Company.

"Each share of Illinois Company (on payment by it of \$20 in cash) to receive 100 per cent in preferred stock of Federal Company and 80 per cent in common stock of Federal Company.

"Each share of Elgin Company (on payment by it of \$17.50 in cash) to receive 87 $\frac{1}{2}$ per cent in preferred stock of Federal Company and 70 per cent in common stock of Federal Company."

Such acquisition of new stock is to be effected by a deposit of the constituent shares with, and the making of the cash payment either to, the Colonial Trust Company, New York, or to the Old Colony Trust Company, Boston (as each depositor shall elect), in exchange for transferable receipts, upon the surrender whereof shares of the new company are to be delivered so soon as the same are ready.

It is understood that until the consummation of the transaction intended and indicated under Article I hereof, all deposits of shares and all payments in connection therewith under this Article II shall be subject to the control of J. P. Morgan & Co.

III. Messrs. J. P. Morgan & Co., with the approval of Roswell P. Flower and of Robert Bacon, or of

Q. (By Mr. KENNEDY.) Suppose it could not afford to pay as much as an outsider would offer?—A. It would have to take care of itself. If, as a matter of fact, the management of the Illinois Steel Company was such that it said, "We will pay \$2.50 and no more," it would shut down the mill. The Minnesota Iron Company would not take the \$2.50.

DID NOT UNITE COMPETING CONCERNS.

Q. (By Mr. JENKS.) Now, inasmuch as there has been so much talk with reference to trusts and trust organization in connection with corporations, would you explain to us clearly wherein, in any particular, this differs from the old trust organization? In that the common working stock of the different companies was put into the hands of the trustees, so far as the practical workings are concerned, is there any difference?—A. You refer to the Standard?

Q. We will say the Whisky Trust, the Standard Oil Trust, and the Sugar Trust.—A. The Federal Steel Company does not own the capital stock of any companies which were in competition in any line of business one with the other. I understand the Standard Oil Company—now, of course, I am not stating any secrets or giving any knowledge that is peculiar to myself, because I have none. I only state what I assume from the public reports in the newspapers, and I assume them to be correct. I understand that the Standard Oil Company purchased from time to time the capital stock of different companies who were in competition one with the other, and that to a degree, at least to some degree, it thereby established a monopoly or obtained substantial control of the business. If that is so, that would seem to me to be a trust, within the meaning of the word as commonly understood. I do not

either of them, may pay any and all expenses directly or indirectly connected with, or precedent to, the organization of the steel company; and in case of any such payments they shall be entitled to deduct the amount thereof from the cash payable to the steel company under this contract.

IV. Messrs. J. P. Morgan & Co. shall be liable only ratably with other syndicate members according to the amount of their several subscriptions. A list of such members, showing the amount of their several subscriptions, shall be furnished to the Federal Steel Company, and it may and shall look to such syndicate members ratably to the extent of their several subscriptions.

This agreement and any agreement in pursuance thereof are and shall be strictly inter partes; and no stockholder of the Minnesota Company, the Illinois Company, or the Elgin Company shall be deemed to have any rights thereunder. As to any and all such stockholders any rights shall be only those set forth in circulars to be issued inviting deposits.

In witness whereof these presents have been duly executed by the parties hereto the day and year first above written.

[L. S.]

Attest:

CHARLES MACVEAGH, *Secretary*.

FEDERAL STEEL COMPANY,
By BENJAMIN VAN DYKE, *President*.

J. P. MORGAN & Co. [L. S.]
Acting in behalf of a Syndicate.

To the shareholders of the Minnesota Iron Company, Illinois Steel Company, Elgin, Joliet and Eastern Railway Company:

Pursuant to arrangements made by a syndicate for an exchange of shares of the above-named companies for shares of the Federal Steel Company, the undersigned give notice that in behalf of such syndicate they are each prepared to receive certificates for any such shares for purpose of such exchange on the following basis and subject to the following conditions, viz:

Each existing share of Minnesota Iron Company (upon payment thereon of the sum of \$27.10 in cash) to be entitled to 1.355 shares in preferred stock of Federal Steel Company and 1.384 shares in common stock of Federal Steel Company.

Each existing share of Illinois Steel Company (upon payment thereon of the sum of \$20 in cash) to be entitled to 1 share in preferred stock of Federal Steel Company and eight-tenths of one share in common stock of Federal Steel Company.

Each existing share of Elgin, Joliet and Eastern Railway Company (upon payment thereon of the sum of \$17.50 cash) to be entitled to seven-eighths of one share in preferred stock of Federal Steel Company and seven-tenths of one share in common stock of Federal Steel Company.

Shares of the Minnesota Iron Company, the Illinois Steel Company, and the Elgin, Joliet and Eastern Railway Company, to insure participation in this arrangement, must be deposited with either of the undersigned trust companies not later than October 1, 1898, subject to the above-mentioned cash payment in respect thereto, and such cash payment must be made to the same trust company not later than October 10, 1898.

Transferable receipts will be issued for deposited shares, and the cash payment, when made, will be noted on such receipts.

The consummation of the proposed arrangements is dependent upon its acceptance by holders of at least two-thirds in amount of the shares of each of the three constituent companies.

If, for any reason, the arrangement shall not be carried out, the deposited shares and the cash payments will be returned upon surrender of our receipts.

All shares for deposit must be assigned in blank and must have proper revenue stamps attached.

The shares of the Federal Steel Company are of the par value of \$100 each. Suitable cash settlements will be made at time of delivery of the new stock in respect to fractions of shares of such stock according to any depositor.

COLONIAL TRUST COMPANY,
St. Paul Building, 222 Broadway, New York.

OLD COLONY TRUST COMPANY,
Ames Building, Washington Street, corner of Court, Boston, Mass.

NEW YORK AND BOSTON, September 10, 1898.

think that if you should buy the capital stock of one of the railroad companies in Washington and also the capital stock of some manufacturing establishment in Washington you would thereby be establishing a trust. Indeed, the laws of Illinois expressly provide that a manufacturing company may own the capital stock of a railroad company which connects with its manufacturing plant, the idea being that one is of benefit to the other and the public is not injured by any such purchase or control of interests. Now, as I said before, we have endeavored not to run counter and not to be antagonistic to the spirit of any law of any State; we are not attempting to control prices; we are not seeking a monopoly; we have been offered the capital stock or the properties of a good many different manufacturers engaged in our line of business, but we have not entertained any proposition at all.

Q. The question has to do simply with the general form of control. The board of directors of the Federal Steel Company is in such a position that it could, in case of emergency, practically direct the actions of each one of the constituent members, and that was supposed to be the purpose of this organization when it was formed?—A. That is right, and it is fair to say that the officers of these different corporations, presidents of the constituent companies, are in very close communication with me and listen to my advice from time to time.

THE RISK OF PRICES.

Q. Can you now give us briefly a statement regarding the course of prices in the leading products of the Federal Steel Company from a period a year or two, perhaps, before the formation up to the present time?—A. I can give you some of those prices. We all know that prices in manufacturing lines have materially advanced during the last 9 or 10 months, and indeed I do not know that that is confined to manufacturers. I think that is true of the general business of the country. I know it is true of the hotels. The price of pig iron about a year ago was, say, \$11; at the present time it is about \$23. Notwithstanding we produce a very large quantity of pig iron, we have not produced sufficient to supply our own wants, and have purchased during the last 6 months a good deal of pig iron; we bought some the other day, some of our companies; we bought, we will say, 150,000 tons of pig iron at about \$22.50. Coke a year ago was about \$1.50 a ton to one of our companies; our companies have to buy considerable outside coke at the present time; we are building some ovens now. They were trying to buy some coke not long since and were asked \$2.50 to \$3 a ton for it. Rails, which are one of the largest products of the Illinois Steel Company, a year ago were selling at \$18—very much too low; for 3 years rails sold for very much less than they could be produced for; for the last 3 years they have been doing business at a loss, a large loss. They are selling now at \$33, and, of course, you will see at a glance there is not very much profit in that—that is, if pig iron must be bought at \$23.50 cash. It costs something like \$8 or \$9 a ton to convert pig iron into rails, and you have got nothing left for your investment; and the investment, of course, is very large.

EFFECTS OF CONTRACTS.

Q. It is a case where special advantage came to the Federal Steel Company in having its own supply of ores?—A. Yes, certainly. The contracts for ore were made last year at a low price, and yet, I suppose, when the price is made for next year, the Minnesota Iron Company will get some benefit. It can not be possible that these other prices of finished products will obtain without the prices of ore increasing correspondingly. A year ago lake freight rates were 80 cents, and now they are \$1.25. Our people have contracted for, say, 1,200,000 tons extra, at about \$1.20 to \$1.25.

Q. Well, you had made your contracts earlier for ore. Had you also made contracts for the supply of finished materials, so that the real prices you are getting now are not the representative market prices?—A. About two-thirds of it, probably less; from one-half to two-thirds. Over half, mostly, nearly all of the capacity for rails was contracted at the low figure. As I say, the price of rails was abnormally low. The average price for rails for the last 9 years was \$25, and for the last 3 years, \$18; \$25, when pig iron is worth \$10 or \$12, is a fair enough price.

Senator MALLORY. Should you prefer to go on with your testimony and finish now?—A. I do not think it is very material. If it is just as convenient, I should be glad to get through and go back, but I am perfectly willing to stay. I think we are willing to give stockholders or the public any information concerning our business and our books and our profits.

The commission took a recess until 2.15 p. m.

2.15 P. M.

Senator MALLORY. The commission will resume its session. Mr. Gary is on the witness stand.

WAGES INCREASED—SALARIES DIMINISHED.

Q. (By Mr. JENKS.) I should like to ask you with reference to the course of wages in these different companies that have been organized into the Federal Steel Company from a little time before the organization up to date. If you can give us any specific facts on the question I shall be glad to have them.—A. All the companies—constituent companies, so called—together employed in August, 1899, 21,859 men. In October, 1898, they employed 18,717 men. The monthly pay roll for August, 1899, was \$1,393,450.19. For the year that would be \$16,721,402.28. The average price paid common laborers in August, 1899, was \$1.70 each. The increase paid common laborers in 1899 over 1898 was 15.64 per cent; decrease of average pay of officers and clerks at headquarters in 1899 from 1898, 6.26 per cent.

(Witness introduced comparative statement.)

Comparative statement of employees, and wages received by same, of the Federal Steel Company's constituent companies for the months of October, 1898, and August, 1899.

	Number of employees.			Average daily compensation.			Total monthly compensation.		
	October, 1898.	August, 1899.	Per cent increase.	October, 1898.	August, 1899.	Per cent increase.	October, 1898.	August, 1899.	Per cent increase.
Officers and clerks at headquarters.....	294	308	4.76	\$5.27	\$4.94	6.26	\$46,525.69	\$45,652.03	1.88
General superintendence.....	574	639	11.32	2.95	2.97	.68	50,628.30	56,732.10	12.06
Skilled laborers.....	7,405	8,584	15.92	2.32	2.53	9.05	516,690.80	651,349.06	26.06
Common laborers.....	8,076	9,879	22.32	1.47	1.70	15.64	356,778.97	503,615.95	41.16
Miners (not including those in Connellsville coke district).....	1,168	1,276	9.25	1.71	1.96	14.62	53,208.15	74,879.00	40.73
All employees of the Southwestern Connellsville Coke Co.....	1,200	1,173	2.25	1.49	1.74	16.78	53,739.57	61,222.05	13.93
Grand total.....	18,717	21,859	16.79	1.92	2.13	10.94	1,077,580.48	1,393,450.19	29.31

Total annual wages paid employees on basis of August, 1899, roll, \$16,721,402.28.

Q. (By Senator MALLORY.) I understand from that, then, something I did not understand from your first testimony, that your officers, or the officers of these companies, higher officers, actually had their salaries decreased all the way down the line?—A. We reduced the number of officers and reduced the salaries; that is, we replaced some, and there were some of the officers who resigned or separated from the companies and were replaced with other men at less salaries.

Q. (By Mr. JENKS.) Do I understand that you abolished some of the higher-priced officers as well, and that would tend to lower the general average?—A. Yes.

Q. You did not take away anything from the salary of anyone who stayed in the positions that were left?—A. No.

Q. (By Mr. FARQUHAR.) Do you desire to have it in evidence that you decreased the whole salary of the official service by lessening the number of employees?—A. Well, by reducing also the amount of compensation.

CONSTITUENT COMPANIES DEAL WITH EACH OTHER AS INDEPENDENT.

Q. (By Mr. KENNEDY.) Is there any arrangement between these different companies making up the Federal Steel Company by which, say, the Illinois Steel Company, for instance, could go to the Minnesota Company and say, "We can make a contract for a large amount of a certain kind of work if we can get our raw material at a certain figure." Would the Minnesota Company make them the figure at which they could take that work?—A. No.

Q. They would not—would not make any exceptions?—A. No.

BONDED DEBT AND CAPITAL STOCK OF CONSTITUENT COMPANIES.

Q. Has the Federal Steel Company a bonded indebtedness?—A. Yes; I beg your pardon; what is that question?

Q. Has the Federal Steel Company a bonded indebtedness?—A. No, it has not.

Q. (By Mr. C. J. HARRIS.) Have any of the companies a bonded indebtedness?—A. Yes; most of them; the Lorain Steel Company has no bonded indebtedness.

Q. (By Mr. FABQUHAR.) Has there been made any guaranty of these bonds by the Federal Company?—A. No.

Q. Then the separate companies take care of their own indebtedness?—A. Yes.

Q. (By Mr. KENNEDY.) Does that bonded indebtedness affect the stock of the Federal Steel Company?—A. No, if I understand your question; if I comprehend your question. I do not know whether you mean to ask whether it affects the selling value, the market value, of the stock, or not; if so, that is a question I can not answer. If anyone can tell what determines the value of stocks on the stock exchange, he knows more about the situation than I do; intrinsic values do not control values there, selling values, I think, as a rule; now I will not say as a rule, but always.

Q. (By Mr. JENKS.) What is the amount of the capital stock of each of these different companies?—A. Actually issued or authorized?

Q. Perhaps you can give them both just as well.—A. Well, the authorized capital stock of the Illinois Steel Company is \$50,000,000; the stock actually issued is in the neighborhood of \$18,650,000. The authorized capital stock of the Lorain Steel Company is about \$9,000,000, and the amount issued is perhaps \$5,000,000; I would not attempt to be accurate. The issued capital stock of the Minnesota Iron Company is about \$16,500,000; the authorized capital stock is very much larger, but I have forgotten the exact amount. The capital of the Elgin, Joliet and Eastern Railroad Company is about \$6,000,000 or \$7,000,000.

Q. The authorized you say there?—A. No, the issued, and perhaps authorized. For the other companies, I do not know that I could state it offhand; I have forgotten; but I can furnish these figures if it is necessary.

Statement, furnished later, showing the authorized capital stocks of the several constituent companies of the Federal Steel Company, also the amount of same issued to October 20, 1899.

Name of company.	Authorized capital stock.	Amount issued.
Minnesota Iron Co.....	\$20,000,000	\$16,500,000
Illinois Steel Co.....	50,000,000	18,650,000
Elgin, Joliet and Eastern Rwy. Co.....	6,000,000	6,000,000
Lorain Steel Co. (of Ohio):		
Common.....	6,000,000	6,000,000
Preferred.....	3,000,000	3,000,000
Lorain Steel Co. (of Pennsylvania).....	3,000,000	3,000,000

Q. The Johnson Company you do not know?—A. The Johnson Company's capital stock is about \$2,000,000.

Q. Now, as to the bonded indebtedness of these companies?—A. I can give them. The bonded indebtedness of the Elgin, Joliet and Eastern is about \$7,000,000; the Illinois Steel Company about \$13,000,000, and the others together, all of them, about \$5,000,000.

Q. That is, the Minnesota and Lorain?—A. Yes.

Q. About \$5,000,000 altogether?—A. Five or six million.

Q. (By Mr. C. J. HARRIS.) About \$25,000,000 in all?—A. In round numbers. Of course, when I spoke sometime ago about the actual value of these different properties, I meant the actual net value over and above the bonded indebtedness; for instance, I said the book value, not including cash, was in the neighborhood of forty-odd millions; that was over and above the bonded indebtedness.

Statement furnished later showing the outstanding issues of mortgage bonds of the constituent companies of the Federal Steel Company, October 20, 1899.

Total.	Less, held by the issuing company or by one of the constituent companies.		Balance outstanding in hands of public.	Date of maturity.	Rate of interest.
	By issuing company.	By constituent company.			
<i>Minnesota Iron Co.'s properties.</i>					
Duluth and Iron Range R. R.:					P. ct.
First mortgage.....	\$6,784,000	\$2,000	\$6,782,000	Oct. 1, 1937	5
Second mortgage.....	5,000,000	500,000	1,000,000	Jan. 1, 1916	5
Land grant.....	500,000	490,000	10,000	Mar. 1, 1917 or before.	5
Total.	12,284,000	992,000	7,742,000		
<i>Illinois Steel Co.</i>					
Convertible 5 per cent debentures of 1910.....	2,969,000		c 2,909,000	Jan. 1, 1910	5
Original issue..... \$6,200,000		b 50,000			
Paid off in 1899 and retired..... 8,241,000					
Nonconvertible 5 per cent debentures of 1913.....	7,000,000	100,000	6,900,000	Apr. 1, 1913	5
Total.....	9,969,000	100,000	9,809,000		
Elgin, Joliet and Eastern Rwy., first mortgage.....	7,417,000		7,417,000	May 1, 1941	5
Lorain Steel Co. (of Pennsylvania), formerly Johnson Co. (of Pennsylvania), first mortgage.....	1,500,000		1,500,000	\$100,000 annually.	6
Original issue (1894) \$2,000,000					
Paid off and retired..... 500,000					
Grand total	31,110,000	1,092,000	28,408,000		

a These \$6,500,000 of bonds are owned by the Minnesota Iron Company

b These \$50,000 of bonds are owned by the Federal Steel Company.

c Of these \$2,909,000 of bonds \$37,000 have been called for redemption, but have not yet been presented for payment.

MORE FEDERAL STEEL STOCK MAY BE ISSUED, BUT NOT FOR LESS THAN PAR.

Mr. C. J. HARRIS. I did not know but that went to the promoters.

Q. (By Representative LIVINGSTON.) How is that stock issued?—A. That has been issued?

Q. Yes.—A. About \$53,000,000 of preferred and \$46,000,000 of common.

DIVIDENDS.

Q. Do you mind saying whether you have paid any dividends on that or not?—

A. We have paid dividends on the preferred; we declared a dividend on the common stock, and the payment of that was enjoined by some small stockholder who bought a little stock—perhaps for the purpose, I do not know—on the technical ground that dividends on common stock could not be paid until the end of the year. Therefore there has been no dividend paid on common stock.

Q. (By Mr. JENKS.) Has the money been set aside especially for the payment of this dividend?—A. It has been.

Q. (By Mr. KENNEDY.) What dividends have been paid on the preferred stock?

Q. (By Mr. C. J. HARRIS.) Regular quarterly dividends, or not?—A. Yes; quar-

terly dividends—1½ per cent, two times. The dividend on the preferred stock was also enjoined, but, on hearing, the court modified that, and in December, I suppose, naturally, two dividends will be declared—that is, 3 per cent, making a total of 6 per cent for the year.

Q. (By Mr. JENKS.) Is the preferred stock cumulative stock?—A. It is not. Six per cent noncumulative.

FEDERAL STEEL'S CONTROL OF CONSTITUENT COMPANIES—IN NO SENSE A TRUST.

Q. (By Representative LIVINGSTON.) What control and what power of direction has the Federal Steel over the several boards of directors of the companies forming the Federal Steel Company?—A. It has no control whatever directly. It has the same control indirectly that any stockholder of any company has. If, for instance, you were the holder of all the stock or a majority of the capital stock of any corporation you would ultimately have control of that company. If your directors were elected for a term you could not get control until the term expired, and if their action was not satisfactory to you, naturally when the time of election came you would place in position a power, a directory, that was satisfactory to you, so that indirectly, or ultimately, you would have the control of the affairs of the company. The Federal Steel Company has that control over all these constituent companies.

Q. How many are in your directory of the Federal Steel?—A. Fifteen.

Q. Do these 15 men control the majority of stock of the company?—A. I should say no; not by a large majority; they are large stockholders, most of them.

Q. Before becoming directors of the Federal Steel, did they control the majority of stock of the several companies?—A. They did not; not by a good deal. Some of them were small holders, if they were holders at all in the old companies.

Q. Here is the very question that lies at the bottom of this. What necessity was there to form the Federal Steel Company when your own directors did not have the control of the 4 subordinate companies and do not now control their real operations—their business management?—A. I have already said they do ultimately control these other companies, because, owning the stock, they have the right at election time to select the directory. It is for the interest of the Federal Steel Company to own the capital stock of these companies just as it would be for our interest if you had a wagon and I had a horse to form a partnership so that we both should have a wagon and a horse.

Q. In other words, the preamble of your articles of incorporation ought to have read something like this: "In order to form a more complete or better union of the interests of these several companies, we hereby agree to form the Federal Steel Company." Would that cover about the requirement?—A. That is a very happy way of expressing the idea, at least. The Federal Steel Company—coming back to the question you started—I think, is in no sense a trustee; they are in no sense of the word a trustee of the stock of these companies; the stock is not held by the Federal Steel Company in trust. It is no more a trustee than you are a trustee of the stock you actually own in a corporation. There is no arrangement whereby the Federal Steel Company is to hold that stock for the benefit of any corporation; it is absolute owner and controls that stock just as much as you would if you as an individual owned it; no difference; no secret arrangement about it; no private understanding about it; no pool or any division in any way of business, business interests, or profits. That is strictly correct.

Q. In other words, you would put it in this very form—that were it owned by one person, this one person might own four different interests and control them as much as you do now with your Federal organization?—A. Exactly.

Q. The stock of these several companies is regularly voted by the directors of the Federal Steel?—A. As I said this morning, it would be in case it was necessary. Of course, if I supposed the holders of a great interest of stock would not elect a director that was satisfactory—capable, honest, and intelligent—I would make it a point to attend the meeting myself, and, voting the stock of the Federal Steel Company, elect a director that was satisfactory. That question, practically, will probably never arise—I should not think it would. Human nature is such that these people will take care of the interests of the stockholders of the Federal Steel Company.

PROPERTY AND REVENUES OF THE FEDERAL STEEL COMPANY.

Q. (By Mr. KENNEDY.) You have direct control over the earnings of all these companies, have you not?—A. No, except in the same way; we have no control whatever.

Q. You declare the dividends?—A. No; they declare their own dividends. The Federal Steel Company gets its dividends on this stock just as you get dividends on

your stock in the company. If the Illinois Steel Company has money which is available to pay dividends, the directors of that company will declare dividends to the stockholders of the company, and the Federal Steel Company, being a stockholder, will get that dividend; and the same is true of the other companies.

Q. (By Senator MALLORY.) What revenue has the Federal Steel Company outside of that, if it has any?—A. Well, the Federal Steel Company, you know, in making this purchase, insisted upon the \$14,078,000 in cash. It has that in cash—\$14,078,000. Then these other companies have in cash about \$10,000,000. In addition to that the Federal Steel Company has made some increase in its holdings in the purchase of coal lands, and has obtained a very fine profit on that.

Q. It has invested some of this \$14,000,000 in coal lands?—A. Yes; or in the stock of a corporation which owns and will operate the works on the property. The amount thus invested is or will be probably \$2,000,000, and the property is supposed to be worth several millions more than it cost.

Q. And it has a revenue from that, has it?—A. We shall have; quite large.

Q. Now, how are the salaries of the officers of the Federal Steel Company paid—from their earnings? The Federal Steel Company, you will remember, owns the capital stock of these companies.—A. That is it; and also gets interest on the money it has, and will have, I hope, a very fine income from this coal property, which is being developed and being improved.

Q. (By Mr. JENKS). At present, then, the property of the Federal Steel Company is in these three forms—part in mines, part in cash, and the rest in stock in these different companies?—A. That is right.

Q. And it has an income from these three sources?—A. That is right.

ULTIMATE CONTROL OF A MAJORITY STOCKHOLDER.

Q. (By Representative LIVINGSTON.) Suppose one of these independent companies refuses to obey any action of the Federal board of directors, what recourse have you?—A. Not any, until the next election.

Q. Well, do you admit that they are independent, and at the same time they are subject to you in that way?—A. Well, not subject to our orders. They are absolutely independent. I said this morning you might ask that question of the New York Central. Suppose the officials of the New York Central should do business in such a way as to be unsatisfactory to the Vanderbilt family, what would be the result? At the end of the year the Vanderbilt family, or the stockholders, whoever they may be, would elect a directory that would be satisfactory, but in the meantime they would be helpless. Suppose you own a majority of capital stock in some corporation and you elect a directory for a year. What are you going to do in the meantime during that year if that directory do not do business satisfactorily to you?

Q. Suppose you wait until the election comes, and then elect a directory in one of these companies, and the stockholders in that company refuse to acknowledge the directory that you have elected. Then what are you going to do?—A. The Federal Steel Company owns all the capital stock of that company.

Q. Yes. Now, then, how can you say they are independent? I see how it is; it is a wheel within a wheel; I see it.—A. Suppose you owned the majority of the capital stock of a corporation; the presiding officer of this commission owns a minority. Now, you get together at your annual election and you elect Professor Jenks and Mr. Harris and myself three directors of that company. We are in absolute control of that company for a term, although we do not own more than one share of stock each. You own a majority of the company and you cannot do anything. We do as we please. You sit by, and at the end of the year you put in a directory that is satisfactory to you; but it is not really a practical question, because Mr. Harris and Professor Jenks and myself have only one share, and if we are men of any sense or any honesty we are not going to disregard the wishes that you and the presiding officer of this company, who are the real stockholders, express.

NO LOSS BY NOT MERGING THE CONSTITUENT COMPANIES.

Q. Now, let me ask you a practical one. Why did you not mold these four into one to control it as one?—A. I am inclined to think it is better to leave it as it is.

Q. You do not mean to say that you could run these four companies as cheaply as if they were all molded into one?—A. Yes; I think so. We simply give what are now officers of these different companies a different name, but their services are required; there are no superfluous positions, no positions of mere honor; they are working men; the president of each of these companies is a hard-working man. If he was not a president he would have to be a manager or something else, and the vice-president would have to be assistant manager. They have no extra men.

Q. You just call them by different names after you have them combined. These officers—presidents, and so on—are stockholders in the Federal Steel Company?—A. Yes; most of them, if not all of them.

Q. (By Mr. C. J. HARRIS.) Do you have the same directors in each one of these subordinate companies?—A. No.

REASONS FOR INCORPORATING IN NEW JERSEY.

Q. (By Mr. JENKS.) Are there any other points that you would care to bring out?—A. The Federal Steel Company was incorporated in New Jersey because the laws of New Jersey seemed to give all the power and authority that were absolutely needed. Now, as I came from Illinois, for instance, I should have been glad to incorporate the Federal Steel in the State of Illinois, if it had been practicable; but by the laws of Illinois, for instance, a manufacturing corporation is not allowed to hold or own the capital stock of other corporations, with some exceptions—one, at least; it may own capital stock of a connecting railroad company—but if the Federal Steel had been incorporated in Illinois it could not have held and owned capital stock in the corporations in Minnesota, mining companies, etc., ship companies; and then in New Jersey the amount of capital stock which may be obtained is unlimited, whereas in Pennsylvania and West Virginia and other places it is limited. So far as I know, there is no provision in the New Jersey law which may be used to the disadvantage or prejudice or injury of a stockholder. If there is any such, I am not aware of it—I mean rightfully. It was suggested this morning that there are fake corporations in New Jersey. I have not the shadow of a doubt that there are immoral, illegal practices under the laws of New Jersey; but the same is true of other States. Some of the worst corporations and some of the worst cases under corporations have been perpetrated in Illinois and other States—no doubt about that. Certainly the Federal Steel Company, or anyone interested in it, had no intention, in incorporating in New Jersey, of obtaining any rights that were not absolutely honest. It certainly had no disposition, and none of its officers since have had any disposition, to conduct the business of the company to the prejudice or without the knowledge of the stockholders. We have sometimes been, I think, unreasonably annoyed by inquiries from stockholders, our stock being largely distributed; still, we have endeavored to take the pains to give such information as we had—all the information we had—to the stockholders, and be respectful, and give them every opportunity to know exactly what is being done.

PUBLIC KNOWLEDGE IS THE NEED.

As I have perhaps said before, I did not quite agree with some of the gentlemen that the affairs of a large corporation should be kept secret. I think the great benefit, if I may be allowed to state it—I think the great benefit to be derived from the law under which this commission is appointed, and the action of this commission, is in ascertaining fully all the facts which are so much in the public mind, and distributing the knowledge and information which they receive. That is what is needed; that is what the public should know. There are always two sides to these great questions. Very frequently the laboring man is abused, and very frequently the corporation is abused, and very frequently the public is abused, and very frequently the public laws abuse the corporation. They sometimes are too liberal in favor of corporations, and at other times they are too harsh against corporations. Now, when you bring all these people together, when such an instrumentality as this ascertains and inquires in an honest way, and the people ascertain what the facts are, and distribute those facts thoroughly, so that everybody has an opportunity of knowing what they are doing—all classes of people are not so dishonest that they are not going to do the fair thing—you will hear sometimes a harangue by some man who is supposed to be a leader among the labor people which is abusive of corporations, and perhaps some of the listeners believe what is said and are prejudiced against corporations. On the other hand, you will see some man who is interested in great corporations pronouncing against the laborer, and he is just as unreasonable, and people believe him, when if the opportunity for investigation were made they would not believe it. The result is that both sides are injured more or less. People should be brought together; that is what I think. Laboring men and capital should be brought together, and we should all know all the facts, and on that evidence all of us will properly consider and decide these questions.

CORPORATIONS SHOULD NOT TRY TO INFLUENCE ELECTIONS.

Q. (By Representative LIVINGSTON.) Pardon me for trying to get one more fact. What interest have you heretofore taken in politics and elections, looking to the interest of your company?—A. To whom do you particularly refer?

- Q. Your company.—A. Our constituent company.
- Q. I mean your company.—A. The Federal Company?
- Q. Yes.—A. Since I have had anything to do with it, nothing whatever.
- Q. Made no contribution? Is it against your by-laws or rules to do so?—A. No; it is not.
- Q. Do you anticipate the necessity of one of these days having to do so?—A. I hope not; I do not believe in that; I do not believe in a corporation as a corporation attempting to interfere with or influence elections. I think I have been requested once or twice to contribute, but have declined to do so.
- Q. Now, then, about your labor. Are your workmen free to do as they please?—A. Perfectly so.
- Q. There is no spying or anything of that kind done?—A. If there is I should like to know it. If anybody knows of anyone in any of our corporations attempting to influence any of the laborers to vote, I should like to know it. I do not believe in it.

SUITS TO RESTRAIN PAYMENT OF DIVIDENDS.

- Q. (By Mr. JENKS.) To come back to the question of the suits that you spoke of. You said that you had been delayed for some time in the paying out of the dividends on the common stock, and also later in paying a dividend on your preferred stock, by suits that were brought. Have you any knowledge as to whether the persons who brought the suits were large holders or small holders of stock?—A. They were very small holders and very recent purchasers. I was simply going to say that I think the shares were very limited in number, and that the purchases were made almost immediately before the suits were brought.
- Q. Had you any intimation as to the persons in whose interest these suits were brought?—A. No.
- Q. (By Representative LIVINGSTON.) If you have your own idea, would you tell the commission why these suits were brought? What was the purpose of it?—A. You want me to guess at it?
- Q. Yes.—A. I guess it was done for stock-jobbing purposes. I do not think these suits were brought in the real interest of stockholders. I can not imagine that a stockholder, for the benefit of himself or other stockholders, would prevent a company from distributing some of its surplus assets among the stockholders, as dividends.
- Q. Did the price of stock go down on that?—A. Yes, to some extent. I presume the point was made and the advantage reaped.
- Q. (By Mr. JENKS.) Did you have any intimation or knowledge of any persons back of those persons who brought the suit?—A. No; no personal knowledge.

NO STOCK JOBBING BY DIRECTORS.

- Q. (By Representative LIVINGSTON.) Did the company take advantage of it, of the move?—A. What do you mean by that?
- Q. Take up all stock when it went down that you could get hold of.—A. Oh, no. I do not know of any of our people that bought a share; none of our officers, none of our directors, bought a share, I think.
- Q. (By Mr. FARQUHAR.) Have you any rule about that?—A. As far as I know there are no speculators in our directory.
- Q. Have you any rules in your directory about purchasing stock and dealing in stock?—A. No. We have very frank interchange of thought and opinion, though, on these questions, from time to time, so that I know pretty well what the different people are doing. I think our directors have from time to time bought our stocks as they declined in selling value, but at that particular time my opinion is that not one of them bought a single share. Certainly none of them were directly or indirectly connected with the suits. In fact, they were all very much annoyed about it, and we did everything we could to get the injunction modified, and we set aside the amount of money so as to be certain to take care of stockholders. That is, when the court enjoined us from paying out these dividends; in the first instance when they brought suit, not having it in mind, they did not enjoin us from setting aside the money, so we set it aside to take care of our stockholders.

TARIFF.

- Q. (By Mr. JENKS.) Did you express an opinion with reference to the tariff—the effect of the tariff on your line of industry?—A. I do not feel competent to express any opinion on the tariff question. It is a larger question, in my opinion, than

--- FROM THE INDUSTRY

Q. (By Representative LIVINGSTON.) How is that—A. I say I do not think the time has arrived in the history of our business—

Q. You mean your company?—A. When we could get along without protection.

Q. (By Representative Livingston.) Well, could you not afford to lose the whole of that protection?—A. Well, that is a question I should want to study and be more familiar with before I could answer it honestly and satisfactorily to myself.

METHODS BETTER AND LABOR CHEAPER IN GERMANY.

The German people particularly are in a very advanced stage of manufacturing in steel interests, steel properties. I believe they can manufacture pig iron in Germany cheaper than they can anywhere else. They make principally basic Bessemer there, basic metal. They have their ore and their coal right together, and they are making coke in what are called the by-product coke ovens, thereby utilizing all the by-products—ammonia, gas, tar, etc.

Q. Have they not got that in Alabama?—A. Yes, they are putting them in in this country to some extent. Yes, they have a by-product coke-oven plant at Birmingham; they have one at Dunbar, and they have one near Harrisburg.

Q. Now, there they have coal and they have the iron ore right along with it?—A. Alabama?

Q. I should think they could do it as cheaply as they do anywhere?—A. They are making pretty cheap pig iron in Alabama; there is no doubt about it. I think labor is considerably cheaper in Germany. I have no doubt you are better advised than I am with reference to that. I do not think they pay more than about 65 to 70 cents for their laborers in Germany, and they have been very materially increased, you know, in the last 3 years.

EVERYTHING SYNDICATED IN BELGIUM.

They are pretty well protected in Germany and Belgium, for that matter, and England, and perhaps France. There seems to be a feeling on the part of the people, and also on the part of the government, to take care of these large aggregations. There is no such antagonism there as there seems to be in this country; and at the present time I think the manufacturers are pretty thoroughly protected by syndicate agreements. For instance, I asked a prominent manufacturer in Belgium why he did not produce larger quantities and did not keep his mill running full. He said he could not get coke. "Why," I said, "I understood you to say you owned your own coal and --" "I own coke," he said, "Everything is syndicated. Coal is syndicated and we have allotments and --"

AS TO THE NEED OF PROTECTION, WHEN WE CAN EXPORT.

Q. You are aware of the fact that a great deal of ore, iron ore and steel, especially steel, is being shipped now from Alabama to the Orient. Now, how is it that they carry that across the continent and ship it over to Japan and China, if they need protection?—A. Now, that is largely a question of freight, I think, is it not? There is a limited market for that ore. We sell some rails in Japan; we could not sell rails in England at the present time.

Q. Let us understand that now. Do you mean to say that the discrimination now under the tariff does not equal the transportation, or does it give you the transportation in length of time? Do you not lose that discrimination in the transportation from here to Japan, in the freight?—**A.** I am inclined to think, as I say, this is too large a question for me. Do not understand me to admit even that I am competent to express any opinion on that, because I do not think I can in that regard. I think the tariff on steel production at the present time is more than the freight—

Q. (Interrupting.) From here to Japan?—A. From this country to Japan. That is my impression; you know a good deal better than I do about that, I am sure.

THE TARIFF IN GENERAL.

Q. One remedy proposed for these trusts is to take away the tariff entirely from them; just turn them loose. Suppose Congress should do that; what effect would that have on your industry, for instance?—A. In the first place, you refer to trusts.

Q. I mean all trusts, yours — A. Now, that word has been in the newspapers so much that I do not believe we have a clear understanding about it; at least, I do not. The word is used indiscriminately.

Q. Make it corporations and let it go; just corporate companies. Now, suppose all the protection we give companies or combines like yours—suppose it was all gone; what effect would it have?—A. Yes; that would have an effect, if you should take away the tariff. Just where this principle or proposition should be applied requires a great deal of study. But with reference to a great many industries, if you should take away the protection which is now given them, you would permit foreign products to be brought in here to the absolute ruin of these industries. Then what would be the result? In the first place, you have deprived the laboring man of an opportunity to earn a living, and, in the second place, you have given the foreigner an opportunity to come in here and make his own prices; and in that way you have very materially prejudiced the rights and interests of the consumer. Therefore I think, as I said before, I think the tariff question really is—now, I may be entirely wrong; I would not set up my opinion against anybody's—but I think the real tariff question is to determine just how much protection is necessary to enable the industries of this country to continue in business at living prices so as to take care of the workingman and so as also to prevent the foreigner from having the control of this business to the prejudice of the domestic consumer. Now, then, on the other hand, if you make the tariff so high that you create such a monopoly, or if you pass any law which enables the creation or existence of such a monopoly in this country as gives the control of any business to the manufacturer or to the producer to the prejudice of the consumer, why, then, you have gone too far in that direction.

NO MONOPOLY OF STEEL.

Q. Have you not done that with your steel company?—A. How is that?

Q. Have you not done that with your steel company?—A. I do not think the tariff question has anything whatever to do with the present prices.

Q. Have you not got a monopoly of the steel business in the United States?—A. Who?

Q. You.—A. Oh, we have no monopoly of any branch of business. I emphasized that this morning. We do not seek any.

ANY DISCRIMINATION MUST BE BASED ON ILLEGAL ACTIONS.

Q. You misunderstood my question. I do not want to discuss the tariff question in its general relation as bearing on all these matters. I asked that question with reference to breaking up these combines and trusts. What would be the effect on your industry? And as to others that are not combined in a trust, what effect would that have on the combines and the trusts? Would that break them up?—A. I am inclined to think it would. Of course if you destroy the corporations you destroy them, that is all. If you call a corporation a combine, if you drive it out of business, that is the end of it.

Q. (Interrupting.) I suppose that if Congress should legislate on that matter there should be some explicit definition of what a trust is, and then we should hold down to that definition all these industries in withdrawing protection from the industries. It would certainly be my idea not to consider a corporation a trust or a combine until it interferes with ordinary competition, and the moment it did that I should call it a combine.—A. I am not attempting to argue the question at all with you, but I doubt whether you can control the question by the adoption or repeal of tariff laws. In the first place, there is a legal question that perhaps you can answer better than I can.

Q. In other words, do away with free charters?—A. Yes; that is one question; but if you could take away our tariff law which was enforced as to some individuals and some corporations, if you could take that away as against other corporations, it would be because those corporations were illegal or doing business illegally. You can not do it on any other grounds. You can not make a tariff law applicable to you because you are worth \$500,000, and not applicable to the presiding officer because he is worth \$600,000. If the law discriminates so as against the presiding officer or his business,

it must be on the ground, I should think, that he is engaged in an unlawful business. Now, when once you reach that question, when you have determined that, you do not need any tariff law. If he is engaged in an unlawful business, you have absolute control over it anyhow, either by State or Federal law. Now, these great aggregations of capital undoubtedly are for the benefit of us all, certainly for the benefit of this country, and certainly for the benefit of the employees generally. But the aggregation of capital may be used in such a way as to do a great deal of harm, and that is the question you are inquiring about, I think; that is the corporation you seek control of.

NO REMEDY NEEDED BUT THE ENFORCEMENT OF EXISTING LAW AGAINST RESTRAINT OF TRADE.

Q. If you admit that there is an evil, then have you got a remedy?—A. I do admit that there is frequently an evil; I do admit that there may be an evil; I do admit that there are monopolies and there may be monopolies, and that they are prejudicial to the consumer very frequently; but I think it is equally true that combinations in restraint of trade are unlawful.

Q. Unlawful?—A. Combinations in restraint of trade are unlawful. They are unlawful by the common law; they are made unlawful by statutes in various States.

Q. Let us see what you mean by restraint. Suppose the combination that you speak of now raises the price of a commodity for a purpose unreasonably, or suppose it lowers it unreasonably for a purpose; would not that be unlawful?—A. Of course it is.

Q. Now what is your remedy, what is your suggestion? If Congress takes that as a rule as to what constitutes an illegal combine, what remedy would you suggest to control them?—A. Is it necessary to go to Congress to get that remedy?

Q. I do not know whether it is or not.—A. Assuming that it is, first, for the sake of considering the question, if Congress had the authority, the constitutional right to pass a law and enforce the provisions of that law, then it would adopt simply what I understand to be now the common law and to be what is made the statute law by the enactment of statutes in different States. If the Federal courts could enforce the provisions of that Congressional law there would be no trouble. Congress now under the Constitution has the right to pass a law, and has passed a law, which affects this question of monopolies so far as interstate commerce is concerned. Now, if it had the right to pass a law which should apply to local business, business done in the States, is there any doubt that it would be enforced just as the present law is enforced? Does anybody doubt the efficacy of the Federal courts to enforce the provisions of the Sherman Act, so-called? The difficulty has been that it was attempted to make that law applicable not only to interstate commerce but to commerce within the State, and the Constitution was not broad enough to cover that question.

Q. Well, you remember the English decision that a monopoly is where—I will read it to see if it conforms to your idea. This you get from volume 4, page 291, New Commentaries of the Laws of England, by Henry John Stevens, first American edition, New York, John S. Voorhees, law-book seller, 1846. [Reading:] "A monopoly is a license or privilege allowed by the King for the sole buying and selling, making, working, or using of anything whatsoever, whereby the subject in general is restrained from that liberty of manufacturing or trading which he had before. These monopolies had been carried to an enormous height during the reign of Queen Elizabeth and were heavily complained of by Sir E. Coke in the beginning of the reign of James I, but were in a great measure remedied by statute 21 Jac. I, c. 3, which declared such monopolies to be contrary to law and void."—A. The first part of that refers to a lawful monopoly. There is such a thing as a lawful monopoly.

Q. Patents are excepted.—A. Our Government gives a patent right; that is a lawful monopoly, I think.

Q. (Reading:) "Except as to patents to the authors of new inventions, and except also patents concerning printing, saltpeter, gunpowder, great ordnance, and shot." Those were exceptions under the English law. Now, then, we have the English law.—A. (Interrupting.) It is unlawful monopolies you are talking about here.

Q. I am talking about unlawful monopolies. Congress would have, if it has the right—I am not discussing that question—but suppose it has the right; it can determine first what an unlawful monopoly is and then prescribe the remedy. And for that reason, I ask you, if it should do that, and if it should withdraw the protection from all monopolies, would that be a remedy?—A. If we were to assume various things to be true, that might be a remedy. I doubt if that would be practicable. In the first place, it would be impossible, perhaps, to define a monopoly, and certainly it might be difficult to apply it if you did define it; and if you simply, in general

terms, withdraw the protection from a monopoly, then there would always arise a dispute as to whether the individual or the corporation was in control of a monopoly.

THE NEED IS LIGHT AND UNDERSTANDING.

Q. You would not desire to suggest to Congress, however, in the face of those that trouble us, not to make an effort in those cases to prevent injustice?—A. I still think that the very best remedy is—

Q. (Interrupting.) To let them go?—A. No; I do not believe in that. One of the greatest questions in this country is to know how to protect both the individual without anything on the one hand and the individual or corporation that has large means on the other hand. That is the great question.

Q. If you will pardon me, you recognize the fact that there are two parties in interest in the combine. There is the combine itself; there are the laborers employed in the combine, and there is the public standing on the outside without any relief or anything else.—A. You mean the consumers?

Q. Yes.—A. Of course, they ought to be protected.

Q. The great public must be protected. Now, what remedy do you have?—A. I was going to say that I think the best remedy is plenty of light on the subject, plenty of discussion, a thorough understanding. We have, I think, at the present time, without mentioning any names or corporations, we may have some monopolies in the country at the present time. I think so.

Q. (By Mr. KENNEDY.) Do you know of any monopoly in this country under this definition which Mr. Livingston has read to you. "A monopoly is a license or privilege allowed by the king for the sole buying and selling, making, working, or using of anything whatsoever whereby the subject in general is restrained from that liberty of manufacturing or trading which he had before"—A. I do not recall any. It was the custom in the old times actually to create monopolies, to give people the right to make, buy, and sell things, and give individuals an absolute monopoly. We do not have that in this country, as a general thing—of course not; but there are no doubt monopolies in this country at the present time. I think, however, that with plenty of investigation and plenty of discussion they will not succeed in the long run. That is my judgment; they will fall by their own weight; they will go to pieces. Then, when a corporation gets into a place where it is abusive to the public, I think competition and opposition will grow up and be effective. The danger is always of going so far and so hastily that great wrong will be done. Of course we are all aiming for the greatest good to the greatest number. We want aggregation of money in this country, of course. I have no doubt that all of you read the speech on this subject by Sir Michael Hicks-Beach this summer.

Q. I should say there are very few people in this country that want large amounts of money aggregated in a few hands in a few localities, they want it spread out.—A. Well, we want it sufficiently aggregated to produce at the very lowest cost the largest quantities, and at the same time furnish employment to the laborer, and to bring to this country the largest amount of foreign money.

Q. Not hurting the consumer in the meantime?—A. Not hurting the consumer in the meantime.

Q. That is good doctrine.—A. That is a good basis; that is a good place to stop.

THE EXPORT TRADE—SCOTLAND—JAPAN.

Q. (By Mr. JENKS.) You have some export trade, have you, in the Federal Steel Company?—A. Well, the Lorain Steel Company at the present time is doing some export business. It has taken quite a large contract in Scotland lately. That, you know, is engaged in the street-railroad business, girder rails, etc. The Illinois Steel Company has not shipped any rails nor any billets for some time. The prices over there are pretty nearly the same as the prices here at the present time, and, taking the cost of carriage into account, it would not pay to export. But there is another better reason than that; and that is, that the demand here is so great at the present time that it is difficult to supply it. A few days since I told some of our people I thought they had better take an order for quite a large quantity of rails, to be shipped to Japan at a little less price than we were selling here. I think it is trade that we should keep up. I believe in doing business for the benefit of all concerned.

Q. You think it is worth while to encourage that export trade now and hold your market there?—A. Yes; we may need that business 2 or 3 years hence; and, as I have already said, we have got 21,000 employees as against 18,000 2 years ago, and it is just as much our business to take care of them as it is to take care of our stockholders, in my judgment. We want to keep that business, and we want to keep our trade for future business, and there is quite a large tonnage to go to Japan.

Q. (By Senator MALLORY.) How do you get that over there?—A. We ship them overland to San Francisco.

Q. Could you not do it more cheaply by shipping them around?—A. No.

Q. (By Mr. JENKS.) Do you recall whether they go through on our roads or by the Canadian Pacific?—A. Well, that is a matter of arrangement with the railroads, depending upon time, etc. I think they would naturally go from the Illinois Steel by one of the Pacifics—the Union Pacific or the Southern Pacific—or the Santa Fe; I think so.

Q. (By Mr. FARQUHAR.) Does the protection contained in our tariff cut any figure in the price of the rails that you sell in Japan?—A. No.

Q. Not a particle, does it?—A. No.

Q. (By Representative LIVINGSTON.) Suppose the same protection was in Japan on foreign rails that we have here on foreign rails, would you be able to sell over there at all?—A. No; probably not.

Q. Then you have a free-trade market on the outside?—A. Well, generally speaking, I am for this country as against the world; so are you.

Q. (By Mr. FARQUHAR.) Three leagues from the shore you are right in the world for the markets of the world, for the world's prices?—A. Yes.

Q. (By Mr. KENNEDY.) There are no rails manufactured in Japan?—A. No.

Q. (By Representative LIVINGSTON.) In some countries there is but little manufacturing going on. We want to get their trade, and I think it is very fortunate for us.—A. That is what all Europe is doing. They are taking care of their own countries. That is what we should do, of course; that is a business proposition.

ENFORCED PUBLICITY ONE OF THE BEST REMEDIES.

Q. (By Senator MALLORY.) Have you thought or considered at all the question of the publicity that it has been suggested should be given to the dealings of trusts as a possible preventive to injustice being done by them?—A. I have spent some thought on that. I believe that is one of the very best remedies.

Q. Has it occurred to you to think how that publicity could be secured or enforced on trusts that are not engaged in interstate commerce, for instance?—A. By statute laws.

Q. That would have to be by the States?—A. Yes, by the States.

POWERS OF CONGRESS.

Q. It has been suggested that that could be reached by constitutional amendment to the Constitution of the United States, giving Congress the power to exercise control over all corporations that are engaged in interstate commerce in any way. Under that provision there are very few of these large combines or trusts but could be shown to be in some way, in some lines of business, engaged in interstate commerce; and they could be reached. If Congress possessed that power, do you think it would be of any material benefit?—A. My impression is that under the present Constitution no adequate law could be passed by Congress; and I think it would not be practicable to attempt to amend the Constitution, because you immediately raise this whole question of State rights. I think the representatives of the different States, when it came to a test of the question, would be opposed to giving the Government the right to take up a question which the States individually now have the right to control thoroughly. But assuming, as I understand your question does, that you had the right to pass such a law, the only difference would be that in that case your laws would be enforced in the Federal courts, whereas at the present time they must be enforced in the State courts. Now, which is the better forum is a question to be considered. I have always believed that a Federal court was a better forum than a State court for the enforcement of all provisions of law which either court may have jurisdiction to enforce. Whether I have answered your question or not, I do not know.

Q. Do you think that Congress now has no power to impose any regulation or restriction upon corporations engaged in interstate commerce?—A. I think it has not except as it is applied to the interstate-commerce business. That is a line, perhaps, somewhat difficult to define, to ascertain.

Q. A corporation is engaged in interstate commerce; that is a fact. Has not Congress, under the interstate-commerce power which it exercises under the Constitution, the right to exercise control over that corporation if it is engaged in interstate commerce?—A. I think not. This I understand to be the proposition. You inquire whether, inasmuch as the corporation is engaged in interstate commerce, the Federal authorities may not exercise jurisdiction over the corporation itself, including all its business, whether it is interstate-commerce business or not. Now, I think not. I

think the fact that a corporation is engaged in interstate commerce does not give the United States the control over the corporation; but it is the interstate-commerce business, that part of the business of the corporation that is interstate, which the United States has control over or may interfere with. That is my understanding of it.

Q. You think, then, that a court would draw that distinction when it came to construe action taken by Congress undertaking to regulate one of these corporations that was engaged in interstate commerce, and, of course, intrastate commerce also? You believe that a court would undertake to draw the distinction you have drawn, and say that Congress has control over this corporation so far as it affects interstate commerce, and that its power ceases so far as it goes to anything else?—A. I think your inquiry goes a little too far. I do not think the court would say it has control over this company, so far as it is engaged in interstate commerce. It has jurisdiction over the business so far as it is interstate commerce.

Q. The Supreme Court has held that under the interstate-commerce and foreign-commerce power, Congress has not only control over interstate and foreign commerce, but also over the instrumentalities—it uses that expression—but also over the instrumentalities. Under that, it controls the action of a sailor who runs away from his ship, and he can be arrested and locked up until his captain comes and takes charge of him.—A. So it might examine a corporation engaged in interstate commerce. I do not think it could examine the books of a corporation which related to anything other than its interstate-commerce business. It may be a line somewhat uncertain and difficult to find.

Q. (By Representative Livingston). Your idea is that your company could not be complained of nor classed with these railroad companies?—A. I did not quite understand.

Q. Your argument is that we could not go any farther in Congress than we have gone with the railroad corporations, where we could control, under the provision of the Constitution, all the mails anywhere—of course, that is interstate, going in and out. Do you think that is as far as we could go with your company—we could control you when you got into another State with your bridges and rails?—A. I think you would have the same control over our company that you have over a railroad; no more.

Q. Not any more?—A. I do not think you could make fish of one corporation and fowl of another. It is the business that determines.

Q. If we did, and that interfered with your chartered rights under the State in which it was incorporated, of course there would be a fight between the United States authorities and the State authorities of New Jersey?—A. Yes.

J. P. MORGAN & CO. HELD CONTROL OF THE CONSTITUENT COMPANIES.

Q. (By Mr. JENKS). When you made the contract with the Morgan syndicate, so-called, with reference to the stock of these different constituent companies, did that syndicate have control at that time of a majority of the stock of these different constituent companies?—A. I believe it did.

Q. It had the control of each one?—A. That is, the syndicate managers; yes; J. P. Morgan & Co.; they were the syndicate managers; they organized the syndicate to furnish the cash and take stock.

Q. You think that J. P. Morgan & Co. themselves, that one company, had a majority of the stock of these constituent companies?—A. Yes.

Testimony closed.

Whereupon the commission at 3.45 p. m. adjourned until to-morrow morning at 10.30.

THE AMERICAN STEEL AND WIRE COMPANY.

WASHINGTON, D. C., November 14, 1899.

TESTIMONY OF MR. JOHN W. GATES,

Chairman of the American Steel and Wire Company of New Jersey.

The commission met at 10.40 a. m., Chairman Kyle presiding. Mr. John W. Gates, of Chicago, chairman of the American Steel and Wire Company of New Jersey, was introduced as a witness, and, being duly sworn, testified as follows:

Q. (By Senator KYLE.) State your full name and address.—A. John W. Gates; residence, Chicago, Ill.; position, chairman of the American Steel and Wire Company of New Jersey.

NATURE AND EXTENT OF THE BUSINESS OF THE AMERICAN STEEL AND WIRE COMPANY.

Q. (By Mr. JENKS.) Will you kindly tell us, in the first place, something regarding the nature of the business of the American Steel and Wire Company; what is your raw material, and what is the nature of the products?—A. We are owners of iron mines, miners of iron ore, owners of coal mines, miners of coal, burners of coke. We operate 8 or 9 blast furnaces, 3 Bessemer steel works; we have, either built or in process of construction, 17 open-hearth furnaces, about 22 to 25 rod-rolling mills, and 20 to 30 wire mills; and our finished product is plain wire of every shape and kind used in America, barbed fence wire, wire nails, and every kindred article in the wire line.

Q. Wire fences?—A. Yes; wire fencing of all kinds, wire clothes lines, wire rope, wire for electrical purposes, and all the various purposes for which wire is used.

Q. Are you able to furnish your rod mills and wire mills all of the raw material that they require from your own plants, or do you have to buy some outside?—A. We have been buyers in 1899 of perhaps 40 to 45 per cent of our products. We have been makers of from 55 to 60 per cent of our product.

Q. Are you also large producers of copperas?—A. Yes; I think we make a large share of the copperas made in this country.

Q. About what percentage do you make?—A. It would be a guess on my part. I should say that we make two-thirds of it.

Q. What proportion of the wire nails do you produce?—A. I presume that varies from 65 to 90 per cent.

Q. And with reference to the rods that are used in the production of wire, what proportion of that product?—A. There are 5 rod mills that are not in the American Steel and Wire Company.

Q. And how many did you say you have?—A. I think we have—I should have to count up, if you would like to have me.

Q. Well, if you can, give us pretty nearly what it is?—A. (Witness figures). We have 23.

Q. You probably, then, have from 75 to 80 per cent at any rate of the rod production of the country?—A. I should think we had fully that.

Q. Perhaps more?—A. Seventy-five to 80 per cent.

Q. The statement was made in the papers, before the organization of the present American Steel and Wire Company, if I recollect rightly, that the Illinois American Steel and Wire Company, which, I believe, is one of your constituent companies, had control of about 75 per cent of the total output of wire rods and nails. Is that a fair statement?—A. Well, no; I do not think that would be a fair statement. I do not think we had. There is what the manufacturers would call the active tonnage and the inactive tonnage. The active tonnage we would call in manufacturing a concern that runs every day in the year regardless of the price; whether it is good or bad, they

keep running. The inactive tonnage would be the tonnage that was only operated when prices were good. Of the active tonnage, I presume that the American Steel and Wire Company of Illinois had probably 60 per cent; but they did not have 80 per cent of the active and inactive tonnage, for there were a lot of rod mills that did not run at all.

THE PRICE OF IRON ORE.

Q. Can you give the statistics of prices for some time past, we will say for the last 3 or 4 or 5 years, of some of your leading products; for example, the prices of iron ore, the cost of transportation of this ore from the mines to the mills, the prices of steel billets, of rods, and of wire nails? I may say that we have already sent to you a similar request that you perhaps did not see.—A. I never saw it. The price of iron ore in 1896 was based on Norrie ore as a base ore, and was fixed at \$4. Other ores were sold, taking into comparison the moisture, the percentage of metallic iron, and phosphorus and the various chemical qualities and physical qualities, on a scale up or down from \$4. That was for the season of 1896. In 1897 the prices were fixed on the basis of Norrie ore at \$2.75. In 1898, about \$2.80 to \$2.90. In 1899, \$2.90 to \$3. For 1900, I presume, any of us would be willing to pay \$2.50 a ton more.

Q. (By Senator KYLE.) Do you mean \$4.50?—A. No; I should say that we would be willing to pay \$5.50 for ore that we paid \$3 for this year. The reason for the great advance is not any combination, consolidation, or agreement; but there never has been until this year, I believe, 10,000,000 tons of pig iron made in this country—certainly not lately. This year, I think, there will be over 13,000,000 tons made. Never until 1899 has the value of ore been fixed at anything more than a few cents per ton in the ground. To-day a mine that will measure up a million tons of ore of the grade of Norrie would sell for a couple of dollars a ton in the ground, \$2,000,000 for the ore in the ground. Three or 4 or 5 or 6 years ago that ore might have brought 40 cents or 50 cents. Never until this year have the owners of ore mines realized the value of ore. They have been mining out their principal. Year after year they have been taking out ore as long as there was any in sight, not figuring on the value of it, figuring that they wanted to keep in business. This year a tremendous tonnage came not only from American consumption but from all over the world, and the consequence is that the price of ore has pushed itself up. There has been no agreement on ore, as far as I know, for the last 2 or 3 months, of any kind, shape, or nature, and yet ore has sold higher than it has sold in a great many years.

Q. You have said that the average price in 1899—I suppose that was from the beginning of the year 1899 up to date—has been from \$2.90 to \$3?—A. The price of ore is always fixed along in the winter or early spring for the season's delivery, and when I say 1899 ore, I mean the price that was fixed last January.

Q. And that contract price runs through until the coming January?—A. That runs through the season of navigation.

OWNERSHIP OF LAKE SUPERIOR MINES.

Q. What proportion of the iron ore output of the Lake Superior region—is that where yours is, mostly?—do you control?—A. Perhaps one-sixth or one-seventh—somewhere in that neighborhood.

Q. What are the 2 or 3 other large controlling concerns of that ore besides yours?—A. There is the Oliver Mining Company, the Federal Steel Company, the National Steel Company, the Republic Iron and Steel Company, and then individual owners.

Q. But those that you have mentioned are the largest?—A. Those are the largest producers. There is a good deal of the property that is owned in fee by one man or set of men, and others pay a royalty on the mining of that ore.

LAKE FREIGHT RATES.

Q. Now, will you take up the question of freight rates?—A. Lake freight rates?

Q. Yes.—A. Lake freight rates from the head of Lake Superior to South Chicago and lower lake ports have been as low as 50 cents a ton, and I am not quite sure that they have not touched 45 cents.

Q. Can you give them substantially from 1896 up to date, as you did for the ore?—A. Very nearly, for I was president of the Illinois Steel Company for those years. I would say that in 1895 lake freight was established early in the season at about \$1. Before the close of the season we paid \$1.75 for large tonnage. In 1896 they attempted to establish the freight rates at 75 cents. I think we chartered some boats at 45 cents—

what we call wild charters. I know we chartered a good deal of tonnage at 50 cents; I think we chartered some wild tonnage at 45 cents—boats that had nothing to do, and it was simply a question whether they should lie still or take what they could get. In 1897 it was from 50 to 70 cents, as I remember it, varying. In 1898 it was from 55 to 62 cents. In 1899 it has been from 60 cents to \$2. I am president of the American Steamship Line. We have hauled ore at \$2, and we have hauled ore at 60 cents. We have loaded our boats on one trip with \$2 ore and the next trip at 60 cents, and vice versa.

THE AMERICAN STEAMSHIP COMPANY.

Q. What proportion of your transportation are you able to put in your own vessels?—A. It has so happened that we have not handled a ton of our ore this year.

Q. So your own vessels have been working for other people?—A. Our vessels have been hauling Carnegie and Federal Steel ore and grain entirely. The boats that we have chartered have handled our own ore. It might be right the reverse the next year; we might handle all of our ore; but that is hardly possible, as we have already chartered now—

Q. (By Senator KYLE.) What is the governing principle as to what you haul? What determines whether you shall haul your own or somebody's else?—A. I am speaking now about the American Steamship Company and not the American Steel and Wire Company. The American Steamship Company is owned by some of the parties in the American Steel and Wire Company and some that are out. It is managed by Capt. A. B. Wolvin, of Duluth, and he has carte blanche to get as much money as he can from any source for the boats.

Q. (By Mr. JENKS.) You spoke of the American Steel and Wire Company controlling or owning the ships?—A. No.

Q. You had reference to this American Steamship Company?—A. No; you misunderstood me. I said I was president of the American Steamship Company, and a good many of the stockholders are identical, probably one-half or two-thirds of them. The American Steel and Wire Company are not in the transportation business at all.

Q. Merely some of the stockholders are the same?—A. Some of the stockholders are the same. The line was bought while I was in Europe.

Q. Has this American Steamship Company capacity enough to haul all the ore for the American Steel and Wire Company?—A. I should think it had; yes.

COST OF LAKE TRANSPORTATION.

Q. Now, if you will continue further with reference to the cost of putting this ore from the vessels into the mills as needed.—A. Very much depends upon the size of the boat and the modernness of the boat. If it is an old-fashioned wooden boat that makes 8 or 9 knots an hour, it necessarily moves slow; if it is a modern steel steamer that will carry five or six or seven or eight thousand tons, you can handle ore pretty cheaply. I should say, however, that the fair cost of the lake tonnage—if that is what you want to get at?

Q. Yes; that to begin with.—A. A fair estimate of the cost of lake transportation would be that we can not move ore for better than about 60 cents a ton.

Q. Yes.—A. Take that, every bit.

Q. Yes.—A. The modern boats could not do better than that, and the old-fashioned boats probably can not move it for 60 cents.

RAIL FREIGHTS, LAKE TO PITTSBURG—RELATIONS TO RAILROADS.

Q. Where does the American Steel and Wire Company have the largest amount of ore delivered for its own use?—A. At Lake Erie ports.

Q. Can you give us an idea of the cost of transportation from the vessels to the mills where you use it?—A. I think the freight rate is about 90 cents—I would not be positive as to the freight rates because I do not charge my mind with them—90 cents from Lake Erie ports to Pittsburgh.

Q. Is it at Pittsburgh that you use the most?—A. Yes; we use more ore at Pittsburgh than we do at Cleveland. Perhaps it is pretty nearly a balance between Pittsburgh and Cleveland.

Q. Has the American Steel and Wire Company, or any of its largest stockholders, also large interests in the railroads over which the ore goes; that is, is the relation between the American Steel and Wire Company and the railroad over which most of its freight goes similar to that between the American Steel and Wire Company and the American Steamship Company?—A. No. I have some interest

in the Baltimore and Ohio Railroad, but I do not know that they get a ton of our ore. I do not know of any other prominent stockholder in our company who has a dollar's interest in any railroad that transports our ore either from the mines to the lakes or from the lakes to the furnaces.

MARKET QUOTATIONS—WASTES OF MANUFACTURING.

Q. Speaking in general with reference to the prices of the various products of the American Steel and Wire Company, would you say that the general market prices that are given in the trade papers, say the Iron Age, are fairly typical and fairly accurate?—A. Well, I should say that the Iron Age was the best trade paper in this country for the iron and steel manufacturers. It will come the nearest to giving facts.

Q. So that the market rates there could be fairly relied upon for general results by this commission?—A. I think so.

Q. If we were—in order to get at the nature of the business along this line—if we were to take the price of steel billets at Pittsburg, say, and compare that with the price of smooth wire at Pittsburg, subtracting the one price from the other per hundred pounds, the result, you would say, would be fairly accurate as to the cost of the manufacture of the steel billets into the rods, the cost of the manufacturing?—A. It would be misleading.

Q. In what particular?—A. We will suppose that the waste of rolling a \$15 billet into a wire rod was 8 per cent; that would be \$1.20 of loss. When you strike a \$35 billet the waste would be 8 per cent, or \$2.80. Now that carries all through the various processes. In the manufacture of nails there is a loss of perhaps 2½ or 3 per cent for what we call the whisker—the shearing of the point of the nail. In \$14 or \$15 steel that is not a very important item, but in \$35 and \$38 and \$40 steel it is a very important item. So that carries through the various lines. You must have a larger spread as the price of your raw material advances in order to make the same percentage of profit.¹

GROWTH OF MANUFACTURE—DECLINE OF PRICES.

As an illustration, I appeared before the Senate Committee on Finance in 1888. At that time perhaps 40 or 50 per cent of the wire rods used in the United States were manufactured here; the balance of them were imported. I stated at that time to Senator Sherman, I think, or Senator Allison, who was chairman of the committee, that if they allowed a certain protective tariff, six-tenths of a cent a pound, within 10 years we would make all the wire rods that were used in this country. We finally got the six-tenths of a cent protection, and to-day America exports a good many wire rods and imports practically none. They export 10 tons where they import 1, and 20 years ago it was entirely the other way. When I went into the wire business in St. Louis, the price of barbed fence wire was about 8 or 9 cents a pound for painted and 9 or 10 cents for galvanized, and practically every ounce—

Q. (By Senator KYLE, interrupting.) What year was that?—A. About 1880 or 1881. Practically every ounce of wire we made was made from imported stock, and our percentage of profit was less 18 or 20 years ago, with the price of barbed fence wire twice as high as it is now, than it is to-day or was a year or 2 years ago.

Q. (By Representative LIVINGSTON.) What is the output of iron and steel in this country? Is it not twice as much or four times as much as it was 20 years ago?—A. In 1874, I think, the output of wire in this country was about 40,000 tons.

Q. I am talking about the material from which you make it; I was asking you about the iron and steel.—A. I was answering you by giving you the wire end of it. I can not carry the iron and steel statistics back that far. I do not think they were kept. I think Mr. Swank began keeping the statistics about 12 or 15 years ago. In 1874 the output of wire in the United States was about 40,000 tons—about 25 years ago; in 1899, I think, the output will be 1,250,000 tons.

Q. (By Mr. FARQUHAR.) How do you account for this difference—by cheapening the process of manufacturing, and thereby making profits? Or is it the demand at the decreased prices?—A. Well, it is the decreased price, making a cheap fence for the farmer to use or a cheap nail for the farmer to drive; it is the electrical transmission of power, and the thousand and one things that wire is used in connection with. That has a great deal to do with it. And then, on the other hand, the process of manufacturing has been cheapened very much; and while all this process has been going on I think labor to-day is paid higher wages than 15 or 20 years ago in our line. I think 1899 will show the highest scale of wages that we ever paid in our history to our workmen.

¹ See Chart.

RECENT CHANGES OF PRICES.

Q. (By Representative LIVINGSTON.) What is the increase in the price of wire to the consumer in the last 24 months?—A. It is perhaps proportionate with the increase of the cost of raw material; I do not think it is quite.

Q. Can you give the figures?—A. Well, I should say that pig iron has increased from \$9 to \$24. That would be practically 200 per cent. And wire has increased perhaps 125 or 150 per cent—less proportionately than the raw material.

Q. (By Mr. JENKS.) The difference in price per 100 pounds, according to the Iron Age, between steel billets at Pittsburg and smooth wire has gone from, we will say 44 or 45 in October and November of 1898, up to the neighborhood of 80 in June and July. The difference in price between smooth wire and wire nails, on the other hand, has remained almost exactly the same. Can you tell why that is?—A. I think that when the larger manufacturers were separated they perhaps gave inducements in the price of one to get people to buy the other. We have gone on the basis of fixing a profit that would allow a fair remuneration to us on the market price of the material we had to buy; and I think our scale of prices will figure out to be a fairer scale to both the producer and the consumer than the one that was in vogue 1 or 2 years ago. We go on a profit basis entirely; that is, we do not seek to make more profit on a ton of wire nails than we would on a ton of plain wire, or vice versa, considering the amount of capital involved in the manufacture of each article.

Q. I still do not quite understand the difference. Here is a very material increase in the difference between steel and smooth wire, also between smooth and barbed wire, but practically no increase in the difference between the prices of wire and wire nails.—A. Well, that was last year.

Q. That is the difference between the latter part of last year and, say, midsummer of this year.—A. In 1895, 1896, 1897, and 1898 I was president of the Illinois Steel Company. I am not conversant with wire prices during that particular period. My time was given to the Illinois Steel Company. I can tell you about the prices of rails or billets perhaps very much better than I could about the price of wire.

Q. I was referring simply to the latter part of last year. At what time was the American Steel and Wire Company organized?—A. I think their charter was about the middle of January.

Q. Of this year?—A. Yes.

Q. And this difference of prices that I was referring to was simply for a few months before that time?—A. Yes.

MONOPOLY OF BARBED WIRE, NOT OF SMOOTH.

Q. There has been, as I said before, a very decided increase in the difference of price between barbed wire and smooth wire, and also between steel and smooth wire, but no increase in the difference between wire and wire nails; what is the explanation of that?—A. The price of barbed wire has advanced more than the price of smooth wire, has it not?

Q. Yes; by 50 per cent.—A. That is no doubt due to the fact that we have a monopoly of the barbed wire. We practically own every patent on barbed fence wire and machinery in existence in the United States, and we claim that no one can manufacture barbed wire without infringing our rights. We paid a great many hundred thousand dollars for these patents, a great many hundred thousand dollars more in litigating and sustaining them. We sustained one recently in the Supreme Court.

Q. So that, so far as the price of barbed wire is concerned, you have a decided advantage in having practically a complete monopoly of the patents?—A. Yes.

Q. That does not apply to so great an extent in smooth wire?—A. No, it does not.

Q. At the same time you did say that you controlled a very large proportion, 75 or 80 per cent at any rate, of the output of smooth wire?—A. Yes.

Q. Perhaps more than that. You are enabled by virtue of that large output to fix pretty definitely your prices and be sure you get some profit at least out of that?—A. We do not aim to produce anything that does not pay us a profit. We go on the principle of making a profit on everything that we make. There may come a time when we may have to sell at a loss, but at the present time we are having a profit on everything.

Q. And by virtue of your large output—the large proportion of the total output—you are able to hold your price on the smooth wire. And now, with reference to wire nails, what proportion of the total output do you have there?—A. No; I do not claim that we hold the price on wire. We do not claim to at all.

Q. (By Mr. JENKS.) Except in so far as the barbed wire business goes, of course?—A. In the barbed wire business if any concern sees fit to infringe our rights we shall

begin litigation against them. We have done that probably in almost every circuit court in the United States. Yes, and been successful; but we do not attempt to control the prices of smooth wire or wire nails or anything that we do not have a legal right to control by virtue of our patent monopoly, which, I think, has several years yet to run.

COMPETITION IN WIRE NAILS—NO PATENTS.

Q. About what proportion do you have of the output of wire nails?—A. I should say about the same proportion as of plain wire.

Q. (By Representative LIVINGSTON.) What is that?—A. Sixty-five to 80 or 95 per cent, somewhere; I can not tell you.

Q. Is it not a fact that competition has kept the price of wire nails down, while the smooth wire has gone higher?—A. No; I do not think so.

Q. Do you not know it to be a fact that the farmers and the mechanics object to the price of wire nails, and will take the other nails just as soon as you put up the price?—A. I think every advance that we have made in the last year has affected wire nails and smooth wire about the same.

Q. The price of wire nails has not gone up, while the price of smooth wire and barbed wire has doubled almost.—A. We claim a perfect right to put any price on barbed fence wire that would seem justifiable on the ground that we have paid out hundreds of thousands of dollars for patents. We do not claim that right on the others.

Q. You have acquired a patent monopoly, and you justify it then?—A. Yes. The granting of a patent gives a man a monopoly, as I understand, if he has a good patent.

Q. (By Mr. CONGER.) Do you make as much profit on the manufacture of nails as you do on the manufacture of barbed wire?—A. No, I think not.

Q. Why do you not? Why do you not ask a price that will bring you as much profit on the nails as on the barbed wire?—A. Because there are no patents on nail machinery that we know of, and there are patents on barbed-wire machinery producing this product.

Q. There is some competition, then, in the manufacture of wire nails?—A. Yes; there is some in the manufacture of barbed wire, but not very much. It is limited to two or three, probably three more concerns that have licenses.

Q. (By Mr. JENKS.) Is there as much profit at the present time for your concern in the manufacture of wire nails as there is in the manufacture of smooth wire?—A. Why, I think about the same.

Q. Do you have agreements with independent manufacturers of wire nails, more or less formal, as regards the prices at which the nails shall be marketed?—A. No; we do not; we have no agreement whatever.

Q. You furnish to those manufacturers of wire nails in various cases the smooth wire from which the nails are manufactured?—A. Yes; sometimes we do.

MONOPOLY OF WOVEN WIRE FENCING, AND HIGH PROFITS.

There is a great deal of woven wire fencing made in this country. We claim a monopoly under patents of most of the woven wire fencing. We made the past year about 25,000 miles of woven wire fencing under patents that we purchased, and we get a very much larger profit on that than we do on the plain fence wire or even barbed wire or wire nails, for the reason that we own the patents on the machines and the patent on the product.

NO MONOPOLY OF WIRE-NAIL MACHINERY.

Q. As to the machinery that is used in the manufacture of wire nails, is any large proportion of that patented?—A. No; I think not, now. I bought the first wire-nail machinery for our company in Germany about 13 or 14 years ago—in Dusseldorf, Germany. At that time all the wire-nail machinery in this country was manufactured in Germany, but it is now all manufactured here and we are exporting that machinery.

Q. At the time of what was called the wire-nail pool, some 3 or 4 years ago, the statement was frequently made that the machines for the manufacture of wire nails were practically under the control of that wire-nail pool at that time.—A. That was without a scintilla of truth in it; none whatever.

Q. There was no agreement between that pool and the manufacturers of the wire-nail machinery not to furnish the independents?—A. I do not know as to that, because I had nothing to do with it. During the years of the so-called nail pool I was president of the Illinois Steel Company.

Q. Then how is it that you declare that there was no truth in the widely published statement that there was such an agreement, and that the wire-nail pool did control the wire-nail machinery?—A. I say that because as far back as 1885 and 1886 I went to Germany and bought wire-nail machinery and had it shipped here, and the makers of it did not claim that there was any patent on it when I bought it there. If there was no patent on what was known as the Malmedie machine in 1885 or 1886, no wire-nail pool or agreement made 10 years later would claim that they had a monopoly on the machine.

Q. I understand you to say that the wire-nail machinery is now all manufactured here?—A. Yes; all that is used is manufactured in this country.

Q. Would it be a possible thing for the wire-nail pool to make an agreement with the manufacturers of that machinery not to sell independents on condition that they would take their total output, or anything of that kind?—A. The answer is that any machine shop could make wire-nail machinery. It is not a hard thing to make, and there are no patents on it. Kilby, of Cleveland, who makes everything in the line of machinery, and who has made a great deal of machinery, has made a great many wire-nail machines, and Whitney, of New York, has made a great many, and we have made a great many ourselves in the past.

Q. When you furnish a manufacturer the smooth wire which enters into the manufacture of wire nails, in those cases where you do furnish the raw material, do you have any understanding as to the prices at which they shall sell the wire nails?—A. No.

WIRE-NAIL PRICES—NO AGREEMENTS—QUANTITY PRICES.

Q. If they wish to follow your prices that is their own matter?—A. We have no agreement whatever. If they wish to sell at a loss, they can do so. I think our prices are different, or terms are different, from those of any of our competitors. That is my understanding.

Q. In the selling of your product, do you make it a practice to sell to jobbers mainly, or do you sell also to the smaller wholesale dealers and retailers?—A. We sell to anyone who wants to buy; we make no distinction.

Q. Do you give an advantage in price to those who buy in car lots?—A. I think we have one price for carload lots, one price for less than carload lots, and one price for larger quantities—100 or 200 tons. I am really not familiar with that.

Q. That is to say, if you made this third distinction that you spoke of, there would be an advantage in price to the very large dealer who took, perhaps, several carload lots in contradistinction to the smaller ones who took only one?—A. Yes; I think we have a jobber's price, a carload price, and a less than carload price. My impression is that the difference between the carload and the less than carload price is 15 cents per 100 pounds, but I can not tell you what the difference is between the jobber's price and the carload price.

Q. There is a difference?—A. There is a difference. Mr. Pearson is here in the room and he can tell you. He is a very large customer of ours.

Mr. JENKS. Will Mr. Pearson kindly answer the question? Can you tell the difference in price between the carload price and the jobber's price?

Mr. PEARSON. Fifteen cents a keg.

Mr. JENKS. And then the difference between the carload price and the less than carload?

Mr. PEARSON. Fifteen cents, except on a contract; if the jobbers place a contract for 1,000 kegs it is 2½ cents cheaper.

The WITNESS. I am not familiar with the prices.

THE ADVANCE OF WAGES.

Q. (By Mr. JENKS.) Will you explain to us briefly the relations of this company to its wage-earners as regards any increase or decrease in wages since the organization of this company, so we might compare it with the prices themselves?—A. On the average, I think we are paying about 40 per cent more than the constituent companies paid before.

Q. (By Mr. JENKS.) That is, you think the wages have advanced about 40 per cent since the beginning of the year?—A. Yes; possibly more. I think we have made two advances of 15 per cent each, and one of 10. I am not certain but we have given another of 10; different departments of our works have advanced differently.

The men who roll the steel are paid at a scale. For instance, at \$15 billets they would be able to earn, we will say, \$2.50; with billets at \$20 they would be able to earn \$3.50; with billets at \$25, perhaps \$4.50; at \$30, \$5.50 up. So that they are

getting two or three times as much. In the general scale of wages, taking all of our workmen in the various mills, I think the average advance would be fully 40 per cent. In some cases it would be 150; but I have to take it as an overall proposition, unless I should single out certain departments. I think the average advance would be 40 per cent.

Q. (By Representative LIVINGSTON.) Has the advance in the rate of wages been proportionate to the advance of the prices of your product?—A. I think fully, considering the advance in raw material.

DOES NOT AND WOULD NOT RECOGNIZE THE AMALGAMATED ASSOCIATION.

Q. What proportion of your workmen are union men?—A. We have no means of knowing. We make no distinction whatever between union and nonunion; so I have no idea how many of our men are union and how many are not.

Q. You spoke of the fact that the wages were fixed on a sliding scale. Do you make any agreement with your workmen at the beginning of the year with reference to that sliding scale—what the rate shall be, running through the year?—A. Usually; yes.

Q. Is that agreement made with the representatives of the union?—A. I think it is made with the men as individuals.

Q. (By Mr. FARQUHAR.) Is it not a fact that the scale of wages in the mills is framed by committees of the manufacturers and of the Amalgamated Iron, Steel, and Tin Plate Association of workmen?—A. The usual custom for fixing the scale of wages is for the Amalgamated Association at their annual meeting to agree upon what they think is a fair scale and to present it to the manufacturers. Now, the manufacturers that employ nonunion labor usually pay the same as those that employ union labor. That is the usual method. If a manufacturer that employs union labor is not satisfied with the scale he fights it out with the committee—with what is known as the mill committee—and after he gets the mill committee to agree, the men that employ nonunion labor, or the men that do not recognize unions, usually pay the same scale as those that have an agreement with any association.

Q. The question was asked by Professor Jenks whether your workmen are paid under the union scale or not. You said you think they agree individually.—A. They agree individually.

Q. You do not recognize, then, the Amalgamated Association in your works?—A. Well, we do not as an association.

Q. That is what I wanted to know.

Q. (By Mr. RATCHFORD.) How many men do you employ?—A. Do you mean including everything in full?

Q. Yes; in the iron industry, both mining and manufacturing?—A. Well, if I should guess, I should guess 36,000.

Q. Will you explain how it is possible for your company to treat with these men individually as to wages?—A. In the iron mines we pay the going wages, whatever they may be. This year, I think, we made three or four advances in the iron mines. The vesselmen are not employed by the American Steel and Wire Company; that is in a separate company; but the vesselmen, I think, are paid about the same way. The coke men and the coal miners and the coke burners are paid whatever scale is paid in the district.

Q. What is it that determines this scale of wages if there is no union to treat with? How is it arrived at?—A. Largely a question of negotiation between the mills, the mill owners, and the workmen.

Q. The workmen, acting in an individual capacity, or in a representative capacity?—A. Oh, they generally appoint a committee.

Q. Then they have a form of organization, have they?—A. Not that, in our case, we recognize. They have never asked us that—to recognize them.

Q. Is it not a fact that the iron miners have a national organization?—A. I think they have; yes.

Q. And the coal miners as well?—A. I think so.

Q. But your employees are not connected with it, to your knowledge?—A. We do not know whether they are or not. We treat with them in an individual capacity. For instance, if they came to us and said that they represented lodge so-and-so, we should know then that they were in an association; but they have never done that; they have come and said that they were a committee.

Q. To put the question very plainly, have you at any time discouraged the organization of your men into a national association, or refused to treat with them as organized men?—A. I do not think we have ever been asked to treat with them as organized men.

Q. (By Mr. FARQUHAR.) Do you mean to say that you have never been asked to sign an Amalgamated Association scale, by a properly constituted committee of the Amalgamated Association?—A. Are you referring to the American Steel and Wire Company, of New Jersey? To my own knowledge, we never have.

Q. Have you at any time, your present company or the company you were connected with before in iron manufacturing, ever signed an Amalgamated Association scale with the men?—A. Yes; we have; years ago.

Q. That was the Illinois Company?—A. No.

Q. Which company was it?—A. The Illinois Company has union labor to-day, and recognizes its men as union men. I think our mill at Allentown, north of Philadelphia, had Amalgamated labor at one time. Our mill at Pittsburg, the Rankin mill, had Amalgamated labor at one time.

Q. (By Senator KYLE.) Rankin?—A. What is known as the Rankin mill. Our Joliet mill, I think, had union labor at one time, and possibly our St. Louis mills, but they have not had for several years.

Q. (By Mr. FARQUHAR.) Do you wish it understood broadly, then, that you do not recognize the Amalgamated Association in your present company?—A. We have not been asked to. None of them have asked us to recognize them. If you want to, put the question to me as to whether we would recognize them if they asked us to.

Q. No; I asked the question as to whether you did or did not.—A. We do not and have not been asked to; there has been no request to.

Q. You mean to say that these scales have never been presented to your present company?—A. By whom?

Q. By the Amalgamated Association.—A. Not to my knowledge; no.

Q. (By Representative LIVINGSTON.) Would you do it if they should ask you?—A. No; we would not.

TARIFF NEEDED TO KEEP MEN EMPLOYED, AND TO PAY FREIGHTS.

Q. (By Mr. FARQUHAR.) You laid considerable stress on the advantage that the tariff gave you, while you were before the Finance Committee of the Senate, and subsequently that tariff was framed to suit your people. Were you not aware that the tenor of all the discussions in Congress, and through the press, and everywhere, was that that tariff was built to protect American wages first, and not your product?—A. I think we have made money by having a protective tariff, and I think our workmen have also.

Q. (By Representative LIVINGSTON.) You said that you received a certain amount of protection; you did not say what.—A. Six-tenths of a cent a pound on wire rods.

Q. You said that you have a monopoly on machinery and patents?—A. Not for rolling wire rods.

Q. I did not understand whether it was for barbed wire or smooth wire?—A. Not for smooth wire.

Q. But then you have a patent on the machinery for making nails?—A. None whatever.

Q. I want to ask you if you need that protection any longer to enable you to stand?—A. Yes.

Q. You mean to say that your syndicate or trust or combination, whatever you might call it—I do not name it—could not exist without that protection now?—A. I mean to say that if we want to keep the same number of men employed, and give the railroads and transportation companies of this country the same amount of freight, we can only do so by having a protective tariff.

Q. You could do that by lessening profits on your wares, could you not? You could give labor the same wages, but it would come out of the profits you now make?—A. It would depend entirely upon the destination of the goods. If the goods carried a freight rate, as they very often do in this country, of from \$5 to \$15 or \$20 a ton, we could not, sir. The tariff question, in my judgment, is very closely involved in that question of transportation.

Q. Then you need the protection more as an offset against the charges for transportation than you do for anything else?—A. More than for any one thing.

EXPORTATION—AMERICAN AND EUROPEAN WAGES.

Perhaps you gentlemen would like to have me state the wages paid by us in comparison with the scale of wages paid to workmen in Europe, producing the same articles.

Q. (By Mr. RATCHFORD.) We should like to have the scale of wages paid to your workmen as compared with the scale of wages paid American workmen in the same industries, in the same departments.

The WITNESS. How is that?

Mr. RATCHFORD. We should like to have the scale of wages paid to your workmen as compared with the scale of wages paid now to the members of the Amalgamated Association.

Mr. FARQUHAR. That is right.

Q. (By Mr. RATCHFORD.) And also to the members of the Iron Miners' Association.—A. I think we pay the same.

Q. We should like to make a comparison if you will be pleased to state the scale.—A. I think we pay exactly the same. There is probably one factor that some of the gentlemen are not aware of, and that is our average exportation. Our average exportation for the year, for 1899, has been about 700 tons per day, so that I think the gentlemen would do well to look at the European scale of wages, for they are competing with us in the same countries.

Q. (By Mr. CONGER.) I wish you would make the comparison of wages paid here and in Europe, as you started to do a few minutes ago.—A. I think we pay at least 60 to 85 per cent more on an average.

Q. That is in your wire mills?—A. Yes; wire mills, rod mills, and the various departments. I think our average will be not less than 60 and from that to 85 per cent higher.

AMERICAN AND EUROPEAN COST OF LIVING.

Q. (By Representative LIVINGSTON.) Do not your wage-earners pay from 65 to 85 per cent more for their food and clothing?—A. No, sir; they do not.

Q. They do not? You have looked into that, have you? You have thoroughly satisfied yourself?—A. I have studied the situation on both sides of the water for 20 years. There is only one thing practically that is cheaper on the other side of the water for the workman, and that is rent.

Q. Their clothing is the same, too?—A. You can buy a pair of shoes in America cheaper than you can buy the same pair in Europe, and you can buy clothes cheaper. You can buy various goods as cheap and cheaper. The living of the workmen is as cheap in the United States as anywhere in the world, providing the workmen live the same; but the Americans live better than foreign workmen.

Q. You mean they buy a higher grade of goods?—A. They buy a higher grade of goods and live better, send their children to better schools, and enjoy the comforts of life; but the cost of living is certainly, in my judgment, as cheap in the United States, everything considered, as anywhere in the world for the laboring man. I have been to all the mill districts, practically, in Europe.

Q. Now, can you give us that scale compared with European labor?—A. I made the statement that it was not less than 60 and I think 85 per cent higher in this country than anywhere else in the world.

Q. (By Mr. RATCHFORD.) The scale of wages?—A. Yes.

Q. And the cost of living is not any higher?—A. None whatever, sir.

WHY AMERICA CAN EXPORT DESPITE HIGH WAGES.

Q. Will you explain your ability to export in such large quantities if wages in Europe are so materially lower than they are in the United States?—A. Yes; I am very glad you asked me that question. In Germany the cost of coke is about \$5 a ton. The cost of a ton of coke at the ovens in this country until recently has been about \$1.50; therefore the American manufacturers have the advantage in the cost of the fuel over the Germans. They also have an advantage in the cost of the ore over the Germans, so that if to-day the American wages were the same as the wages of the Europeans, and the capacity was sufficient in this country, this country could make all the iron and steel manufactured and used in the world, in my judgment—no question about it—paying the same scale of wages, understand.

Q. Admitting that the manufacturer in this country has some advantage in the cost of fuel, is it not a fact that the manufacturer in Germany has an advantage in the cost of transportation?—A. I think not; I think it is the other way; I think the American railroads are the cheapest transporters in the world; very much cheaper than they are in Germany and England, and I have studied it from a German standpoint and from an English standpoint. I do not think there is any country in the world that transports a ton of freight per mile as cheap as the American railroads.

Q. Yes, but the proximity to the markets there—is it not a fact that the manufacturer is closer to the point of distribution than in this country?—A. Possibly they are closer, but the answer is that the American railroad managers make the American manufacturer as close by making him a rate that will allow him to do business.

EXPORTS TO ENGLAND.

Q. (By Representative LIVINGSTON.) Have you been able to compete with the English manufacturer in this same way?—A. Yes; our London office sells perhaps 60 per cent of the wire sold in Great Britain; I think it does. We started our office in London in 1893 and figured at that time that the annual expenses of running the London office, including clerk hire and rent, ought to be about £1,500 a year, \$7,500. In the year 1899 the cost of operating the London office will be probably £15,000 a year. We are doing an average business in London of \$15,000 to \$20,000 a day.

Q. Now, what is the difference in price of products in London and in your home office?—A. Our export prices in New York and London are practically the same, and the merchants have the choice of buying f. o. b. New York or f. o. b. London.

Q. (By Mr. CONGER.) How are you able to make those prices the same in London as New York?—A. I should have said with the freight difference—that is, it is f. o. b. New York at a certain price and f. o. b. London with the freight added across.

EXPORT PRICES LOWER THAN DOMESTIC—THE REASONS.

Q. (By Mr. JENKS.) How does the export price compare with the price to the American consumers?—A. We are selling to the markets of the world at a less price than at home.

Q. Will you kindly explain the business reasons for doing that?—A. The business reason for doing that is that by working up a foreign business we can operate our mills more fully, we can make our goods cheaper, and whenever the time comes that there is a decline of the home price it will not necessarily affect the foreign prices. There are times when the export prices are higher than the home prices. Just at the present time our home prices, I think, are probably 50, 60, or 70 cents a hundred higher than our export. I do not really know just the difference, but I know there is a difference in favor of export to-day. At times it is the other way. But by manufacturing, say, 200,000 tons of wire per annum to export to all parts of the world we cheapen the entire cost of manufacture very materially. By doing that we are able to give the consumer at home a lower price in the long run, and employ perhaps 25 or 30 per cent more workmen, so that in the long run we figure that it will equalize itself. Our home prices and our foreign prices are never necessarily on a parity; one might be higher and the other might be lower; it would depend entirely on circumstances.

“BUSINESS PRINCIPLES.”

Q. (By Representative LIVINGSTON.) If you had the same competition in New York and St. Louis that you have in London and Germany, you would have to sell at a less price here, would you not?—A. Well, if the raw material cost the same—

Q. Independent of the raw material.—A. It is hard to say that a flour-mill owner would fix the price of flour irrespective of the price of wheat; I have never known one to do it. We all base our prices on the price of raw material.

Q. Then why do you sell in London lower than here?—A. We sometimes get a good deal more in the foreign market.

Q. More than here?—A. Yes.

Q. I understood you to say that your price is less?—A. I say at the present time it is less.

Q. Then you are not fixing the price, the foreign price, on the cost of the raw material now?—A. We are fixing the tonnage; if we sell 100,000 tons of wire per month, we fix an average price on the 100,000 tons of wire; we go over that on the next month's business. Our foreign prices may be advanced \$2 or \$3 a ton. We work perfectly independent on both sides of the water, and if the raw material advances on the other side we put up the price. If the prices decline on this side and not on the other side, we would hold the prices right up to the highest point that we could get the business at. We aim to run on business principles and get all the tonnage that we can.

Q. Now, that is just the point. Over there you run the price to the highest point possible under competition; at home you do not have that?—A. I beg your pardon; we have plenty of competition at home.

Q. Have you patents?—A. Are you talking about barbed fence wire as if it was the chief business of our company? It is 12 or 13 per cent of the business. We have practically a monopoly on that, barring, I think, 3 manufacturers, who are our licensees—John A. Roebling Sons, Trenton; Janesville Barbed Wire Company; and Dillon & Griswold Wire Company. They are licensees, and they have a right to manufacture under the patents, and they make barbed wire, and make prices as they

see fit. We pay no attention to the prices they make; their prices may be \$1 higher or \$1 lower than ours.

Q. The point I wanted to arrive at is just simply this: Do you regard competition at all abroad or at home in fixing prices?—A. We regard competition in both places, both at home and abroad. If we had a large tonnage of finished product on hand, and the markets were moving slowly, we should reduce our prices perhaps at home and abroad the same day. On the other hand, if the prices of the foreign products were advancing on raw materials, we might hold our export prices, or even put them higher. We run our business according to supply and demand, considering the cost of production.

GERMAN CONDITIONS—SUBSIDIES AND SPECIAL FREIGHT RATES FOR EXPORTS.

Q. (By Mr. CLARKE.) Is it not a fact that exports from any country are often sold in the foreign market lower than in the domestic market?—A. Very often; yes. That is certainly true in the German market; and I will say that the Germans receive a subsidy of \$7.25 on every ton of stuff they export, and that subsidy is made up by various allied lines of manufacturing, to encourage the export business. The Germans own the railroads; and when it comes to making the freight rate from one German point to another they will perhaps charge 2 cents per ton per mile, or its equivalent, and if it is an export proposition they will do it for 2 mills per ton per mile, the Government standing the difference. In other words, in the German Government everything is based on encouraging the export of goods out of the country and employing the workmen to the fullest capacity.

Q. (By Mr. JENKS.) Has this export trade from America been increased rapidly in late years?—A. Yes.

CONSOLIDATION HELPS EXPORTS.

Q. Do you think that the fact that a number of separate establishments have come together into one has had any material effect on the export trade?—A. Multiplied it by 3. Last year the exports were less than 100,000 tons; probably 60 or 70, not more than 80. This year it will be over 200,000, as a result of consolidation, whereby we can afford to go at the business in a more systematic way.

Q. The individual concerns could not have afforded to take these pains to increase it?—A. No question about that.

EXPORTS TO CHINA AND JAPAN—OVERLAND RATES.

Q. (By Representative LIVINGSTON.) Have you a trade in the East—in Japan and China?—A. Yes, we have a very large trade in China and Japan. I think in the month of August our Chinese trade was larger than that of any other country. In September I think the Chinese trade was second. They are just beginning to buy goods in China and Japan.

Q. Do you ship from the Pacific or Atlantic; over the Atlantic or Pacific Ocean?—A. We ship mostly overland to the Pacific coast, and thence by water. The railroad presidents have seen the necessity of taking care of the through rate, water and rail, and have encouraged the business to such an extent that practically all of the Japanese and Chinese business of our country goes overland; and if you gentlemen would recommend a subsidy to Congress, subsidizing shipbuilding on a basis of the tonnage of American products, whether it be wheat or corn or manufactured products, you would be doing the greatest favor you could to the entire producing class of this country.

SHIP SUBSIDIES.

Q. Supposing you got the canal, would that help?—A. That would help very much; but remember that other countries subsidize steamship lines and mail lines, and allow them to operate cheaply enough to be able to carry the products. As an illustration, until within a very short time our shipments to Argentina have been made via London or Liverpool, for the reason that Lambert & Hull, who were the main shipowners operating to Argentina, with headquarters in London and Liverpool, have made less ship rates from London and Liverpool to Argentina than it is possible to make from New York. We shipped thousands of tons of stuff from New York to London and Liverpool and reshipped it and paid the same rate from these ports to South America that we had to pay from here. That is true also of the German lines operating to Brazilian ports. They get subsidies, as I understand it, in mail lines; and freight rates from Hamburg, Antwerp, and Bremen to Brazilian ports are very much less than the freight rate from New York. Therefore at times we are forced to make a sacrifice in freight rates in order to sell goods in competition in these countries.

EFFORT FOR A WORLD-WIDE COMBINATION.

Q. (By Mr. JENKS.) It was reported some months ago that there had been in serious contemplation, at any rate, a combination between the American manufacturers here and corresponding manufacturers in Germany.—A. I went over there for that purpose.

Q. Will you kindly explain that to us?—A. I met all the wire makers of England, Germany, Belgium, France, and Austria, and I believe all in Europe, and I advocated an agreement by which we could get better prices for our product and divide the tonnage on an equitable basis. They thought we were entitled—I have no objection to telling you—to about 25 per cent of the business, and they thought they ought to have 75. Before I got away they offered us 45 and wanted 55. I did offer to take 50 and give them 50, but they would not do that.

SYNDICATES IN GERMANY.

Q. Have the manufacturers of steel rods in Germany, or of wire nails, combined?—A. In every line. They have agreements, printed and signed by the board of directors, and they are legal and can be enforced.

Q. Is the same true with reference to England and Belgium?—A. Belgium does not cut much of a figure in the wire business. I do not suppose the entire Kingdom of Belgium makes as much wire as our smallest mill.

Q. How is it in England?—A. I think they have their agreements in England in nearly all lines.

Q. As I understand in reference to Germany, it is substantially a written agreement, is it not, a pooling of the prices?—A. In Germany the agreements are usually 3 or 5 year agreements, got up in printed form, submitted to the board of directors of each company, and signed by what are called the managing directors of the various boards, and are legal and can be enforced. As a rule their prices are from 30 to 35 per cent higher to the home trade than they are to the export trade. The German manufacturers are the only competitors we have to-day. We do not acknowledge England as a competitor in the wire line. Our own company makes, I think, 55 per cent of all the wire made in the world. If the German manufacturer would run his business on the same business basis that we run ours on we should be getting 90 per cent of the export business; but they are subsidized by the various allied lines to the extent of \$7.25 on every ton of wire they export. In addition to that, the railroads, which are owned by the Government, make them a freight rate which will allow them to move their goods for almost nothing from the interior to the seaboard; then with their subsidized ships starting from their ports they have an advantage over us from all directions. I have argued that out and thrashed that out with them for months. I was over there, I think, for nearly 2 months. The coke men are in a syndicate over there; the ore men are in a syndicate; the coal miners are in a syndicate; pig-iron makers are in a syndicate; the rod makers are in a syndicate; the wire makers are in a syndicate; the nail makers are in a syndicate; and everything they have passes through one funnel.

Q. (By Mr. JENKS.) Everything they all have?—A. Everything that the different allied interests have passes through one funnel. This man is general agent of the rod business, this man on the plain wire, this man on the billet business, and so on down the line. Their entire idea is that they have but one competitor in the world, and that is the United States; and in order to protect their export business and keep any portion of it they must work in harmony. They talk it freely, and say they can not make goods as low, notwithstanding the fact that they pay their workmen about half as much as we pay ours.

Q. In different lines of industry—wire mills and iron mills—are they also allied? They have an understanding with regard to the prices of raw material?—A. Every one of them.

Q. So that there are not merely agreements among the manufacturers in the same line, but different lines that aid one another are also together in one great combination?—A. Yes.

Q. The Government recognizes these agreements and will enforce them by law?—A. Yes.

GOVERNMENT SUPERVISION IN GERMANY—AMERICA SHOULD HAVE IT.

Q. What supervision does the Government have over these establishments and over these agreements?—A. Well, I imagine the Government has pretty full supervision over that.

Q. You think the Government requires quite detailed reports from these companies with reference to their business?—A. I judge they do, for this reason: One gentleman

from over there—he was what is called the managing director or director-general—told me that his works cost him about 25,000,000 marks, and he said he kept charging the cost of his works down year after year, besides paying 10 per cent quarterly dividends, until he got them where they stood on the books at 1 mark. The Emperor sent for him and asked him if he thought the German Empire could be run on that basis, and he made him put it back to 25,000,000 marks and pay the back tax. So I think they have pretty full supervision.

Q. You think, then, that the Government has detailed information with reference to the business itself? Does it also have the practice of taxing off the surplus profits in this way for the benefit of the imperial treasury?—A. This gentleman that told me is a very reliable man; in fact, he is the chairman of one of the important lines, besides being president of his own company. He told me that the Emperor said to him, "If this thing were to continue, where would the German Empire raise its money from?"

Q. So you think that the German Empire does keep control?—A. I think they keep very close control, and I think they know what the various concerns are making; and are encouraging the German manufacturer, particularly in the export business.

Q. I judge from what you have said that you think that is a wise plan for the German Government to follow.—A. I do; I think if this Government would adopt the same tactics, we should be the only manufacturing concern in iron and steel within the next ten years.

Q. You would favor having necessary Government supervision over every large establishment?—A. Unquestionably; and I should be willing to give up a large percentage of my stock to have it so.

GERMAN SYNDICATES.

Q. (By Mr. CLARKE.) Are these various syndicates called trusts over there?—A. No; they call them syndicates.

Q. Are they in the nature of what are popularly called trusts in this country?—A. They are what I would call trusts.

Q. (By Mr. JENKS.) The general organization, I infer, is like some of the early pools rather than like the present large combinations.—A. Yes; it is an agreement, signed in some cases by 30, 40, and 50 manufacturers. I have seen some of the agreements.

AN INTERNATIONAL TRUST.

Q. (By Mr. CLARKE.) If you had been able to effect an agreement with them such as was proposed, what would that be—an international trust?—A. I do not know but we should have infringed a little bit, as far as that is concerned; but they talked about putting the prices up pretty high. The Germans wanted to put them higher than I did. I was in favor of putting the prices up about \$10 a ton, and they thought they would stand \$30. The only question was that we could not agree on the percentage.

Q. If you had an international agreement of that kind, how could our Government control it?—A. They could tax us on our profits.

Q. They could tax you, but they could not tax the other fellow?—A. They could make us get a larger percentage—each firm; and we would get it, too, if we had any chance.

TRAVELING MEN DISPENSED WITH.

Q. Will you go back to the question of labor for a moment? Have you, by virtue of your organization, been able to make any material saving in labor by employing less men along certain lines; for example, the traveling men?—A. I think that the only point in these large consolidations that has been harmful has been the wholesale discharge of traveling men. With us, we had practically 200 to 300 men in the constituent companies, and they have been cut down to perhaps 15 or 20. We are working perhaps 30 or 40 per cent more labor than a year ago; but the traveling men are the men that have suffered.

Q. (By Senator KYLE.) Is that a saving to the general public?—A. I think it is; yes.

Q. (By Mr. JENKS.) Do you pay traveling men on the road now as much as you did earlier, or can you get along with a somewhat cheaper grade?—A. We keep pretty good men and pay about the same in salaries. I do not remember any changes that have been made.

HISTORY OF THE FORMATION OF THE AMERICAN STEEL AND WIRE COMPANY.

Q. I should be glad now if you would explain to us the way in which these different companies came together. I understand there were some preliminary movements for a year or two.—A. I was quite a large stockholder in the Illinois Steel Company and the Minnesota Iron Company, which were two of the companies that went to form the Federal Steel. I made up my mind that I had worked hard for a good many years and I would take life easy. After the Federal was formed I disposed of my stock in the Federal and practically made my arrangements to go around the world. I still had my interest in the wire company—in the American Steel and Wire Company, of Illinois—and had been on very friendly terms, and in fact was a director and chairman of that company, but never gave it any attention. Judge Gary, who was before you, was general counsel. I was importuned along in December to see if I could not buy some of these mills, to get up a larger consolidation.

Q. December, 1898?—A. December, 1898. Mr. Isaac L. Ellwood and myself went out and bought a number of mills and paid for them; others we took options on, and others we made partial payments on, until we got along to the point where we saw it was possible to make a larger company. Our field of operations was in the Middle West up to that time. We came on to New York and acquired some more properties by purchase, and turned over all of our properties and contracts to Mr. Voorhees; and I think he in turn made some arrangement for the financing of the operation. Mr. Ellwood and myself had quite an interest in the transaction, and we became the underwriters, to quite an extent, on the same basis that anybody else would—exactly the same. We persuaded the American Company, of Illinois—we advised them to accept one share of new preferred and six-tenths of a share of common for one share of preferred in the old company, which they agreed to do. We offered to exchange our stock on that basis, and I believe the result was that Mr. Voorhees acquired every share of stock of the companies.

Q. With reference to the other companies that came into the combination, was this all done practically by you and Mr. Ellwood, buying them up independently?—A. I think it was in every instance; there possibly might be one or two options in the name of Lambert & Gates, but most of them were in the name of Gates & Ellwood.

Q. Then you say that these were turned over to Mr. Voorhees, and he practically organized the new company?—A. Yes.

Q. And these exchanges were made?—A. Yes.

Q. These exchanges of stocks were made, I suppose, publicly by advertising through Seligman & Co.?—A. Through Seligman & Co., of New York, and the Illinois Trust Company, of Chicago.

Q. Can you furnish us a copy of that advertisement, so that we can put it in our records?¹

¹ *To the preferred and common stockholders of the American Steel and Wire Company:*

During several months past the holders of a large portion of the shares of the American Steel and Wire Company have been carefully considering the advisability of obtaining by purchase or reorganization other leading wire concerns in the United States, among them the Cleveland Rolling Mill Company, of Cleveland, Ohio, manufacturers of pig iron, Bessemer steel, and open-hearth steel, as well as wire in its various forms, and the Washburn & Moen Manufacturing Company, of Worcester, Mass., and Waukegan, Ill.

It is believed that there would result greater economy in management and operation, and thereby be of advantage to all the stockholders of the several companies. After a thorough investigation of the several properties and their values, actual as well as relative, the acquisition of the following plants has been assured upon a just and fair basis:

Washburn & Moen Manufacturing Company, of Worcester, Mass., and Waukegan, Ill.

Worcester Wire Company, of Worcester, Mass.

Cleveland Rolling-Mill Company, of Cleveland, Ohio.

Oliver & Snyder Steel Co., of Pittsburgh, Pa.

Oliver Wire Company, of Pittsburgh, Pa.

Newcastle Wire Nail Company, of Newcastle, Pa.

Pittsburgh Wire Company, of Pittsburgh, Pa.

Cincinnati Barbed-Wire Fence Company, of Cincinnati, Ohio.

Laidlaw Bale and Tie Company, of Joliet, Ill., and Kansas City, Mo.

Consolidated Barb-Wire Company, of Lawrence, Kan., and Joliet, Ill.

Newburgh Wire and Nail Company, of Newburgh, N. Y.

To accomplish the object suggested, the following plan has been agreed upon:

Agreements have been entered into for the organization of a corporation under the laws of the State of New Jersey, to be known as the American Steel and Wire Company. This corporation will have an authorized capital stock of \$90,000,000, of which \$40,000,000 will be seven per cent cumulative preferred stock and \$50,000,000 will be common stock.

This corporation will acquire the above properties either by direct ownership or through the ownership of not less than a majority of the capital stock, where it is not practicable to purchase the properties themselves.

A syndicate has been formed which will furnish the necessary capital for the above purchases, and in addition thereto providing the new company with a working capital of about \$13,000,000, exclusive of the working capital of the several concerns which will enter the new corporation. Whatever may

CAPITALIZATION.

The question has come up a good many times in connection with proposed legislation regarding these larger combinations, as to the financing of these organizations, the question of overcapitalization, the amount that had to be paid the promoters for the making of the organization, and so on. Can you give us an idea with reference to the capitalization of the American Steel and Wire Company, as compared in the first place with the value of the plants, simply as plants, and then also an idea as to the value of patents, good will, and so on that went into the organization? To begin with, what is the capitalization?—A. Of the American Steel and Wire Company? Ninety million dollars.

Q. How is it divided?—A. Forty preferred and 50 common.

Q. Now, with reference to the value of plants, simply as manufacturing plants.—A. I think the plants stand on the books at about \$75,000,000—the working capital. We have made some little money since we came together, and the working capital is perhaps \$16,000,000 or \$18,000,000 over and above that.

Q. Do I understand you to say by that that this working capital has been made since?—A. No.

Q. That was furnished at the time, I suppose?—A. Well, we have bought a great many properties since we went together. We have paid out a good many million dollars; approximately, \$6,000,000 to \$10,000,000.

be necessary of this working capital may be used for the purchase of other properties which may be agreed upon hereafter, the entire amount of capital to be furnished by the syndicate being \$28,000,000.

The syndicate agreements will provide that the New Jersey company shall acquire such of the capital stock of the American Steel and Wire Company of Illinois, not less than a majority thereof, however, as may be offered, on the following basis:

For each share of the preferred stock of the Illinois corporation the holder thereof shall receive one share of the seven per cent cumulative preferred stock of the New Jersey corporation, and in addition thereto six-tenths of one share of the common stock of the New Jersey corporation; for each share of the common stock of the Illinois corporation the holder thereof shall receive one and two-tenths shares of the common stock of the New Jersey corporation. It is further arranged that the banking house of J. & W. Seligman & Co., of New York City, or its agent for that purpose (The Illinois Trust and Savings Bank, of Chicago, Ill.), will exchange the certificates of the American Steel and Wire Company, of Illinois, on the above-named basis, provided the same are presented and deposited at either of the offices above named on or before Tuesday, January 17, 1899; that in event of delay in issuing the certificates of the New Jersey corporation interim certificates will be issued, exchangeable for the engraved certificates when issued. The interim certificates will be issued by either J. & W. Seligman & Co. or their agents (the Illinois Trust and Savings Bank at Chicago).

It is very desirable that the fiscal year of the New Jersey corporation commence on January 1, 1899, and to that end the plan must be consummated at the earliest possible date; therefore the stockholders in the American Steel and Wire Company, of Illinois, are requested to present and deposit their stock promptly, so that the same may be speedily and without delay exchanged and the organization of the New Jersey company facilitated.

Books of transfer of the American Steel and Wire Company, of Illinois, were closed on Wednesday, January 4, 1899, and will not be reopened until about January 25, 1899, and the books of the New Jersey corporation will be opened as soon as the engraved certificates are ready for delivery, not later, however, it is believed, than January 25, 1899.

It is proposed that the new company will declare regular quarterly dividends on the preferred stock of one and three-quarters per cent, beginning about April 1, 1899.

The undersigned, comprising the entire board of directors of the American Steel and Wire Company, of Illinois, after a careful consideration, believing that the consummation of the plan proposed will increase earnings, decrease expenses, result in a more stable cost of manufacture, and more satisfactory results to the stockholders, have decided to exchange their own shares in the Illinois corporation for shares in the New Jersey corporation upon the above-named basis.

J. W. GATES.
A. CLIFFORD.
I. L. ELLWOOD.
CHAS. DOUGLASS.
WM. EDENBORN.
S. H. CHISHOLM.
JOHN LAMBERT.
F. BAACKER.
E. H. GARY.
E. J. BUFFINGTON.
W. H. ROWE.

JANUARY 7, 1899.

NEW YORK, January 7, 1899.

To the holders of the preferred and common stock of American Steel and Wire Company:

We are now prepared to receive the deposit of certificates of said stock, under an agreement dated January 5, 1899, between John W. Gates and Isaac L. Ellwood and Frederick P. Voorhees, issuing therefor our negotiable certificates of deposit, exchangeable for the stock of the American Steel and Wire Company (new company) when received by us for delivery. All stock certificates to be deposited must be duly endorsed in blank.

New York certificates to be presented at the office of J. & W. Seligman & Co., 21 Broad street, New York.

Chicago certificates to be presented at the office of the Illinois Trust and Savings Bank, Chicago, who will issue certificates of deposit therefor on our behalf.

J. & W. SELIGMAN & Co., Depositary.

Q. When you speak of the value of the plants being in the neighborhood of \$75,000,000, do we understand by that the value of the plants as working plants, including the good will, patents, and so on—everything included?—A. Yes.

VALUE OF THE PLANTS AS PLANTS.

Q. What do you think would be the value of the plants, excluding the good will and the patents—that is, what would be the cost of putting up the plants now?—A. Well, that is a pretty hard question to answer.

Q. Of course we expect only an estimate.—A. They could probably be put up for less than they stand for on the books, but in the meantime the plants in operation would earn a good deal of money before new plants could be put in operation.

Q. Of course.—A. How much less it would be very hard to tell; in the hundreds of engines and thousands of horsepower in boilers, that if you went out to buy them you could not get delivered in the next 18 months. Our plants could not be duplicated and got in operation in 3 years.

Q. Of course the question is not a practical one so far as any immediate change is concerned, but it does form a basis, nevertheless, of estimating the method of capitalization. Granting that it would take 2 or 3 years' time, the question is what it would cost to put them up, in round numbers. We have had some witnesses say that the good will of their business was worth more than their plants.—A. An answer to that would be that J. P. Morgan & Co. employed some engineers and sent the engineers around to appraise part of the plants—not all of them—part of the plants that became part of the American Steel and Wire Company, perhaps 70 per cent in value; and they appraised them, as I remember, at about \$28,000,000. They were appraised at a time when boilers, engines, labor, and everything else would be 60 or 80 per cent less than to-day; so if you were to ask me what was a fair value of the plants of the American Steel and Wire Company to-day I should say probably \$50,000,000 or \$60,000,000. I should say there might be \$10,000,000 or \$15,000,000 of stock issued as good will.

Q. (By Mr. JENKS.) In this valuation that was put upon the plants by J. P. Morgan & Co., what was included? That included also, did it not, the good will?—A. No.

Q. That included some of the patents?—A. J. P. Morgan & Co. picked 3 engineers—in fact, asked me to select 3 engineers, and I selected 3 of the best engineers in America, and they went around and examined the plants, and made a statement to Mr. Morgan as to what the plants could be built for, in their judgment. That was in December, 1897, January and February, 1898, when Morgan & Co. expected to finance the deal.

Q. So that \$50,000,000 or \$60,000,000 would be a fair estimate as to the value of the plants in contradistinction from good will, trade marks, and so on?—A. Trade marks and everything of that kind. We have a good many patents registered all over the world, and trade marks and things of that kind.

Q. I notice in your statement of capitalization you say that \$40,000,000 is preferred and \$50,000,000 is common stock. Was the general plan in the minds of the promoters or the organizers that the bare plants themselves should be represented in the amount of preferred stock, and the good will, patents, and so on, by common stock?—A. I think you would have to ask Mr. Voorhees that question. I do not think I should be competent to answer it. I can not tell you.

CAPITALIZATION SHOULD BE BASED ON EARNINGS.

Q. (By Mr. CLARKE.) Which do you consider the more valuable, the plants or the business that has been built up and made to grow out of it—in short, good will?—A. Well, my answer is that this country is not as well educated on the value of good will as England. In England they value good will much higher than in America. It is hard to place a rule there and show what good will is worth in the United States, but in England they have a pretty fairly fixed rule for the value of good will. I do not know just what it is. I think in round terms they figure, irrespective of the amount of money invested in any specific line of goods, that if it will pay 7 or 8 per cent on the principal, they are willing to capitalize on that basis. That is about my idea. For instance, a concern making \$70,000 would be capitalized at \$1,000,000 or £200,000. That is my idea of good will. England is further advanced in the industrial line than America. They have had more experience and they are older manufacturers. I do not claim that they are better; I do not think they are as good, but they have a better rule.

Q. (By Mr. JENKS.) Your own opinion is that capitalization ought to be on a basis of earnings?—A. That is my idea. If a street-car line running between the Capitol

and Treasury Department shows an earning for 10 years on \$10,000,000 and only cost \$500,000, I would rather buy that street-car line than the one that runs from the Capitol to Baltimore that can not show anything over operating expenses, notwithstanding the fact that it cost \$10,000,000. The earning capacity of a road is what would guide me very largely in making an investment. For instance, the Pennsylvania Railroad, with 5,000 or 6,000 miles of rails, is probably earning two or three times as much as the Atchison, Topeka, and Santa Fe with the same length of line. Therefore, I would say that the Pennsylvania Railroad was worth more per mile from the earning capacity.

Q. From the other point of view you would perhaps suggest that it would be well for Congress to lower the rate of fares on this road that gives so little and that gets so much?—A. I think that in time American competition will equalize rates, or fares, and the price of commodities and anything else.

NATIONAL CHARTERS.

I think the American Congress had better encourage and foster all of what some of the gentlemen in the room would be pleased to term trusts or monopolies, but which I call consolidation; I think we should encourage it. I would be very much in favor of having national charters granted.

Q. (By Representative LIVINGSTON.) How is that?—A. I would be very much in favor of having national charters granted; that any concern that wanted a charter for a company of \$5,000,000 or more, would have to go to Washington and pay a substantial sum for that charter, and a substantial sum per annum thereafter. If the term of the charter was for 99 years, they have got to pay so much for a charter, say \$100,000. I would charge them \$1,000,000 a year for 99 years and say to them: "Now, you put that right in the cost to start with, because you have got to help pay the expenses of the Government to the extent of \$1,000,000 a year." That would stop overcapitalization. It will legalize what some of our friends would term trusts, which are obnoxious to some of us, and it would be a good thing for the country in general. I can not understand why it is fair for a firm that is legally organized under the State of New Jersey or Delaware to be attacked in Illinois, Iowa, or Nebraska, and I think the only way to overcome this is to have national charters, so that when a man gets a national charter he is not subject to attack except here in Washington.

Q. And you would expect also very rigid government supervision?—A. I would make them make money and make them pay their men accordingly. If necessary, I would have a manufacturing commission, the same as the Interstate Commerce Commission.

NO EFFORT TO ELIMINATE COMPETITION.

Q. (By Mr. FARQUHAR.) Is not the spirit of your combination the elimination of competition?—A. No, sir.

Q. In what way do you explain it, then?—A. To the contrary, we encourage every fellow that comes around to go into business. We sell them goods and try to make them all make money. We say to them, "Here are our prices; this is what we are getting for our stuff. There are 20 or 30 concerns in the manufacture of woven wire fence in the United States." If they choose to pay the price, we will sell to them. We have the woven wire fence down to where we can make a clear profit, and they can not manufacture. We have said to them, "Come to us with your woven wire fence orders," and they are buying from us right along, and they are making money. We are not doing anything to discourage the small manufacture, and we do not intend to. We believe that we can make money and we want our neighbors to.

Q. Have they any means of competition otherwise than you allow, seeing that you control such an immense amount of the product?—A. Yes.

Q. In what way?—A. The Federal Steel Company have 3 rod mills. They turn out, I suppose, 600 or 700 tons per day. There are 2 other large rod mills. They can buy rods where they like; buy wire where they like. We do not, by any manner of means, try to control. If a man does not buy our goods, and put them into the finished product, we do not try to control him at all.

IRON AND STEEL AND ORE PRODUCERS OUTSIDE THE FOUR GREAT COMPANIES.

Q. Do not the 4 great iron and steel consolidations now consolidated under the laws of the State of New Jersey, you being one of them, practically control the whole product of the country?—A. No, sir; we do not.

Q. What per cent of the manufactures are outside of your control, for instance?—A. In the iron line?

Q. Yes, iron and steel line.—A. Let us make a distinction. Let us take up iron first, and then take up steel, because steel makers do not make iron and iron makers do not make steel. I do not think 40 per cent of the furnaces of the United States are owned by the Carnegie, Federal, the National, and ourselves. I doubt whether 30 per cent are. There is an answer to your argument right there.

Q. How much steel?—A. Well, I should say in Bessemer steel perhaps 80 per cent is represented by the 4 concerns. In open-hearth steel perhaps 50 or 60; but furnaces are building right along.

Q. How much of the ore product do your 4 great concerns own in this country?—

A. You allude now to the Bessemer ore or basic?

Q. Both.—A. I suppose the 4 concerns own 500,000,000 tons of ore, in round numbers.

Q. Practically your 4 concerns are now mining, transporting, and using nearly all the raw material that enters into the manufacture, are you not?—A. No, sir.

Q. What per cent are you less than the whole?—A. About 40 per cent of it.

Q. Where are these independent mines located?

Q. (By Senator KYLE.) Less than the whole?—A. Yes. Take all the furnaces in the South and there must be 25 or 30 furnaces owned by the Tennessee, and Schloss, and the Woodward and independent interests. Probably 40 per cent of them own their own ore. I am interested in the ore properties in the South personally; not in the company, but personally, several million tons of it. You take the ore of the United States, and it runs into the billions, and of the billions, 500,000,000 is probably owned by the 4 concerns that you named. Now, take the concerns throughout the East, and they are supplied with their ore from the Port Henry mines on Lake Champlain, and possibly are supplied from Cuban ores or Spanish ore, or Southern ores. When you come to the ore product of the United States it is simply enormous. No man can tell within billions of tons what the total ore crop of the United States is until you develop it. Take the Colorado Fuel and Iron Company, the Cambria Iron Company, and the Lackawanna Steel and Iron Company, Jones & Laughlins, and the Wheeling Steel and Iron Company; all large concerns, not anyway connected with any of these consolidations; they are all large makers of rails and plates and users of Bessemer steel and everything in the iron and steel line.

Q. I speak not of the geological situation at all. I am talking about the output of the American mines; how much your 4 concerns control of that annual output.—

A. Annual output of pig iron?

Q. Yes, of ore itself; I want to get at the raw material in immediate ownership or control that would cover all the list?—A. In output?

Q. Yes.—A. Probably 60 per cent.

Q. Sixty per cent. You speak of the Champlain and other mining properties that are away from the great centers of Pittsburg, Chicago, Cleveland, and elsewhere, Birmingham, for instance; but do you not practically control all the great centers of manufacture, through the ownership of the mines, and practically through the transportation?—A. No.

Q. You are safe in saying then that you do control 60 per cent of the annual product at the present time?—A. Of the 1899 output, 60 per cent.

NO COMBINATION BETWEEN THE FOUR GREAT COMPANIES.

Q. As there is no combination on the part of the independent owners of mills and manufacturers, why do you not even get control of the market itself as to price and everything else?—A. You are going on the basis that there is no agreement among the outsiders. Are you sure of that?

Q. It has been generally conceded.—A. I am not willing to concede it.

Q. (By Mr. CONGER.) Was there any agreement between you 4?—A. None at all.

Q. (By Mr. FARQUHAR.) You buy and trade among yourselves?—A. We trade with outsiders as well as they do.

NO ATTEMPT TO THROTTLE COMPETITION.

Q. Certainly; but it is still a matter of comment that while you control your 60 per cent of the annual product you are controlling the independent owners, because if you should control the market price these independents could not.—A. They could control it to the extent of their own output.

Q. Is it not a fact in your business that you name a reasonable price? You say all transactions are based on profit, and you name a reasonable price and the whole country agree to that?—A. I did not say that.

Q. Then they have practically to agree to that?—A. No; I did not say that.

Q. How near will you come to it?—A. I say from 65 to 95 per cent, possibly 95 per cent.

Q. Then you want to make the statement here that the combinations have not in any way made the combination to eliminate competition?—A. I am not talking for any concern except the American Steel and Wire Company.

Q. I mean your own.—A. I say we have not, directly or indirectly, attempted to throttle competition in any manner, or made any agreement whatever as to price.

Q. Have you ever made in your own business any attempt to name prices as far as the mills or manufacturers outside of your own company are concerned?—A. Why, I think, as a broad proposition, the prices being equal, that the large trade would give us the orders.

Q. That is right.—A. I believe that some of my colleagues do not agree with me.

Q. (By Mr. CONGER.) On what basis do you believe that?—A. I believe that because I believe that a large buyer would figure that if it ever should come to a fight in business we would be willing to go as low as the other fellow and a little lower, and when times are good they are willing to buy of us, depending upon our feeling, upon our sense of justice and equity, to take care of them if there ever should come a storm.

Q. In other words, your theory is that the present high prices come from the demand for consumption and not from any agreement?—A. Entirely, entirely; they are very much higher than I wish they were, I will say that.

NO PRESENT DESIGN OF AN INTERNATIONAL SYNDICATE.

Q. (By Representative LIVINGSTON.) Do you desire or purpose to continue your efforts, to renew your efforts with manufacturers in foreign countries to syndicate this business?—A. No; I think we have about given that up and made up our minds to paddle our own canoe. To tell you the truth, I think they would have given me 50 per cent before I left Europe, but I got scared and came home. They had a meeting in Berlin, but I made up my mind not to go to it. I think they would have given me 50 per cent.

WHO ARE COMPETITORS?—WHAT IS RAW MATERIAL?

Q. (By Mr. RATCHFORD.) In reply to a question, you stated, I believe, that it was not the purpose of your company to eliminate competition?—A. That is true. We have been offered nearly every plant that is outside at fair prices, and we declined to buy them.

Q. You have further stated, I believe, that if you were to sell your wire at a price at which you could make a reasonable profit you would drive the small manufacturers out of business, or words to that effect; is that true?—A. Well, the manufacturer that bought his raw material of us—

Q. But prior to the time he bought his material of you. We want to get at that. We assume now that he is manufacturing independently?—A. What do you call his raw material? There are so many definitions. Do you call it ore?

Q. Ore is raw material, I presume; some such substance as that.—A. The fellow that has raw material, his ore would not suffer from anything we could do if we were inclined to.

Q. Would not suffer?—A. No.

Q. The smaller manufacturer has concluded, I believe from the evidence you have given us, in some cases to buy from you and sell to the consumer?—A. Yes.

Q. Feeling that he can do so, of course, more cheaply than he can manufacture?—A. Yes; perhaps that is it.

Q. What effect has that on the former?—A. Perhaps he has not got the facilities for getting ore; perhaps he has to buy a partially finished product and finish that product; he may have to buy plain wire; he may have to buy rods or billets.

Q. If he has not the facilities, he is not a competitor?—A. He is a competitor in the finished line; you can see the various stages.

Q. Yes; but in the strict sense he is not a direct competitor, is he?—A. Yes; in the finished line he is. He is a direct competitor in whatever line he sells to the public. If he is selling wire nails to the public and we are selling wire nails to the public, that man is a competitor of ours, is he not?

Q. Yes, yes; if he is manufacturing wire nails and you are doing the same, he is a competitor.—A. Yes. Now, then, he may buy his wire from us to make those nails, and he may buy his rods, or he may buy his billets, or he may buy his pig iron, or he may buy his transportation from the American Steamship Company, in which I am interested. So the stage cuts a great figure.

ABOUT BUYING ORE.

Q. Now, taking up the subject of the ore in the ground, you made reference to that in the beginning of your testimony.—A. Yes.

Q. The statement made, I believe, was that the value of that ore had increased per ton from 40 cents to \$2 within the last 2 years?—A. Within the last 3 or 4 years. I think in 1894 was the lowest price for ore.

Q. Are those who are operating those ore mines to-day paying that excess cost per ton of ore produced, or are they operating their mines on contracts made prior to the increase of the value of the ore and the cost of the ore?—A. Well, there would be two legitimate answers to that. One is that it depends on when the fellow sold the ore. I got a telegram last night that we just started shipping ore from one of our mines to the Lackawanna Iron and Steel Company. We loaded, I think, 250 cars yesterday. That was the first day of shipment. Now that ore was a recent sale; it will pay a very handsome profit. If we had sold that ore 6 or 8 months ago, there would not have been very much profit in it.

Q. Is it usually bought?—A. (Interrupting.) It is usually bought in the winter months.

Q. Is it bought by the acre or bought on a royalty basis per ton?—A. Well, both ways.

Q. Both ways?—A. Not by the acre usually; usually a man pays so much for a tract. We bought one tract this spring; we paid \$700,000 for it; we had the ore measured up in that tract, and it measures, according to the figures of one of the best experts in this country, 83,000,000 tons of ore. I suppose that ore would sell to-day for 2 or 3 million dollars.

PRICES PAID FOR ORE AND QUANTITY MINED.

Q. Well, the question that I want to bring out directly is this: Is it not a fact that the bulk of the ore purchased in this country has been bought upon the lower-priced contracts?—A. You mean the ore in the ground?

Q. No, the ore that is purchased.—A. The ore that was purchased this year, or most of it, was bought at these high prices—last January's prices.

Q. (By Mr. FARQUHAR.) How high was last year's price?—A. I think it was about \$2.90 for Norrie as a basis.

Q. Now it is \$4?—A. I would be willing to pay \$5.

Q. How much is the increase in the output this year of ore mined compared with what it was in 1898?—A. I think prior to this year—I have not the exact figures with me—but prior to this year the largest amount of ore that ever came out from what is called the Lake Superior district was about 12,000,000 tons, perhaps 13,000,000 tons. I would not be exact, perhaps 12 or 13 I would say. This year I think it will be between 16,000,000 and 17,000,000, and the prospects are that next year, from the present outlook, it will crowd 20,000,000 tons if they have transportation to move it.

Q. Has that increase come through demand and supply alone?—A. Yes.

Q. You know of no arbitrary raise in the price by manufacturers or owners of the product? It has come naturally, you say, by demand and supply?—A. Why, in our line—I am only talking about our line—but in our line it has come entirely from supply and demand. We are behind our orders to-day.

WHY LOWER PRICES WOULD BE BETTER.

Q. (By Mr. CONGER.) A short time ago you stated that the prices of these steel products were higher than you wished they were. I wish you would go into that a little further. Inasmuch as you say you are in business to make money, why do you object to the higher prices?—A. We are quite large buyers of what is known as soft steel, steel from .04 to .10 carbon. There are some higher carbons, .60, .70, .80, or .90. We are quite large buyers of that steel. In the past we have been able to buy that steel at anywhere from \$13.50 to \$16 a ton. We are paying for that steel now—I think our last purchase was \$32. That was some time ago. I think to-day the price would be \$34 or \$36, and of course that pushes up the price of our finished product accordingly. We have paid for steel as high as \$50 a ton this year; bought a good deal of it as high as \$50.

Q. In other words, then, the price of your raw material for making these products has increased more than you have been able to increase the price of the manufactured products?—A. Yes; we have had stuff sold at 2 cents a pound and we paid \$50 a ton, 2½ cents, to make that. It just so happened.

Q. Sold on contract, you mean?—A. On contract to manufacturing concerns. I do not mean to be understood by that that we have been doing a losing business

with our eyes open; but we did not realize that steel was going so high, and we have had to go into the market and buy steel at \$50. We bought a good deal of it at \$48, special carbon and special phosphorus steel that we had to have in our business. We paid the National Steel Company, I think, \$48, and I think we paid Jones & Laughlins, of Pittsburg, \$50, and I think we offered Mr. Carnegie—I know I offered Mr. Schwab \$50 for quite a large tonnage and he told me he could not sell it.

Q. Do you think the managers of any others of these large steel companies agree with you in this idea that their interests would be better promoted if prices were lower?—A. I think so; that is, I recently heard the heads of other concerns regret that the demands and the conditions had forced things to such a high pitch. The amount of it is that the manufacturers have not made nearly as much profit out of this advance as the public has been led to believe. Everything they have had to buy has been proportionately high, their wages and everything else.

WHY PRICES ARE SO HIGH.

Of course, no one will deny that making open-hearth steel at \$50 has been a very profitable business. There has been a great deal of it sold at \$48, but the trouble was that there was not enough open-hearth steel to go around. There were not enough plants in this country to take care of the immense consumption. I believe that until this year there has practically never been any large amount of steel cars made. This year I think they are using nearly a thousand tons of plate a day, iron and steel, in the manufacturing of cars. That is in an entirely new industry. The shipbuilding business has been very active both at home and abroad, and that has consumed a very large amount of plate and angles and channels and that class of material supplied to ships. The consequence has been that a shipbuilder would take an order for 5 boats, and after he had taken the order, perhaps, he would go out to buy his material and he would find it a little bit higher than he expected he would. He would conclude that if he waited a week or two he might get a lower price; and he would wait and the price would go up on him. This has been true of both sides of the water until they pushed up the prices on this, and in pushing them up they have pushed up the price of wages, of the labor that made the plates, the angles, and all that class of labor that is paid on a sliding scale; and they have got higher wages on that account. It has been a very lucky thing for the workmen. It might be unfortunate for the man that took the contract for the ships. I have happened to know of ships that have been built with some material that cost them \$1.10, and the next plate on the same boat cost \$3. It was perhaps no fault of the boat maker. He could not get steel when he wanted it; there was a breakdown, and he had to go out and buy what was necessary, and the iron and steel manufacturers are now from 3 to 9 months behind their orders.

MARKET CONDITIONS IN GERMANY.

Q. Is that true in this country or on the other side of the water?—A. It is more true on the other side than it is here. I think the average iron and steel manufacturer in Germany is sold up until about the middle of 1901, 18 to 20 months. The condition is much firmer over there than it is here, because they go so much further ahead with their sales.

Q. By saying that conditions are firmer, do you mean to say that prices have not advanced here as much as they have over there?—A. Yes.

AMERICAN STEEL AND WIRE COMPANY AS A BUYER OF STEEL.

Q. (By Senator KYLE.) To what extent do you go into the open market to purchase your steel?—A. I bought week before last—I was in New York all last week and week before—I bought 200,000 tons myself for which I have contracted to pay 7 or 8 million dollars; I can not tell you the amount until I figure it up.

Q. Ordinarily do you go into the open market in this way?—A. Yes; we are always buyers.

Q. But particularly in such times as these, with the increase of business?—A. It is perhaps fair to say that we have been always the largest customer of the National Steel Company, the Carnegie Steel Company, and the Federal Steel Company—certainly the Federal and Carnegie. I would not be quite sure about the National, but certainly the Carnegie Steel Company and the Federal. We pay them more money than anyone else; there is no doubt about that. They have told us so.

WHY THE HIGH PRICES WILL NOT CHECK CONSUMPTION.

Q. (By Mr. A. L. HARRIS.) What effect will the present high prices have upon consumption in the future in the steel business?—A. I have thought that they

would check it; but in talking with railroad presidents, I have made up my mind that it would not give much of a check, for the reason that up to two or three years ago the railroads were transporting cars that contained 15 to 20 tons of goods of various kinds, coal, ore, and coke; to-day they are using cars that carry 50 to 60 tons. They have had to strengthen their bridges, tear out the old bridges and put in new ones, tear out the old rails and put in new ones, demolish the old cars and buy new ones; and that transition state is going on, and I think it will continue for the next year or two. Many men that are perhaps better posted than I am think that it will continue for three years. Certain it is that our railroad presidents and men who have made a study of this thing believe that these high prices are going to rule for two or three years, and they give as a reason that we have got 100,000 miles of railroad that is laid with 60 or 65 or 70 pound rails, and we have got to pull out that rail and put in 75 to 100 pound rails. We have got to pull out 4,000 or 5,000 light bridges and put in heavier bridges. We have got to have heavier locomotives. It was only a short time ago that the average railroad man figured that 500 to 800 tons of dead freight was a very large train load. They are now hauling as high as 2,000 tons to a train load. That necessitates heavier equipment, heavier motive power, heavier rolling stock, heavier rails, stronger bridges; and that thing is going on to an extent, the American railroads are making such immense strides over any other portion of the world, that it is hard to tell when this thing will stop. I do not believe any mortal can tell. Some of the wisest men in the iron and steel business have been very greatly deceived.

Q. (By Mr. FARQUHAR.) Are these great purchases of rails by the railroads somewhat predicated on this state of facts that you are now forecasting?—A. Yes; I do not think a railroad could buy 100,000 tons of rails and get delivery of them in 1900. They are all sold up now through the year. It is impossible to get them.

NO CONNECTION OR AGREEMENT WITH THE OTHER GREAT STEEL COMPANIES.

Q. (By Mr. JENKS.) You spoke of the fact that the American Steel and Wire Company was perhaps the largest customer of the National Steel Company and the Federal and the Carnegie?—A. Of the Federal and Carnegie; I am not sure whether they are of the National.

Q. The statement was made here by some of the men connected with the National Steel and the American Steel Hoop Company that while there was no immediate formal connection between the two companies, they had so many directors of one company that were also directors in the other that they worked together in unusual harmony. Is there a similar arrangement between the directors of the American Steel and Wire Company and any of these other companies that you have mentioned?—A. No; the National Steel and the American Steel Hoop and the American Tin Plate are very close together.

Q. Yes; that is what they said.—A. And therefore probably the largest customer of the National for 1900 will be the Tin Plate, and next to them the Hoop. But with the Carnegie and the Federal I am very sure we have always been the largest customer.

Q. As far as the Federal Steel and Carnegie companies are concerned, do you have some directors in both?—A. No.

Q. The boards are entirely independent?—A. Judge Gary was formerly largely interested in the Wire Company and our general counsel. He is now president of the Federal. And Mr. Buffington, who was treasurer of the American Steel and Wire Company, is now president of the Illinois Steel Company.¹ But the interests are not common interests in any way, shape, or manner. We have no arrangement with them whatever. We have no agreements. We have never been in a room with the Carnegie or Federal or National Steel people since we incorporated, as far as I know, and I do not believe any of our people have.

Whereupon at 1 p. m. the commission took a recess until 2 p. m.

WASHINGTON, D. C., November 14, 1899.

The commission met at 2.22 p. m.

John W. Gates again on the stand and examination resumed.

NEW DEMAND—HIGH PRICES AND EXPORTS.

Q. (By Mr. CLARKE.) Just before the recess you had testified as to the great increase in the demand for steel for shipbuilding purposes. Is not that true also of the demand for buildings in cities and for bridges?—A. Yes; that is true.

¹ One of the constituent members of the Federal Steel Company.

Q. Steel cars, steel vessels, steel frames for buildings and bridges—all these constitute a large new development in business?—A. They constitute, in my judgment, Mr. Chairman, as large a tonnage as the total tonnage of the United States in iron and steel 15 or 20 years ago.

Q. Is that business likely to increase rather than diminish?—A. Yes; it is increasing every year.

Q. (By Mr. A. L. HARRIS.) What effect will the present high prices have upon the export trade of the country in the future?—A. If they continue it will have the effect to curtail the exportation of iron and steel, except that manufacturers in some lines will be willing to export a certain per cent of their product at practically cost or possibly a small loss in order to operate their works full.

PLANTS ACQUIRED BY AMERICAN STEEL AND WIRE COMPANY, AND HOW ACQUIRED.

Q. (By Mr. JENKS.) May we go back to the question of organization, and the relations of your company to the different companies that came in; can you give us a list of companies that went together into this combination?—A. I think so.

Q. If you can give us the names of the companies which united, you may do so.—A. The American Steel and Wire Company of New Jersey owns all of the following plants, namely, 12 or 14 plants formerly owned by the American Steel and Wire Company, of Illinois; the Washburn-Moen Company, which had works at Worcester, Mass., Waukegan, Ill., and San Francisco; the Cleveland Rolling Mill Company; the Oliver-Snyder Steel Company, of Pittsburg, formerly called the Hainsworth; the Edith Furnace Company, of Pittsburg; the Oliver Wire Company, of Pittsburg; the wire department of the Shenango Valley Steel Company, of Newcastle; the Pittsburg Wire Company, of Braddock; the Cincinnati Barbed Wire Fence Company, of Cincinnati; the Indiana Wire Fence Company, of Crawfordsville, Ind.; the Consolidated Barbed Wire Company, of Lawrence, Kans., and Joliet, Ill.; the wire department of the Portage Iron Company, of Duncansville, Pa.; the Worcester Wire Company, of Worcester, Mass.; the Schoenberger Steel Company, of Pittsburg; the Puget Sound Wire Nail Company, of Everett, Wash.; the Laidlaw Bale and Tie Company, of Joliet and Kansas City; the Newburg Wire Nail Company, of Newburg, N. Y. I think that is all.

Q. Those are the different companies that united?—A. Some of them were acquired some time afterwards.

Q. In what way were these properties acquired—by the purchase of the plants outright, or by the purchase of the capital stock, agreeing to pay the same price for the minority?—A. In some cases by the purchase outright of the plants themselves, the various concerns settling up their assets and liabilities.

Q. In the cases in which you bought the majority of the stock, or all of the stock, do those companies retain still their independent existence, as is the case, for example, in the Federal Steel Company?—A. In only one instance, I think; that is the Schoenberger Steel Company, of Pittsburg.

Q. In the other cases the separate companies have been dissolved, and you have simply taken their plants?—A. Yes.

PLANTS CLOSED—WHY THEY WERE BOUGHT.

Q. Have you since the purchase of these different plants closed any of the plants?—A. Yes.

Q. What ones?—A. We have closed all of the plants that could not operate economically and increased those that could.

Q. Do you recall how many you have closed—what ones?—A. The one in Newburg, N. Y., was closed when we bought it. The Portage Iron Company at Duncansville we closed and moved the machinery elsewhere. Puget Sound we closed, that is two, Crawfordsville is three, Lawrence, Kans., is four, Cincinnati is five.

Q. Why do you buy a closed plant?—A. In connection with the Newburg Wire and Nail Company plant there were some patent complications that caused our patent counsel to think that it was wise for us to buy the plant. We had a partial list of patents, and we thought it policy to acquire the balance, and we could only do it through the purchase of a plant that carried with it the balance of the titles to those patents.

Q. Your total output, I presume, has been increased?—A. Yes.

Q. Can you give us an idea of what the percentage of increase has been?—A. I should say 15 or 20 per cent over 1898.

Q. (By Mr. CONGER.) Why did you buy those plants that were closed?—A. There were various reasons. I should have to take each individual plant and explain it to

you in a particular way. In the case of the Puget Sound Wire Nail Company—that plant was owned by Mr. John D. Rockefeller. Mr. Rockefeller had a contract with the Cleveland Rolling Mill Company for the purchase of a large quantity of raw material at what we thought was a very low price.

Q. You purchased the plant to get the contract?—A. We purchased that plant to get the contract. If the contract had stood he would have made several hundred thousand dollars out of it; as it was we made the money. I could go on and give you our reasons for purchasing each one.

Q. Similar reasons, then, existed in the other cases?—A. Usually, yes.

Q. (By Mr. JENKS.) Let me ask you about one or two more; take the Crawfordsville company, for instance.—A. Crawfordsville had a contract with our own company, and it was a very arduous contract for us to fill, and we concluded that the cheapest way to fill it was to buy them out. We really got the plant for nothing and made a great saving by buying them out as compared with that contract.

Q. And the plant at Duncansville?—A. The plant at Duncansville had a sliding-scale arrangement with the Carnegie Steel Company; as long as the ownership of the plant remained with A. R. Whitney that sliding scale continued. Mr. Whitney was on particularly friendly terms with the Standard Oil Company, and they were buying their nails of Mr. Whitney, and we thought they were buying them a little too cheap. They were working a sort of a syndicate arrangement, too, and it was a particular nail that could only be driven by machinery, and the Standard Oil people had never given us a fair opportunity, we thought, to demonstrate that we could make that nail just as well as Whitney could. We bought them out and have been selling the Standard Oil Company their nails ever since.

REASONS FOR CLOSING PLANTS.

Q. (By Mr. CONGER.) Is there any general reason given, or that you could give, for the closing of these plants? Was it the lack of economy in their operation?—A. Entirely so. Wherever we bought a plant and found that we could operate it economically and make more money, we have operated it; and wherever we found that we could not, we have shut it down.

Q. Was the fault or defect in those plants one of location, or in the machinery of the plants?—A. Sometimes it was location and sometimes it was badly constructed machinery, and sometimes it was a combination of both.

Q. (By Mr. JENKS.) In times when prices are low and profits low one would suppose that it would be a regular thing to close some of the poorer plants. In times when prices are as high as they are now and increasing rapidly—you say that you can not begin to meet the demand for your product—one would suppose that the plants that are not quite so profitable as the others might still pay.—A. They would if we could get the raw material. We can not get the raw material.

Q. So the closing of plants depends in part on that?—A. Yes; it is a combination of circumstances. If we could get the raw material and sell the stuff we should operate the plants day and night; we should hate to stop one on Sundays.

Q. Have you dismantled those plants, the one at Duncansville and the one at Crawfordsville?—A. Some we have dismantled and shipped elsewhere; others would be able to start up if we could get the material. In Cincinnati I think we could start up at a day's notice. Salem, Ohio, is another one; we may dismantle that and move it somewhere. Findlay, Ohio, is an old plant; I do not think we will operate that; it is not in shape to be operated.

SAVINGS BY CONSOLIDATION.

Q. What would you say were the chief sources of saving that you have made by combining?—A. Well, in the separate maintenance of the various organizations, each concern had to have a president, most of them one or two vice-presidents, a secretary, a treasurer, and auditor, and so on; and we have done away practically with that class of men, and put the operating end of our business in charge of officers in New York and Chicago. The books are kept in two places, New York and Chicago; the operating books.

Q. Do you not need to keep a good part of those same men who formerly were the chief executive officers of these several plants, as superintendents of the different plants, under different names—the same men?—A. Well, I should say we had dispensed with 50 per cent.

Q. (By Senator KYLA.) Of the men or the expense?—A. Of the expense. For instance, we divide it into districts. Our Pittsburg district, I think, has about 10 plants. We have a general superintendent that looks after this entire district; so in

the Cleveland district, and so in the Chicago district; and some of the men that have been important in the management of the individual plants have sold out and taken their money and invested in other lines, or gone abroad and done whatever they saw fit; and such of the valuable men as wanted to stay with the company have had a chance to stay. But I should judge that we have dispensed with perhaps 50 per cent of what I should call the high-priced men.

Q. (By Mr. JENKS.) In that case, then, your chief saving in labor from the combination is the saving in traveling men on the one hand and these high-priced men you had on the other?—A. Yes.

Q. These high-priced men and superintendents?—A. And superintendents.

Q. (By Mr. FARQUHAR.) How many traveling men have you dispensed with.—A. I think we have dispensed with about 200 traveling men.

Q. (By Mr. JENKS.) What other sources of saving have you?—A. Well, the Chicago merchant now gets his goods from the mill nearest Chicago; the St. Louis merchant gets his goods from the mill nearest St. Louis, and so with New York and Cleveland and other parts of the country. We take into consideration the freights.

Q. Save the cross freights?—A. The cross-freight saving is quite an important item. I should think the cross freights would amount to half a million or a million dollars a year. It is a saving in that particular.

Q. Do you think that you make any very material saving by the combination in the common use of patents? You spoke of how exceedingly valuable some of your patents were. Did you acquire them through this combination particularly?—A. Some of them, and some of them we acquired by purchase from time to time. We made this saving in that respect: I venture to say that the companies I have been interested in have paid out in 20 years about a million dollars to lawyers, patent attorneys, on account of patents, and we have saved most of that. We have a general counsel that looks after our business and one man who looks after patents under his instructions.

Q. By owning all the patents you avoid law suits?—A. We do not have very many law suits on patents; we did have a great many.

Q. Do you have any other special source of saving?—A. No; those are the important items.

Q. (By Mr. FARQUHAR.) Is there any other one?—A. Our loss from bad debts is very important, I think.

Q. (By Mr. JENKS.) What have you to say about that?—A. Our percentage of loss from bad debts, I should say, up to date this year, is about one-twenty-fifth of one per cent. Under the old régime I should say it was one-half of one per cent.

Q. How do you manage to make a saving there; how does it come about?—A. If a man does not pay according to terms, we are a little more strict with him.

Q. You are in a considerably better position to stop his source of supply?—A. We do not attempt to stop his source of supply, but we might ask him to send a check or draft with the order the next time. We should be perfectly willing to sell him, but we should like the money.

Q. You, of course, might have done that under the old system. How is it that your power is greater under this?—A. Well, under the old system a merchant might quibble with half a dozen manufacturers, and there might be some one particular manufacturer that he would treat fairly, so that he would feel that he had a port in a storm. And in the commercial term men claim shortage, make unreasonable demands, and we do not find those demands to exist to any such extent as they did before. They claimed a shortage, for instance, of five kegs of nails or five spools of wire, and if we accepted their statement we had to fight it out with the railroad company. We had a check, and we thought we knew we were correct, and now we are pretty apt to be firm. We will always consider their claims, but we will not allow them as freely, perhaps, as we would before; they have to be very thoroughly well founded on fact for us to make an allowance.

Q. And in the line where you control 90 per cent of the product you are in a good deal better position than you were before to bring pressure to bear upon them?—A. We sell our goods on 30 days' time, and the only pressure we could bring to bear would be to ask him to send a draft with the order.

Q. Or refuse to sell him?—A. We never refuse to sell anyone, I think.

Q. Is there any saving that comes from owning these different sources of industry, mines, transportation, and so on, that you did not have before? Are you so much more certain of getting your raw material than you were before that you can count that as a distinct advantage?—A. That is of very great advantage to us. You understand we are less than a year old—that is, the American Steel and Wire Company of New Jersey; but when we have finished the program that is laid out—and that work is being pressed on—we shall be certain of our supplies of raw material; and when we are certain of that, we can always operate cheaper by knowing that we are going

to have our coke and our coal and our ore and our limestone and everything of that kind. We can always operate on a more satisfactory basis than we could if we had to depend on others to buy it.

NO SPECIAL FREIGHT RATES OR REBATES.

Q. Can you make any material saving, not merely in avoiding cross freights, but in freight rates, by virtue of the fact that you are so much larger shippers? For example, you spoke of being so much larger shippers over the line from Cleveland to Pittsburg. Would you not be able to get a much lower rate over that line by reason of having such large shipments than you would if you were only a small shipper?—A. Well, I have made the broad proposition, and my answer is that I think the American Steel and Wire Company of New Jersey have made a fairly satisfactory profit for their goods, and they ought to be willing to allow the railroads a satisfactory profit for running their business. We have gone on the principle of live and let live in regard to that.

Q. (By Mr. CONGER.) You mean by that that you pay the railroads their schedule rates?—A. Yes.

Q. And do not accept or seek for a rebate?—A. If we have a rebate account with any railroad, or anything of that kind, shape, or nature in any of our companies, I do not know it. I will say that, if that is what you are driving at.

Q. (By Representative LIVINGSTON.) Do you ever receive a commission for a certain amount of freight to be delivered?—A. Well, if any of them have ever got it they have not turned it into the treasury, and I would like to catch someone with a commission in his pocket or in the bank. We have been very liberal in our treatment of the railroads, and we believe in it.

NO AGREEMENT WITH WIRE-FENCE MAKERS.

Q. (By Mr. JENKS.) The statement was made some months ago that your company had made an agreement with some 13, I think it was—some quite large number—of leading fence manufacturers, to furnish them material as cheap as they themselves could manufacture it if they were to set up rod mills, and that then they agreed in turn—I do not understand that this was a formal contract—but they agreed to maintain a price that would assure a reasonable profit to all parties concerned. Was there any such price agreement as that with the fence manufacturers?—A. Not that I know of. I think that my statement this morning, that we have no agreement of any kind whatever, to my knowledge, would cover that.

Q. Your statement this morning was not intended, I suppose, to cover the making of contracts at different periods or times with different concerns. I understood that was the nature of this agreement: that you had contracted with these large manufacturers, your leading competitors, to furnish them wire and rods—whatever was needed—at fairly good rates for a considerable period in the future, and that they in turn had given you to understand that they would maintain their prices?—A. The answer to that is that of all the fence—wire fence—made in the United States I presume we make half, perhaps more. The large maker outside of ourselves has recently moved to Pittsburg and started to erect his own works; so that I do not think there can be any contract of that kind. I have never seen any.

Q. That is, he has started to erect his own works for the manufacture of wire?—A. Yes; that is the Page Wire Fence Company.

PROMOTERS' PROFITS AND COMMISSIONS.

Q. I wish to go back again for a moment to the question of the organization, the causes of organizations, and so on. You spoke of having arranged—yourself and Mr. Ellwood—for the purchase of these various plants, and of having turned your contract over to Mr. Voorhees, as I understand, who made the arrangements with the bankers. What arrangements, as regards commissions and costs and so on, were made with the underwriters or the bankers for taking care of that part of the business?—A. We made no contracts with the bankers ourselves. I could not answer what the other people did.

Q. Do you mean by that you do not know?—A. I do not know.

Q. (By Mr. CONGER.) Do you know how many stockholders there are in your company?—A. Why, I should guess there were 1,500. That would be an offhand guess; I do not think I ever counted them.

Q. (By Mr. JENKS.) You, of course, have been quite familiar with the organization, not merely of this company, but of some others. The statement has frequently been made that in these later organizations anywhere from 15 to 20 and 25 per cent,

and in some cases more than that, of the common stock was required to cover the cost of organization. That included the pay of the promoter and the commissions. Would you think that, from your knowledge of the business of this company, as high, we will say, as 20 per cent of the common stock went for the costs of organization to anybody?—A. I can not state what amount. I presume they made money out of it; they assured me that they made money out of it, very kindly, and I take it for granted that they did make money, but the amount of money they made I have not any more idea of than you. To be very frank with you, I never wanted to know.

METHOD OF CONSOLIDATION—VALUATION OF PLANTS.

Q. In the case of a good many organizations that have been made, we have been assured that no one concern knew what was paid for other concerns. Was that true in the organization of this company? When you and Mr. Ellwood, for example, bought out different concerns and took options, was it your regular custom to buy each by itself without a general understanding among them all?—A. We negotiated with each company on as favorable a basis as we could, independent of any other company. We never bought a company that we were not willing to take and pay for irrespective of any consolidation. We went on that principle. I was fairly familiar with the wire business. We had a company for many years, called the Columbia Patent Company, that owned a very large number of patents. I was president of that company, and was president of an association—which was possibly contrary to law—a few years ago that sold the products. We discovered that we were infringing on some of the various trust laws and we discontinued that business. I had a very good idea of what this plant and that plant could earn, and had had a general idea for a good many years. When Mr. Ellwood and myself started out, we started out with the idea that we would buy a certain number of plants, irrespective of whether there was any consolidation or not. We would buy them and pay for them; and we did so without knowing how far we were going; and we did not buy anything that we did not think was cheap—that is, on their money-earning capacity.

Q. As independent plants?—A. Independent plants. For instance, one concern that I call to mind; we knew about what that concern was worth, and we did not ask them to set a price. We told them what we would give them in cash, and they started out by asking us a million dollars more than we offered them. We told them we would not pay them any more than we offered, and if they wanted to accept that we would trade with them and pay them the money in thirty days, and they did so. And another concern, I think we paid a few hundred thousand dollars more than we expected to, but they assured us that they had made a certain amount of money in the interim. You see, I had priced these plants a year before.

Q. In connection with the organization of the American Steel and Wire Company?—A. Of Illinois; so that I was familiar with the value, and I had figures furnished by Morgan & Co.'s accountants of their profits for 3 years.

Q. Do I understand you to say, then, that so far as this organization was concerned no added prices were given, because it was thought that, by virtue of the organization itself, or of the consolidation, it would be possible to make considerably higher profits than could be made if the plants were to be run independently?—A. That is absolutely correct, and I will make a further statement: There is not a plant that we bought that we could not sell out now or could not have sold at any time since we bought it at from 25 to 40 per cent more than what we paid for it. We bought the plants at what they were worth, in every instance, or we did not buy them.

Q. You spoke of buying some of these plants at a cash price or on the basis of cash. We have understood from some other companies that often all of their plants were bought with a distinctly cash option at any rate, and in other cases we understand that they were all bought for stock. Can you make any statement about that?—A. Well, I can not say what our neighbors did. I can say, so far as our own company is concerned, that all purchases made by Mr. Ellwood and myself were spot cash and nothing else. There was no exception in any instance. We paid out several million dollars before we thought it was possible to make any consolidation.

PRICES UNDER CONDITIONS OF MONOPOLY.

Q. Where you control 85 to 90 per cent of the output in any one line, are you not, in your judgment, enabled to keep your prices somewhat, not so very much, but somewhat, higher than would be possible if you were to control only 30 or 40 per cent of the output—that is to say, is there not in the control of that proportion of the output a certain slight, at any rate, monopolistic power?—A. I should like to answer that question by making a general statement first. Since 1890 the companies that I

have been interested in have practically controlled the manufacture of barbed fence wire in the United States and manufactured 85 per cent of all that was made in the world. During that time the price has dropped 50 or 60 per cent. It is a question of policy with a large concern that handles its business in a broad manner not to try and crowd the mourners. That has always been the principle that I have worked on, to try and make money in a legitimate way. While I do not intend to claim to you gentlemen that I am averse to making all the profits that I can make, I think it is bad for a concern to try and make so much money in one 6 months that they would ruin their business for the next 12 or 18 months.

When the manufacture of barbed wire developed in this country, in 1874, I was in the retail hardware business. I paid Mr. Ellwood, who is now my colleague, 20 cents a pound for a carload of barbed fence wire that we have since sold at 2 cents, since we were in absolute control, as he was in control at that time. That barbed fence wire has dropped from 20 cents a pound in 1874 to 2 cents a pound in 1899, 25 years. The wages of the laboring men have continually increased, on account of the improved methods of manufacturing, the increased output, and the fact that most of our men were on a tonnage basis. What we thought was a fair rate per hundred pounds to pay a few years ago has turned out now to be a very high price, on account of the enormous tonnage they can turn out. I can best illustrate that by stating that Mr. George T. Oliver, who is now out of business, one of our directors, stated to the Senate Subcommittee on Finance in 1888, in answer to a question as to what the boss roller of his rod mill got—it being at a time when there was a vacancy in the Chief Justiceship of the Supreme Court and many applicants for it—that he got \$21,000 for his last year's work. Senator Harris, I think it was, of Tennessee, said, "My God, that is more than the Chief Justice of the United States gets;" and Mr. Oliver said, "But there is more timber for Chief Justices than there is for head rollers," and it brought them all down with a laugh. Now, the head roller in a rod mill does not get to-day \$21,000 a year, as he did then. He got then 60 cents per ton, out of which he paid the night roller a certain sum and perhaps some assistants, and the balance of it he put in his pocket. But a head roller of a rod mill 12 years ago averaged to make about \$20,000, and they average to make to-day, probably, on a 30-cent basis, about half that amount, or \$10,000 or \$12,000 a year, and pay out just as much as they did then to their assistants. The reason is that the rod mill that was built originally to roll 100 tons a day will now produce 200, 225, or 250 tons; and while the head roller now has to pay his night roller and his assistants a large sum of money, still his net yearly amount is probably \$10,000 or \$15,000 to-day.

Q. The fact, of course, that there has been a great decrease in prices would not in itself quite cover the question that I have asked. Let me put the matter in still another way. Do you suppose that the prices would have been as low as they are now provided there had been a greater degree of competition along that line? You say that for several years you have controlled—that is, the concern you have been connected with has controlled—85 per cent or upward of that product. Supposing that there had been several different establishments controlling anywhere from 15 to 20 or 25 per cent each, with fierce competition among them all, do you suppose that the price would have gone down still lower than it is?—A. Well, I should think it would have gone lower.

Q. That covers the point, I think.—A. I should think it would have gone lower in the actual instance. But our control has been acquired by patents, which we have either gone and bought in the open market or paid others for, and we have paid out—the wire companies, in their various purchases of patents and in the litigation to establish them in the last 20 years—I should suppose, \$5,000,000 or \$6,000,000. They have paid out millions of money, and if you would eliminate that, I presume that prices might have been lower. I am willing to concede that.

THIS COMBINATION NOT DUE TO STRESS OF COMPETITION.

Q. It has been suggested with reference to several others of the larger combinations that the cause of their coming together was the fierce competition that existed among them and the fact that they were making very little money; that they came together to make these savings in order to increase their profits without increasing prices. What are the chief causes of the formation of your company? Was it this same competition?—A. It was because we wanted to be the wire manufacturers of the world.

Q. You had political ambition?—A. And perhaps a laudable one. I will say that the Consolidated Steel and Wire Company, of which I was a large owner, made in the last 3 years of its existence between 27 and 28 per cent per annum net. So that ruinous competition could hardly be said to be the reason for driving us together.

We believe that there is a great deal in the management of the business. We believe that has as much to do with its success as anything else, and our companies have always made money.

I started in the wire business less than 20 years ago, practically without a dollar, and many of my colleagues are in the same condition. The money we have made we have made out of the wire business, and we have made it by looking after our business closely, working anywhere from 12 to 20 hours per day, and by various improved methods, and pushing for business, and acquiring additional properties, and running our business on what we think were strictly business principles.

Q. (By Mr. JENKS). Do you think you can mention, as a prominent source of saving on the part of these consolidations, that you can secure the best talent more easily than you can in a smaller business?—A. Yes; there is no question about that. It would not be fair for me to say that we have the best talent in the wire business, because it might be contested; but I can say that we have the same men in the wire business that have made their money out of it. Those men are in it to-day.

DIVIDENDS.

Q. I see the statement is made as regards the American Steel and Wire Company that you have already paid dividends on your preferred stock and earned dividends on the common, but have not paid it on account of the fear of legal difficulties. Do the papers state it properly at all?—A. I am afraid there might be a stock speculator in the room. I do not know that there is such a thing in Washington. We have made a dividend on our common stock—a good one. We have not paid the dividend because the directors have not voted to pay it. Perhaps I am as much to blame for not voting to pay it as anyone.

Q. The question was asked particularly with reference to the statement made regarding the legal difficulties. I understood the Federal Steel Company had met some, apparently.—A. We are not willing to state that we are following in the shoes of the Federal Steel Company or anyone else. I will put it on that broad ground that our directors did not think it wise to pay a dividend.

Q. We have had a good deal of evidence with reference to charters under the New Jersey law, etc. That was the reason I asked you the question.—A. I have been opposed myself to payment of dividends on the common stock, for the reason we thought we ought to acquire certain properties, and to put our properties in such shape that, when this tidal wave, which may last 1, 2, or 3 years, has eventually found its level, we can pay dividends in any kind of times after we start.

Testimony closed.

WASHINGTON, D. C., November 14, 1899.

TESTIMONY OF MAX PAM, ESQ.,

Attorney at law, Chicago, Ill.

The commission met at 10.40 a. m., Senator Kyle presiding. At 3.08 p. m. Max Pam, esq., was introduced as a witness, and, being duly sworn, testified as follows: Senator KYLE. You may state your full name and address.—A. Max Pam, Chicago.

Q. (By Mr. JENKS.) What is your profession?—A. A lawyer.

Q. Are you connected with the American Steel and Wire Company?—A. I am the general counsel.

Q. Have you been so connected with the company since its organization?—A. Since the 1st day of July as general counsel. I was counsel in Chicago for the company from its organization until the 1st of July, when I was elected general counsel.

Q. Are you familiar with the process of organization of the company from the beginning?—A. By information and hearsay.

Q. Of your own personal knowledge, with reference to the financial end of the organization?—A. Not as to details; simply as to the general scope; that is all.

Q. Were you or are you familiar with the arrangements that were made with the bankers, J. & W. Seligman?—A. I am not.

Q. You have heard the general testimony given by Mr. Gates. So far as your knowledge goes, do you agree with it?—A. It is substantially correct.

Q. Do you recall any point on which you would care to add any further information?—A. On that subject?

Q. Yes?—A. No, sir.

Q. On anything connected with Mr. Gates's testimony?—A. No; I do not think there is anything further in that respect.

ADVANTAGES OF INCORPORATING IN NEW JERSEY.

Q. I want to ask you to explain the differences between the corporation law of the State of Illinois and that of New Jersey in such matters as are stated in the following

Chicago?—

scope and application to a business that involves as many elements and conditions as this kind of an institution does. They give the power to a corporation to carry on every form of legitimate enterprise in any State of the Union, with the exception of railroads in the State of New Jersey. It excludes the right to operate railroads in New Jersey. The laws of Illinois do not permit, in many respects, the exercise of the powers that are conferred by the charter of this corporation under the laws of New Jersey. Each State has its own corporation laws, and each has the right to say that certain corporate powers are or are not in accordance with its public policy. Therefore, a question may arise as to the power of the corporation to act as it did, or to do the business it has done. The New Jersey act is so broad that the State which gives the corporation life gives it the power to do just what it undertakes to do under the provisions of its charter; and no question can be raised then by any other State, so far as the power of the corporation is concerned, to act under this State charter.

Q. Do I understand you to say that in accordance with the law of the State of Illinois it would be an impossibility to get a charter to permit a company like the American Steel and Wire Company to engage in the mining, transporting, and manufacturing of steel, wire, and so on? Under the laws of the State of Illinois would that include too many lines of business for one corporation?—A. Yes. The laws of Illinois will not permit the exercise of the powers that the laws of New Jersey will. In this corporation, for instance, it is necessary to own coal mines in Pennsylvania. The Pennsylvania statutes provide that no nonresident corporation can own, in fee, more than 100 acres of its land. Now, a corporation like this owns, or rather controls, thousands upon thousands of acres. If organized under the laws of Illinois it would be absolutely powerless in the acquisition of that property, because the laws of Illinois do not permit a corporation of that State to own stock in other corporations. Under the New Jersey act this corporation has a right to own the capital stock of a Pennsylvania corporation, which may acquire property in excess of 100 acres, and in that way it can exercise its ownership.

POWER OF A STATE OVER CORPORATIONS CREATED BY ANOTHER.

Q. What restrictions do the laws of Illinois put upon foreign corporations?—A. None, except that they are subjected to the same duties and obligations, but can have the same rights, as domestic corporations. The right to do business is guaranteed under the interstate commerce act; therefore no State legislation can affect it.

Q. (By Mr. FARQUHAR.) If the corporation, organized under the laws of the State of New Jersey, should do business in the State of Illinois with a grant of greater privileges than any Illinois corporation had, and in the same line of business—a competing company, you may say—would a suit for injunction, or whatever other form in law it might take there, lie against this foreign company from New Jersey, restricting it from doing business in the State of Illinois on a more liberal principle than the Illinois act?—A. If you mean by that, if the foreign corporation undertook to act contrary to the law of that State, unquestionably the State, through its legal officer, would have the right to restrain any exercise of power contrary to the provisions of the laws of the State. For instance, we should have a right under our New Jersey charter to go into Illinois and operate railroads. The Illinois law does not permit a corporation like ours to operate railroads; it must be incorporated especially for that purpose under the act of Illinois. Unquestionably any person injured, as I said, would have a right to stop the corporation from exercising a power which was directly prohibited by the State. That does not involve any question of transaction between the States or between any citizens of States. Of course, nothing could be done by any State which would interfere with their corporate right to do that.

Q. But your company, the American Steel and Wire Company, could acquire in the State of Illinois, by charter, the right to build railroads and operate them there?—A. In accordance with the provisions of that State.

Q. Provisions of the State of Illinois?—A. Of course that would require compliance with every requirement. That is, the corporation, as a corporation, understand me, can not. Individuals could organize a railroad company for the purpose of carrying on the railroad business. A corporation has no such power.

Q. But the incorporators, for instance, or your board of directors, could acquire that right of the State of Illinois of course?—A. Any separate individuals, whether

directors of this company, or of any company, have a right to go into Illinois and organize for the purpose of operating a railroad, pursuant to the laws of that State.

Q. So that even with all the liberality of your charter under the State of New Jersey, you have to conform to the State laws of other States where the restrictions in incorporation are of a more conservative form than they are in New Jersey?—A. I do not think the question has ever arisen as to the extent to which one State can interfere with the exercise of power of a corporation of another State; but I take it, as a broad principle, that a corporation, being purely a creature of the statute, can exercise no greater power than the law-making power gives it, the legislature; and if the legislature of Illinois undertakes to say under what conditions and limitations the corporation may act within the bounds of that State, corporations are confined to them, so long as that in no way interferes with the provisions of the State constitution, or the provisions of the Federal Constitution as to interstate commerce. The legislature has its limitations the same as any other governing body.

NECESSITY OF LIBERAL CORPORATION LAWS—PROGRESS.

Q. You mentioned a minute ago, in answer to Professor Jenks, that your reason for incorporation under the laws of New Jersey was their liberality.—A. I did not say that, if you will permit me. Professor Jenks asked me some of the differences existing between the laws of the two States and I started to give them.

Q. And in your answer, of course, you admitted them to be more liberal?—A. You can not run an institution of this kind, in my judgment, with the different elements—mining, coal mining, and all these different elements that enter into a business of this kind—and make it one whole. It has got to be done under powers broad enough to permit it to be done. Take, for instance, another element, which, while I do not think it affects this corporation in the slightest degree, indicates to you how advantages are gained by such acts as the legislature of New Jersey has enacted, and which I think all States should adopt if they can for the good of the State. The Illinois law, for instance, exempts from taxation the capital stock of purely manufacturing corporations; that is, where they are for manufacturing only. The circuit court of the State has so construed that law that if the company exercises any other power, like mining (which is necessarily a corollary to a manufacturing business like this), it is not exempt from taxation. Now, in Illinois, there are any number of wire companies outside of this company. They are in the same business, and if the capital stock of this company were under the law of Illinois the corporation would be taxed on this \$90,000,000 of stock, while every other corporation there that does not go into the mining business—which does not produce its own ore, as we do—would be exempt from this burden. That would be an inequality and unfairness toward this one company. So, throughout, you will find that there are different elements of disadvantage in narrow legislation. Legislatures, and courts, and executives, and everybody must necessarily make and interpret the law for the good of the whole, in the light of changed conditions as they arise. The State that soonest realizes that position is going to profit by it, beyond question. This country has demonstrated that. England has demonstrated it in connection with restriction of trade, which is very much like this question. I remember some 10 years ago, when there was a question of the decisions in Illinois and other States, if a doctor, for instance, had agreed to stay out of practice, if he had sold his good will for a greater territory than a few miles, the courts would hold that that was an unreasonable restraint and void. They subsequently changed that so that the State line would be regarded as unreasonable—anywhere beyond the State line. You take it now, and the imaginary State line is entirely wiped out, simply because conditions change. The railroad, the telephone, the telegraph, every scientific production, they make practically no difference between them. They have made it so that it is absolutely impossible to restrain contracts, excepting in particular cases. Within the last 10 years that whole situation has changed. That characterizes this situation, too, as purely economical, and as an economical condition arises it must be met legislatively, judicially, and executively. As they are met, they are bound to conduce to the benefit of the whole country.

Q. So that you would say that the laws of New Jersey give capital greater opportunities for centralization than any other State of the Union?—A. I would not say that, because I am not familiar with all, but it certainly gives this—an encouragement to capital to invest and reach out all over the country in the pursuit of an industry that is beneficial to everybody concerned, whether it is the capitalist, whether it is the consumer, whether it is the laborer—everybody gets the benefit of it, unquestionably.

PUBLIC REPORTS AND DECLARATIONS.

Q. (By Mr. JENKS.) Do you think of any other special advantages in the New Jersey law compared with the Illinois law? Is there any difference as regards, for example, the nature of the reports to the State?—A. Yes; New Jersey requires reports and Illinois does not.

Q. In reference to the articles of incorporation, that is, as to the declarations that have to be made regarding the nature of the business, the basis for the issuance of stock, and so on; is there any material difference there?—A. None; if anything, New Jersey requires even a fuller statement.

NATIONAL CHARTERS; DESIRABLE, PERHAPS CONSTITUTIONAL.

Q. Mr. Gates stated that he favored a national incorporation law, providing that corporations of \$5,000,000 of capital stock or upward should be, or at any rate might be, incorporated under the United States law. Is it your opinion that a national incorporation law of that kind would at present be constitutional?—A. Well, of course, that is asking a good deal, but, in my judgment, Congress would have the power of regulation of corporations, which are purely legislative creatures, requiring such limitation in the doing of business as would give it the power to license and authorize. There is some question, I would confess, as to the power of Congress to do that, but I would not say it did not have the power. Unquestionably it would be a good thing if it could be done, because it avoids one great hardship; that is the exercise by each State of its separate right to construe the powers and duties and obligations of each corporation. At the same time another important question would arise, even if a national charter was issued—the question of the taxing power being taken from or vested in the Government or the States separately. It can not be, I am inclined to think.

Q. (By Mr. CLARKE.) The American Steel and Wire Company produces goods for interstate commerce largely, does it not?—A. Yes.

Q. There is no question of the constitutional power of Congress to regulate interstate commerce?—A. None.

Q. Might not that power be extended to the production as well as the distribution of goods for that purpose?—A. Except in so far as it affects the right of any man to control his own property, otherwise called "jus disponendi," I say yes; Congress can suggest, but can not control the right of a man over his own property.

Q. (By Mr. FARQUHAR.) Do you suppose that under the Constitution of the United States, without amendment, national corporations, being brought under a license, the license always carrying a fee, could be incorporated or created under the taxing power of the National Government?—A. Well, I won't say that it can be done under any special department. My impression is rather in favor of the power of Congress now to issue charters. Of course it can not be done under a special act. I think it could be done under special charter business, though.

Q. Special charter?—A. Applying to Congress for a charter to do business over the United States, and Congress could, if it wanted to, give a corporation life, and in doing it make such limitations and conditions as it deemed fit and proper.

Q. (By Mr. A. L. HARRIS.) Under what provision of the Constitution do you base that decision?—A. The general constitutional delegation of legislative power to Congress, of course, the giving of charters and grants.

Q. (By Mr. FARQUHAR.) All rights rather than reserved rights, you mean, do you not?—A. Yes.

Q. (By Mr. A. L. HARRIS.) I was thinking that the rights, or rather reserved rights, went the other way.—A. The Constitution is preventive; that is, Congress is prevented from doing anything contrary to the Constitution. The legislative body has the right to enact any law that is not contrary to a special constitutional provision. It is an inhibitive document. It is prohibitive of legislation and action, and confines legislative action within the provisions of it, and it is the only working constitution that has expressed the limitation that a legislative body can not act.

Q. (By Mr. FARQUHAR.) And under the taxing law itself, even in the cases taken of the oleomargarine bill, which could never become a law, unless a tax was imposed, no matter how infinitesimal the taxing might have been, it did not take away from the State the local taxation of these oleomargarine companies, and their property, real and personal, where they were.

Mr. A. L. HARRIS. The revenue measure.

Q. (By Mr. FARQUHAR.) So you see a double revenue there at once; a license would be in the same line as revenue. Do you not think so?—A. Well, I hardly—that is, it

would not be strictly so. I think the Government certainly has the right to issue a license for proper pursuits, and they have the right to consent.

Q. The right to issue charters as they did for the Nicaragua Canal Company, the American Company of Nicaragua?—A. Yes; so they would have a right to issue charters for railroads under proper regulations. I think it is done in some instances where railroads cover territories—Congress issues special charters to railroad corporations to operate in these territories and extend beyond the confines of those territories.

THE ANTI-TRUST LAW OF ILLINOIS.

Q. (By Mr. JENKS.) Illinois has a special law on the subject of trusts and combinations, forbidding the formation of companies that are supposed to act in restraint of trade?—A. Yes.

Q. In your judgment, has that law been effective in preventing, in the State of Illinois, combinations of capital to any extent?—A. I do not think that law has, no; because no one finds fault with a sound, wholesome law. I think the treatment sometimes given to institutions, pursuing them or attacking them, will ultimately tend to affect the welfare of the State.

Q. In your judgment, then, this law forbidding monopolies, trusts, and so on, is in itself a wise law?—A. Unquestionably.

Q. And as regards any evil that might come from it, it would be in the unwise enforcement of it?—A. Yes; or abuse of it.

Q. Is the law itself drawn in such terms that it would, in your judgment, tend to prevent combinations that might easily result in the savings that have been suggested by Mr. Gates and others?—A. Why, I do not think the law would interfere with an organization or corporation such as ours, because it does not come within any possible suggestion, even, of any of its provisions.

Q. Do you think that the law would forbid the organization of a corporation that would control, we will say, the entire output of any one industry, aside from patents?—A. In other words, can there be such a thing as a corporation that will come under that act?

Q. It amounts to that; yes.—A. Well, I should say, of course that might be done. I have this in mind. For instance, suppose you have a large number of competing institutions, and it is desired to control those competing institutions in their separate organizations, and have them controlled by either a syndicate or a corporation that holds stock in all of these corporations, leaving them intact, and place them in a position where they could deceive the public by leading the public to believe they are competing with each other, when they are not; I can readily see that that would be contrary to the law.

Q. But if one corporation were to buy up all of its competitors until it had substantial control of the market, that, in your judgment, would not be contrary to the law?—A. So long as the motive and purpose is to exercise merely a man's prerogative of doing with his money what will produce the most good, without being necessarily oppressive, by entering into an arrangement in advance to oppress, there certainly could be no objection. Suppose an institution could be successfully attacked; a State could not confiscate the property. It can not take property from them at all. All they can say is that the organization was imperfect and contrary to the letter of the law, and that they have got to return the property to the owners. Now, what are the stockholders going to do with it? It can not be contended for a moment that those stockholders would not have a right to sit right down with the appraisers of their property and say, "We will simply take our property and form a corporation and run our business." Suppose the courts should so far forget themselves as to appoint a receiver for an institution like this, and order the property sold. Would it be said that the men who have the means and who are in a position to hold a large amount of securities would not have the right to go to the receiver's sale and buy that property and save themselves? Would it then be said it was a trust, simply because they undertook to save their own property?

Q. I am asking you in reference to the way in which the law of Illinois is, as a matter of fact, interpreted. Have any of the larger combinations or corporations been held illegal under this law?—A. Well, of course, not in the last year or two. The old Chicago Gas Trust (that is some years back). That was something like what I have stated to you. Really a corporation was formed, holding stock of different gas companies around Chicago, and they were apparently competing with each other, but really were not, and one set of men undertook to control the situation. The Supreme Court held that to be a trust, and very properly. Another case I recall was the California Preservers' Company case.

Q. And the Distilling and Cattle Feeding Company?—A. Yes. The Supreme Court

handed down a decision of the Glucose Company, which went up on demurrer, and in it a petition for a rehearing has been filed. That really did not involve the question. There was never a question substantially whether or not a corporation had the right, or the directors of a corporation had a right, to dispose of its property as a going concern without the consent of all of its stockholders; so that the real question was not before the court.

Q. In the case of the Distilling and Cattle Feeding Company do you recall in what respects that was considered to be more injurious, and consequently to come more directly under the law, than any other very large corporation which controlled a large proportion of the output in any one line?—A. My recollection is that in that case they showed, in writing, agreements and contracts for the control of prices, commodity, and output, and there was not any way for the Supreme Court to do anything else than condemn it.

(Testimony closed.)

THE NATIONAL SHEAR COMPANY.

WASHINGTON, D. C., November 14, 1899.

TESTIMONY OF MR. JAMES C. PEARSON,

Private banker, Boston, Mass.

The commission met at 10.40 a. m., Senator Kyle presiding. At 3.45 p. m. Mr. James C. Pearson, of Boston, Mass., was introduced as a witness, and, being duly sworn, testified as follows:

Q. (By Senator KYLE.) Kindly give your full name and address.—A. James C. Pearson, Boston, Mass.

Q. And your business?—A. Steel, wire, and nails; and, in this capacity, private banker.

ORGANIZATION OF THE NATIONAL SHEAR COMPANY.

Q. (By Mr. JENKS.) Have you had any direct connection with the National Shear Company as regards the manufacturing part of the work.—A. Not at all.

Q. When was this company organized?—A. I do not know the exact date. What was that date, Mr. Stout?

Mr. STOUT. September 7, 1898.

Q. (By Mr. JENKS.) What was the amount of capital stock?—A. Three million.

Q. Do you recollect how that was divided between preferred and common?—A. One million preferred and 2,000,000 common, I think.

Q. Do you recall how many companies united to form the National Shear Company?—A. About five. There was the Clauss Shear Company, of Fremont, Ohio; the William Schollborn Company, of New Haven, Conn.; F. J. Wiss & Sons, of Newark; Seymour Cutlery Company, of Holyoke, Mass., and the Ohio Shear Company, of Elyria, Ohio.

Q. Were you yourself familiar with the contract under which these different companies were taken into the National Shear Company?—A. I was at the time, yes.

Q. In what way were these companies paid for; cash, or in stock, mortgages, notes, or how?—A. All paid part cash and part stock.

Q. You said that you yourself had been connected as banker with this organization?—A. I simply loaned them money. I had no official capacity whatsoever, no more than any national banker would have.

Q. The question is asked whether they came together under a prospectus made public, or in some other way?—A. Private.

Q. It was an entirely private arrangement between the companies?—A. Yes.

TERMS OF LOAN TO NATIONAL SHEAR COMPANY.

Q. You say that you have loaned them money. In what form; by the discounting of notes?—A. By discounting of notes up to \$200,000.

Q. Discounting to the extent of \$200,000?—A. I had agreed to discount to the extent of \$200,000, and it amounts to about \$175,000, I think.

Q. And what special compensation were you to get for that?—A. Six per cent.

Q. Anything further?—A. Conditional.

Q. Conditional?—A. Yes; if I continued the arrangement; if I continued discounting their notes on 4 months' paper, in 2 years they were to give me a certain amount of stock.

Q. That is, there was in the contract a general understanding. You were to discount for them up to the extent of \$200,000, and continue renewing the notes for a period of 18 months, did you say?—A. Nine months was one clause. If I continued for 9 months, they were to give me a certain amount of stock, and for 18 months,

another amount. At 9 months, not being satisfied with the way the concern was doing business, I called it off.

Q. You declined to continue the arrangement?—A. Yes.

Q. Did you receive the compensation that had been suggested for continuing this for 9 months?—A. It was held in escrow by William Nelson Cromwell, of New York, who failed to mail it; for what reason I do not know. There was a certain amount due June 10. That was the expiration of the 9 months. It is positively due, and it may be overlooked.

Q. In what form was this extra compensation to be—in the form of stock?—A. It was to come in stock; yes.

Q. A small amount of preferred stock and a large amount of common?—A. Yes.

Q. For the discounting of this \$200,000, how much was to come to you as extra pay in preferred and common?—A. About \$30,000 preferred and \$225,000 common.

Q. So that for the advancing of the money, the discounting of the 6 per cent notes, you were to receive \$225,000 common and \$30,000 preferred?—A. Yes.

Q. Was it in the contract that you were to receive that providing you carried it out for the 18 months? If you carried it for 9 months it was to be considerably less?—A. Yes.

Q. Do you care to state how much?—A. Less than one-half—a little less than one-half.

STARTED ON BORROWED MONEY.

Q. Do you know whether in the discounting of these notes to this extent or to whatever extent you did, you were furnishing to the company a large part of its running capital?—A. I was satisfied it was a majority of the running capital.

Q. That it was a majority of the running capital?—A. That is, of the cash outside of the stock on hand—working capital—although stock on hand, you know, is always considered working capital.

Q. Yes; I had considered that.—A. About one-half. They had about as much more stock on hand.

Q. So that the company was really raised in this way through you—the money it was using for paying for the stock on hand and furnishing the running capital?—A. Yes.

Q. Was it your understanding that the plants that were taken into the company were to be paid for then largely by stock besides this, or were you furnishing the money?—A. Part of this money was paid to other factories for coming in.

Q. Part of this money you yourself furnished was used to pay for plants?—A. Yes.

Q. And discounting notes of the company?—A. Yes. That is where it was established. The basis they started on, you see, was to borrow the working capital.

Q. I understand, then, that you thought it was really on an unsound basis, and that is the reason why you withdrew?—A. That is right; that is the reason the nine-months clause was put in there.

Q. Because you were in doubt about it before?—A. In doubt about it at the time I loaned it; yes.

Q. If I may sum up, then, the company was organized with \$1,250,000 of preferred stock and \$1,750,000 of common stock, or \$3,000,000 in all?—A. That is right.

Q. And that was used to pay for plant, as you understand—practically all of it?—A. Yes.

Q. Excepting this reserved for you?—A. Yes. Was it all issued, Mr. Stout?

Mr. STOUT. Not all issued.

The WITNESS. I think \$400,000 or \$500,000 has not been issued.

Q. And that the company issued, in addition to that, notes to pay for the plants?—A. Issued besides notes for money to pay for the plants.

Q. Do you know whether their notes, any of them, were issued to pay for the plants or not?—A. You mean the money they got for the notes?

Q. I mean further than that. Whether any of these who came in accepted in payment for the plants the notes?—A. They did; yes.

Q. So that the organization was really started on its credit?—A. Borrowed money.

Q. Even for the plants themselves?—A. For the plants themselves.

Q. I understood that you withdrew from this arrangement after 9 months. Was there issued to you or any of your intimate friends or near relatives, so that it might be supposed to be indirectly to you, this \$200,000 in stock?—A. It was held in escrow by Mr. Cromwell, of New York.

Q. That was in the contract?—A. That was to be held in escrow, to be given to me part in 9 months and the other part in 18 months. If I did not carry the contract for 9 months, I was to have no stock.

Q. Was it in fact issued in the name of some of your friends and put in his hands?—A. It was issued in the name of my friends.

Q. Did your friends receive it or did he receive it?—A. They received it for indorsement and passed it back.

Q. So as a matter of fact he has been holding it?—A. Yes.

Q. And you have received nothing of it?—A. Nothing. The notes are good.

Q. The notes are good as long as the company is?—A. Oh, yes; they are good for that. I am only a banker. Mr. Wiss here is vice-president of the company and a practical man. Really I have told you all I know about it.

(Testimony closed.)

WASHINGTON, D. C., November 14, 1899.

TESTIMONY OF MR. F. C. J. WISS,

Vice-president of the National Shear Company, Newark, N. J.

The commission met at 10.40 a. m., Senator Kyle presiding. At 3.55 p. m. Mr. Frederick C. J. Wiss, Newark, N. J., was introduced as a witness, and, being duly sworn, testified as follows:

Senator KYLE. Give your full name, address, and business.—A. Frederick C. J. Wiss, Newark, N. J.; business, manufacturer and merchant.

Q. (By Mr. JENKS.) Are you vice-president of the National Shear Company?—A. Yes.

Q. Have you been in the National Shear Company from the beginning?—A. I have, nominally.

METHOD OF ORGANIZATION OF THE NATIONAL SHEAR COMPANY.

Q. You can, perhaps, give us definite information with reference to the companies that united to form the National Shear Company. Were there more than five?—A. Only five were taken in; the amount of stock authorized was \$3,000,000, as I understand from the minutes of the company, from information and from the records shown us. Before I go on I must explain that I am vice-president, but not active in the management, so these things I get indirectly, except where I have access to the books on demand; not voluntary information from the company.

Q. You have, I suppose, however, had access to the minutes?—A. Well, any time I have demanded to see them, I could see them, yes. The organization, understand, was purely a matter of contract between the promoter and the bankers, and probably one manufacturer.

Q. Who was the promoter?—A. Mr. J. H. Parks.

Q. Is this Mr. J. H. Parks the man who was formerly president of the wire-nail combination?—A. He was connected with the nail industry, and also, I believe, with several other large concerns.

Q. You say Mr. Parks was promoter in connection with one manufacturer; with whom?—A. With Mr. J. H. Clauss, of the Clauss Shear Company.

Q. Where is the Clauss Shear Company located?—A. Fremont, Ohio.

Q. Will you explain a little more in detail what the method of getting the companies together was, if you please?—A. It was by invitation of Mr. Parks, who apparently was representing capital, as far as we know. He invited the manufacturers to participate in various meetings, and they could come to no agreement. The promoters took it upon themselves to secure options on the factories of the principal manufacturers in the shear line. Some of those options were exercised and some were not. As I stated, the capitalization was \$3,000,000, of which a certain amount was set aside for each of the factories acquired; that is to say, if certain factories were not secured, Mr. Clauss and Mr. Pearson—well, Mr. Clauss and Mr. Pearson were to furnish these factories for a certain amount of stock, and if no factories were furnished of course no stock was issued. According to a copy of the stock book there has been issued \$2,410,000, of which a trifle less than \$1,000,000 is preferred stock, and the balance common. The preferred stock may be \$995,000. It is very near; practically \$1,000,000.¹

COMPANIES UNITED—PROPORTION OF THE BUSINESS CONTROLLED.

Q. Will you be kind enough to name the five companies that did go into the organization?—A. The Clauss Shear Company, Fremont, Ohio; Seymour Cutlery Com-

¹ Mr. Wiss says, in a letter dated November 17, 1899: "Preferred stock of the National Shear Company issued, according to a statement dated June 9, 1899, is \$995,000. Do not believe that there has been any change since that date."

pany, Holyoke, Mass.; William Schollborn Shear Company, New Haven, Conn.; the Ohio Shear Company, of Elyria, Ohio, which may be sometimes known as the Standard Shear Company; I think they have operated under the name of the Standard. It was the Elyria, and then it changed. I think the Standard was formed, two or three months previous to the formation of the National Shear Company. These companies, together with ours, the J. Wiss & Sons, of Newark, N. J., made up the National Shear Company.

Q. Are those concerns, or some of those that came in, say the Clauss Shear Company and your own, the largest manufacturers of shears?—A. Yes.

Q. Do you know what proportion of the entire output of shears is controlled now by the National Shear Company?—A. It is purely a matter of conjecture, and information gathered from various concerns, a good deal based on the general business conditions. I should say, in round figures, 62 per cent, practically two-thirds. I really think it is less than two-thirds; probably 60 per cent.

Q. Had you succeeded in getting in the other 4 or 5 or 6 companies which it was understood to begin with were to come in provided they could make arrangements, what proportion would you have controlled then?—A. Had the National Shear Company succeeded—is that what you mean?

Q. Yes; that is what I mean.—A. Oh, probably, I should say, about 90 per cent.

Q. Which was the largest company that you were thinking of getting in that was left out?—A. R. Heinisch & Sons Company, of Newark, N. J.

Q. Is this the company whose output is regularly as large as yours was?—A. The Heinisch and our former output were very nearly alike. I think the Heinisch probably did perhaps 10 or 15 per cent more business than we did; at times they may have fallen behind us; I do not know; so that really one of the largest manufacturers was out.

Q. Are there any other companies that are not in the combination, anything like as large as yours?—A. No.

Q. They are all small concerns that were left out?—A. Simply. We got options, I think, on 90 per cent. I was mistaken; it was between 80 and 90 per cent.

CASH VALUE OF PLANTS ONE-FIFTH OF THE STOCK ISSUED.

Q. Now, you said there was a contract or agreement made with Mr. Clauss and Mr. Pearson to take these plants for the issuance of a certain amount of stock; if they did not come in, that stock was to remain in the treasury unissued, as I understand it. Did that company come in under that same general plan and arrangement?—A. I believe it did.

Q. I wish to learn the cash value of the plants as compared with the stock that was issued. Now, I understand that there was a provision made for the issuance of \$3,000,000 of stock, and there was, as a matter of fact, \$2,410,000. What was the cash value of those plants, paid for in cash instead of stock, in round figures?—A. Paid in cash?

Q. Paid in cash.—A. There were none of them paid in cash entirely.

Q. No; I asked what you would consider the cash value of those plants?—A. Oh, well, including the quick assets, the net value, I should say, of the companies that have gone into the concern, at the present time, is probably \$500,000; I say the present time. There are two factories which have been closed down and the machinery torn out. There are three now closed down, but up to a recent period there were two of them. The value of the machinery of these closed factories, I consider, is very little after it leaves a fixed place.

Q. So that, as a matter of fact, the capitalization was in round numbers five times the cash value?—A. That is practically so.

Q. As regards your own company, were you paid in stock or in notes, as I think was intimated by Mr. Pearson?—A. We were paid in cash, stock, and notes. It was a pure matter of getting as much and as favorable terms as you could.

Q. I suppose each company dealt separately with the promoters and made the best bargain it could?—A. Each company dealt separately with the promoter.

Q. And made the best terms possible?—A. Yes.

THE COURSE OF PRICES—CONDITIONS BEFORE CONSOLIDATION.

Q. What has been the course of prices in your industry—shears—the last 3 years?—A. During the last three years the prices, up to the formation of the company, had dropped on account of the competition—pure and simple competition. It can not be called legitimate, however, in so far that the competition of 2 concerns was from concerns that failed and paid a mere nominal dividend—one of them, I think,

6 cents on the dollar—6 and a fraction—and the other possibly a little more. In addition to that there were one or two companies that have also failed and have thrown a lot of goods on the market, which never started up again.

Q. So that there really was very fierce competition before the organization?—A. Yes.

Q. Now, since the organization was made have the prices increased materially?—A. They have been advanced to certain customers, but I understand that concessions have been made since then. As I say, I have nothing to do with the prices. I only gather this from what our old customers volunteer and tell us, and what we may occasionally see from bills and other matters sent to J. Wiss & Sons, the old firm, and opened by J. Wiss & Sons, because we have other business interests, and turned over to the National Shear Company if relating to the shears business.

NATURE OF PRODUCT—REASONS FOR ADVANCE OF PRICE.

Q. You were formerly in the Wiss Shear Company?—A. Yes.

Q. You were formerly entirely familiar with the business?—A. Yes.

Q. Since then you have not been the active manager?—A. No.

Q. Will you explain briefly what the main output is—shears and scissors? Is that the main output of this National Shear Company?—A. Yes.

Q. What else do they manufacture?—A. One of the works—the Clauss Shear Company—also manufactures razors, and at one time they manufactured very extensively the serrated bread knives and a few patented specialties.

Q. Is there so much change in your product from the raw material that the raw material itself does not form a very important part of the price? Will the advance, for instance, in the price of steel affect particularly the price of shears?—A. Well, it would make some difference, but the amount of material used is comparatively small; it is labor mainly.

Q. So that the price of the raw material plays really an unimportant part?—A. Taking the year's consumption, it will cut a material figure in any business. It certainly has to be figured in the cost of production and output. The advanced prices were not only due to the pure cessation and doing away with competition. There is a legitimate advance necessarily in the shear industry on account of the low prices which had been prevailing before, due to competition. It did not leave a legitimate profit to the manufacturer. The advanced prices are not only due to that, but also to the advance in material and labor.

Q. What has been the course of wages for the last 2 years? Has there been any advance in wages since there came this advance in prices?—A. Yes.

Q. The National Shear Company has increased wages?—A. Yes; an advance and cut at the same time.

Q. You think, on the whole, that wages are higher than they were before the organization of this company?—A. Averaged throughout, I doubt.

Q. Any single instance?—A. Yes.

ADVANTAGES OF CONSOLIDATION.

Q. You spoke of the fact that one of the companies—the Clauss Shear Company—controlled some patents. Is there in your judgment any decided advantage under the combination by having that control and making them universal through the different companies?—A. There are patents connected with the serrated bread knives, which I had reference to, which have been in litigation for some years; but they have practically been made by outside companies. So that the National Shear Company confine themselves, I am inclined to think, entirely to the making of shears, scissors, and razors.

Q. So that does not count for anything in the company?—A. It does not cut any figure; no.

Q. Has there been, since the organization of this combination, any specialization of the plants so that one plant will give nearly all its time, all of its machinery, and so on, to the manufacture of one kind of goods, and another one to another, so that there has been any saving in that way?—A. Not that I know of.

Q. You think that each one of the establishments runs practically as it did before the combination?—A. Pretty much so.

Q. Can you, yourself, mention any other advantages that come from the combination besides the fact that they avoid this destructive competition?—A. There should be decided advantages in the cost of selling, in office help, and in buying material, and in adopting at the different works the advantages of each other.

Q. Yes.—A. Those are about the main features.

Q. Do you know whether the advantages, as a matter of fact, have resulted along that line that were anticipated?—A. I am inclined to think that they have.

Q. Along very nearly all the lines that you have mentioned?—A. To a very great extent.

Q. So that on the whole the general principle of combination in your industry is one that you would yourself favor?—A. The principle, yes.

THE TARIFF.

Q. (By Mr. FARQUHAR.) Have you any protection under the United States tariff for your business?—A. There is a protective duty on shears, yes; but the shears manufactured in this country are entirely different from those imported. There are some scissors which were almost entirely imported before the tariff, and still are imported, which we do not seem to be able to make here on account of the long-standing experience and the cheap labor on the other side, principally German. The class of scissors that I am speaking of is the scissors, the small articles with 2 round rings $2\frac{1}{2}$ inches up to 6 or 7. Now, probably—I should say, roughly—probably 90 per cent of all the scissors sold that are under 6 inches are imported, although there are some of the larger shears made on the other side. Without a protective tariff I am inclined to think that there would be a great many more of the larger sizes imported than there are at present. The protective tariff was a great incentive to build up the trade and to increase competition, which would materially reduce the price. Prices during the last 15 or 20 years are probably fully 50 per cent less than they were.

Q. Then you would say that the protective tariff, which practically and primarily gave a foundation to your business in this country, at the same time created the ruinous competition among the shears manufacturers of this country which was the cause of your failures in business?—A. Yes.

Q. And also drove you into this combination to save yourselves and your own property?—A. Yes.

Q. And you lay this idea of combining entirely to the fact of the fierce and ruinous competition among American manufacturers, by American manufacturers among themselves?—A. I should say so; yes.

Q. As they were not manufacturers of the fine class of scissors that were imported, of course they do not enter into the competition?—A. No.

Q. And in the making of the American shears and the larger class of what we call scissors or shears that competition was the thing that brought the prices down in this country?—A. Yes.

Q. It was the American competition that brought down the American market?—A. That is right.

Q. And not the introduction of the foreign goods at all, because the foreign goods imported were noncompetitive?—A. To a very great extent, yes.

METHOD OF COMBINATION.

Q. (By Mr. CLARKE.) How do you account for the difference between the cash values of the properties which you purchased and the amount of capital stock which you have issued?—A. Well, that is a question you would have to ask the promoters.

Q. Do you not know what has been done with that stock?—A. The stock?

Q. Yes.—A. Well, the people directly interested, I am inclined to think, took the bulk of the stock to themselves. They voted all the stock to themselves with the proviso that if they did not succeed in turning over certain factories it should revert to the treasury. As I understand, it was formed by the organizing attorneys.

Q. What was the reason for issuing so much stock for so little property?—A. We were not consulted; I do not know anything about it.

Q. (By Senator KYLE.) The purpose of it was to pay a dividend on the whole amount?—A. Well, I do not know.

Q. (By Mr. FARQUHAR.) Was there any promise of dividends by the promoters?—A. Any promise of dividends?

Q. Yes, was there any promise by the promoters themselves?—A. No, I do not know that there was.

Q. Did they not hold forth that if you got a dividend, if you got 5 to 1, you would get a dividend of 2 per cent a year or 3?—A. We were not consulted at all; it was a pure matter of buying and selling. We were approached and they said: "What will you sell your plant for?" We said: "We will sell it for so much cash." We were then approached and told: "We can not raise so much cash; instead of so much cash we will give you so much stock." And speaking for myself, speaking for the firm of J. Wiss & Sons, I said: "That is not satisfactory." Well, there were two or

three dickers made, and we finally struck a bargain by which we secured a certain amount of cash, so much notes, and so much stock in addition, and cash for the merchandise, with an option of stock for all or for any portion of the cash or note consideration.

Q. (By Mr. CLARKE.) Did you get a higher price under the arrangement which you finally made than you offered to take for cash?—A. I got nominally more but practically not; no.

Q. (By Senator KYLE.) They represented to you, of course, that they were going to form this trust corporation at the time they made the bargain with you?—A. Well, they made a good many representations.

Q. Did you not know or understand that the trust was to be formed?—A. I knew that they were attempting to form a combination of the principal shear manufacturers.

Q. And when you accepted the stock you evidently knew that you were going into such a corporation?—A. I knew that I was going in with others, but with whom I did not know.

Q. And they evidently represented to you, did they not, that you would make more by this operation than you had made by your private business conducted in your own private way?—A. Well, I do not know that they particularly represented that. They simply represented how much they could make by the association, and we were led to believe that they had secured options on all the principal manufacturers, and, moreover, that the options would be exercised.

Q. I understood you to say a moment ago that the price of your product had been raised since the formation of your corporation, above what it was before?—A. Yes.

Q. Was not that the avowed purpose of the organization of the trust combination?—A. I suppose it was; they intended to make a profit by advancing prices.

Q. Was it not so represented to you?—A. In the meeting of the different manufacturers the promoters said, we can do so and so; but there was no positive assurance that they would do it.

Q. Is the trust corporation in operation now?—A. The National Shear Company?

Q. Yes.—A. Yes.

Q. And you are still a member of it?—A. Yes.

WAGES, DIVIDENDS, AND VALUE OF STOCK.

Q. And you have not raised the wages to your employees at all, you say?—A. Not to my knowledge, except, possibly, in a single instance. As I say, I have no active voice in the matter of management and have no active interest in the affairs of the company.

Q. (By Mr. JENKS.) Your interest at present remains simply in the question of the payment of these notes and the possible dividends on the stock?—A. Yes.

Q. Have they paid any dividends on preferred stock yet?—A. No.

Q. (By Mr. CLARKE.) Are these stocks listed in the New York market?—A. Oh, no; I guess not.

Q. Are they for sale to the public?—A. Well, I do not think anybody would buy them.

Q. (By Mr. JENKS.) Do you know of any transfers that have been made for a consideration, so that you would have an idea as to the price of them?—A. No.

Q. You said a little while ago that there had been issued \$2,410,000 worth of stock, of which there was about \$1,000,000 preferred; perhaps you can give me the exact figures a little bit later. Can you furnish me the exact amount that was issued of preferred?—A. The amount of preferred I can give you, according to a list given me, which is supposed to be an abstract from the stock book.

Q. It is simply in order to make your testimony perfectly definite on that point that I ask it. Kindly send that in.¹

Testimony closed.

¹ See p. 1043, footnote.

INTERNATIONAL SILVER COMPANY.

WASHINGTON, D. C.,
Wednesday, November 15, 1899.

TESTIMONY OF MR. SAMUEL DODD,

President of the International Silver Company.

The commission met at 11.20 a. m., Chairman Kyle presiding. Chairman Kyle introduced Mr. Samuel Dodd, of Meriden, Conn., president of the International Silver Company, who, being duly sworn, testified as follows:

Q. (By Senator KYLE.) You may state your full name and address and business.—A. Samuel Dodd, Meriden, Conn.; I am president of the International Silver Company.

BUSINESS OF THE INTERNATIONAL SILVER COMPANY—EXTENT OF COMPETITION.

Q. (By Mr. JENKS.) Will you be kind enough to tell us something with reference to the nature of your business—what your raw material is, and what your chief product is?—A. It is what is known to the trade as silver-plated ware—tableware, tea sets, cake baskets, spoons, and forks. The base of what is called hollow ware is pig tin; the base of spoons and forks is what is called nickel silver.

Q. Do you manufacture sterling silver as well as plated ware?—A. Yes; sterling silver.

Q. How large a proportion of the output of the country of plated ware does the International Silver Company control?—A. I do not know; if you want my guess, I could guess.

Q. Please give us as careful an estimate as you can make.—A. Perhaps 55 to 60 per cent.

Q. And about what is the proportion of the output of sterling silver?—A. I should guess 15 per cent; I guess that is high—10 per cent.

CAPITAL NECESSARY.

Q. In this line of business is a large capital needed in order to secure a proper division of labor, so as to carry on the work economically?—A. Yes.

Q. About how much capital would be needed to set up a first-class plant to do this kind of work efficiently?—A. That would depend upon what you want. If you want to combine the sterling silver with the other it would be more.

Q. Say plated ware without the other?—A. It takes a different plant entirely to manufacture spoons and forks. The concern that I formerly managed had nothing to do in the spoon and fork line. That part of it I could not state. I know it requires a large capital to do that. How much I do not know, because I have never had any experience with that.

Q. Take hollow ware. How large a capital would it take to equip a plant to do really first-class work in the best way possible?—A. If you control a large output and have to compete with large concerns, a plant of a million and a half or two million dollars would do it.

Q. You think that a plant of \$2,000,000 would be large enough to give all of the advantages that would come from the division of labor and the large buying of material and so on?—A. I should judge so.

SAVINGS OF CONSOLIDATION.

Q. Will you explain to us what special sources of saving and special advantages there were in bringing the different plants engaged in the same line of work together into one organization?—A. One advantage must be that the administration of 12 or

15 companies would be brought under one head. If there were factories that had more room than the output demanded, you could bring them under one and consolidate them better.

Q. You would say that those were the two chief sources of saving?—A. Yes; I should say those were the two chief sources of saving. The closing of stores and agencies in the different cities that a good many of the plants had would also be a saving.

Q. In the first place a saving would come from better organization for administration. In that way, I suppose, you save the salaries of a good many high-priced officers?—A. Yes; you have all your buying under one head; a thousand and one ways in which money could be saved.

Q. By putting all under one head you can save, of course, the salaries of several different buyers. Can you also buy to better advantage by buying in large quantities?—A. Undoubtedly, yes.

Q. Can you give any estimate as to the percentage of saving that probably would come from buying in that way?—A. No.

Q. You can not fix it definitely?—A. No. Of course, in the silver you can not save anything. A man can buy 1,000 ounces of silver as cheap as he can buy 5,000 ounces. But in all manufacturing supplies used in the factories, people are anxious to sell goods, the people that supply them, and they would like the combined sale to 16 factories rather than 1 factory. Take the base of what we call hollow ware—tin. There is no particular saving in that, because a small concern that wanted 100 pigs of tin could buy it about as cheap as a concern that wanted 1,000.

Q. With reference to the selling of your goods, is there any material saving there in labor; that is, can you dispense with the services of various traveling men, for example?—A. We have not done so, except, as I said, in closing some of these offices or stores in various cities.

Q. About how many traveling men do you employ?—A. I do not state these things as facts, because I was not aware what line the commission wanted of me and I have never gone into these details particularly. Each factory employs about as many traveling men as it ever did.

Q. (By Senator KYLE.) To the best of your knowledge?—A. I should guess there were from 75 to 90 traveling men.

Q. (By Mr. JENKS.) And you keep now about the same number that all the separate companies did before they were combined?—A. Yes, with one exception. There was a concern in New York City, a store there, Rogers & Bros., which I think had 3 traveling men that went from there in some way. We closed that store and we let those traveling men go, although our factory took 1 of them. There were only 2 of them.

Q. You simply transferred him?—A. Yes.

Q. And let 2 go?—A. Yes; laid off 2 traveling men. That is all I know of.

Q. Can you tell us how many stores you were able to close?—A. So far we have only been able to close 1.

Q. That is the one you referred to?—A. Yes; on account of leases and other matters. We closed this store in New York; that is the only store. There is another to be closed there as soon as we can sublet it.

Q. How many do you expect, as soon as your business is fairly running, to close, in order to effect savings in that way?—A. I should say there might be 10 throughout the country.

Q. About how many have you altogether?—A. Perhaps 15.

Q. So you will be able to close more than half?—A. Oh, yes; oh, yes.

Q. You spoke of the saving that would come also from the closing of plants that were taken into the combination. How much have you done in that way?—A. We have closed 2.

Q. How many came together into the organization to begin with?—A. I think there were 14 then. Since I went into the combination there have been 2 added, 2 that were bought.

Q. You spoke of 14 coming in. Did each company have simply 1 plant?—A. Yes.

Q. So that 14 came in and you have 14 now. You have closed 2 and bought 2 since you have been in your company?—A. We took the employees of those that we closed and took their business, their trade-marks, and their salesmen, and made the goods in one factory. We transferred that all to 1 factory because we had lots of waste, spare room, and the other one the same way. Practically the 2 concerns are running, only they are under different roofs from those they were under. The workmen are there and have made the same line of goods that the old companies made.

Q. (By Senator KYLE.) What was your object in closing up these 2?—A. Because we had the spare room in our factories, and it saved power, and lots of expense in

running factories; because we had plenty of bricks and mortar and machinery and another roof to put the men into.

Q. And you saved the room?—A. Yes.

OUTPUT, AND NUMBER OF EMPLOYEES, INCREASED.

Q. (By Mr. JENKS.) You have not lessened the number of employees by closing them?—A. No; we are ready to hire more men if we can find them.

Q. Can you tell us with reference to the number of your employees, how much they have increased since your organization?—A. Oh, I should think we had added 10 or 12 per cent, perhaps, all told.

Q. And how about the quantity of your output; has that increased?—A. Yes.

Q. In about the same proportion, 10 or 12 per cent?—A. Yes; increased more.

Q. About how much?—A. About 20 per cent.

Q. How do you account for that increase more than in proportion—by working your establishments more efficiently?—A. Why, I am talking about the output that the consumers take.

Q. Well, does that mean this, that the demand, on the whole, has increased so that you are working more nearly at full capacity now than you were before?—A. Yes; that is exactly what it means.

Q. Before the organization, some of the plants were not working at their full capacity?—A. No.

Q. And since then you have been pushing them?—A. Yes.

Q. To what do you attribute this increased demand for goods?—A. If I should guess about it, I should guess what the newspapers say—general prosperity.

Q. Is it to be accounted for at all by any reduction in the prices of the goods?—A. I should say not.

HAD NOTHING TO DO WITH THE FORMATION OF THE ORGANIZATION.

Q. When did you form your organization?—A. I had nothing to do with the formation of the organization.

Q. When was the organization formed?—A. The organization was formed, incorporated in New Jersey, November 21, 1898.

Q. When did you yourself become connected with the organization?—A. I became connected with it, I think, in that month. I think it was the 28th or the 29th; along there.

Q. Pretty nearly from the beginning, then?—A. Yes.

Q. Have you been president substantially from the time when you came into it?—

A. From the time I was elected director; at that meeting they elected me president.

Q. That was this same day, was it, November 28?—A. Yes; about that time.

Q. So that you have been familiar with the organization really from the beginning of its main work?—A. Yes; I was not familiar with the organization of the company. There were already a president and directors, a full board, when I came in.

Q. Of the nature that we so often hear of—a dummy board to begin with, for the purpose of organization?—A. That I do not know; they were all very respectable gentlemen.

THE COURSE OF PRICES—1893 TO 1899.

Q. Now with reference to prices, let us go back a little earlier. You were yourself in business independently before this organization was made?—A. Yes.

Q. So that you are familiar with prices throughout?—A. Yes.

Q. Can you give us an indication of the general course of prices of these goods, let us say, through the years 1896, 1897, 1898, up to date?—A. I think there were in those years, in fact from the year 1894—if you want to go back as far as that.

Q. All the better.—A. The year 1894 and the latter part of the year 1893, when we had what we called the panic, prices were becoming less and less all the while.

Q. And about how long did that decrease in prices continue?—A. It continued until—why, all through up to the present time, you might say. No; they did not decrease—they have not decreased since the 1st of September of this year.

Q. Was the decrease marked at all from 1893 on until the middle of this year?—A. Yes.

Q. Can you give us some indication as to the rapidity of this decrease? It seems to me that we ought to have had silver given to us at that rate?—A. Well, we did pretty near—good goods. The fact was that all of us went on a chase to get customers and sell goods at less than cost. We were all selling goods at less than cost, and the way we made money was that we sold so many of them.

Q. If we should take the prices, we will say the average prices of 1894, and compare them with the average prices of 1897, about what percentage of decrease should you say there was?—A. Oh, I should say there was from 7½ to 10 per cent.

Q. In those 3 years?—A. Yes.

Q. And then was there a still further drop through the year 1898?—A. No; that was the drop from 1894.

Q. Down to 1897, when it stopped?—A. Yes.

Q. Then the prices remained about the same through the year 1898?—A. Yes.

Q. Beginning with the time of the formation of your organization in November, 1898, what has been the course of prices from that date up to, say, June of this year?—A. That is the same.

Q. There was substantially no change at all?—A. There was a change in what we call the flat-ware part of it, in February or March.

Q. What was that change?—A. Ten per cent rise; making goods relatively cheaper than they were before, on account of the high cost of the material.

Q. Yes.—A. Goods were relatively cheaper after the 10 per cent rise was made, as far as the manufacturers were concerned, than they were before.

Q. That is to say, this increase of the price of the product did not increase the profits over what they had been before?—A. No, no.

Q. (By Senator KYLE.) What is your raw material?—A. The raw material in the flat-ware business is what we call nickel-silver. The principal part of it is copper; a mixture of copper and nickel.

Q. And the rise in these materials was what?—A. Rise in copper?

Q. What percentage of rise in that time?—A. Well, it must have been about 60 or 70 per cent.

Q. And you advanced the cost of your output?—A. Ten per cent.

Q. Your finished product?—A. Ten per cent, yes; just 10 per cent.

Q. (By Mr. JENKS.) You said there was this increase in prices in February; then I take it from what you said that there was another increase somewhat later?—A. No increase in that. That price remained the same. On the 1st of September we increased the price of what we call hollow ware 10 per cent, and, as I say, the base metal of that is tin. Tin averaged in the year 1898 about 14½ cents a pound, and this year it has averaged something over 30.¹

Q. So that the increase was less in proportion?—A. Yes; and all manufacturing supplies that enter into a factory have increased anywhere from 33½ per cent to 100 per cent; everything that you use.

WAGES—UNION LABOR—CHARACTER OF MEN.

Q. In the manufacture of your goods—we will take the hollow ware, for example, as typical—how large a proportion of the price or of the value is to be found in the raw material, and how much in labor?—A. Oh, in a rough way, about half.

Q. What has been the course of wages during the last 3 years?—A. Well, the last—until we had, as I say, this general prosperity, wages did not increase any. For the last few months the tendency has been upward. Our people are what we call skilled workmen; there is no fixed wage price.

Q. The price varies all through?—A. It varies all through, according to a man's capability or his ability, and it is 10 per cent here and 15 per cent there, if you please. It is a bargain all the time with the individual men.

Q. (By Senator KYLE.) Increase?—A. Increase.

Q. (By Mr. JENKS.) You would say, then, on the average, that since the formation of your organization you have advanced wages on the whole as much as 10 per cent? You think that will run through your factories?—A. I should say that would be a little high; take all, I should say from 5 to 7½ per cent was nearer right.

Q. You spoke of dealing with the individual men. Is there any labor organization among your employees?—A. I think there is a skeleton of one. There used to be one years ago; we have not heard much about it lately.

Q. What union was that?—A. I have forgotten the name of it; it was sort of a local union there in our place.

Q. Have you yourself, in dealing with your men, dealt with the union as such?—A. No, no.

Q. You deal simply with individuals?—A. Yes.

Q. (By Mr. RATCHFORD.) Have you ever been asked by your men to deal with the union?—A. No. Oh, here some years ago, 15 or 20 years ago, in our factories we had a cut-glass establishment, and there was quite a union there, and at one time they asked us something about apprentices; I have forgotten what it was. It was 15 years

¹ Compare the table of prices of tin, p. 868.

ago, I guess; and I said I would not deal with them; I said I would deal with the employees themselves in the shop, but I would not deal with outside people that came from Pittsburg or somewhere else to talk to me about my business.

Q. In other words, you preferred to deal with your men as individuals?—A. Yes.
Q. (By Senator KYLE.) Would you receive a committee from your men?—A. Yes, certainly.

Q. (By Mr. RATCHFORD.) Is that your position at the present time toward the organization of your men, toward treating with the union?—A. I have no position at the present time, because that question has not come up. We have never—in our locality where I live the employers of labor and the laborers themselves have always been on remarkably good terms, and in the last 31 years, since I have been in the town in the manufacturing business, we have had comparatively no disputes and no friction.

Q. (By Senator KYLE.) No strikes?—A. No; nothing that ever amounted to anything. Most of our people are just as good men as I am or anybody else.

Q. (By Mr. FARQUHAR.) What town do you refer to?—A. I refer to the town of Meriden, Conn.

Q. (By Mr. CLARKE.) Most of your employees are long time residents there, I suppose?—A. Yes.

Q. Own their homes?—A. A great many of them do, and lots of them know a great sight more than I do, socially and economically and all other ways, and have more time to read, I guess, than I do.

CAPITALIZATION.

Q. (By Mr. JENKS.) What is the capitalization of the International Silver Company?—A. \$20,000,000 is the nominal capital.

Q. How is this divided into common and preferred?—A. \$11,000,000 of common and \$9,000,000 of preferred.

Q. Is there a bonded indebtedness?—A. Yes.

Q. How much?—A. At the present time \$3,900,000.

Q. What is the nature of the preferred stock?—A. Seven per cent cumulative. The stock is not all issued.

Q. How much has been issued?—A. \$5,111,500 of preferred.

Q. And how much of common?—A. \$9,896,000; \$3,900,000 of bonds issued. We still have \$117,000 of bonds in the treasury.

Q. (By Mr. FARQUHAR.) Is the remainder of that stock every-day treasury stock or is it divisible stock to the stockholders?—A. Why, it is stock that has never been issued at all.

Q. Under your by-laws is that classed as treasury stock, roughly?—A. No.

Q. For the acquirement of other plants?—A. Only; yes, that can be issued for the acquirement of other plants.

Q. Only, you say. That is the condition?—A. Yes.

Q. Of its being in the treasury?—A. Yes.

METHOD OF ORGANIZATION.

Q. (By Mr. JENKS.) Will you give us the general plan of the organization of the company; that is, was it organized through some individuals acting as promoters who secured options on plants, or was it by general agreement among the plants concerned?—A. I can only tell you as far as I know. All my knowledge was through a man by the name of Stewart. I presume he had some arrangement with somebody else.

Q. That is, in the case of your own arrangement you bargained with Mr. Stewart for the sale of your establishment to this company; is that the idea?—A. I bargained with him for the sale of a majority of our stock, with the privilege to the minority to come in at the same price if they wished to.

Q. It was a sale of stock and not of the plant?—A. That is right.

Q. Does the International Silver Company in the main own the plants of the different companies, or does it own the stock of the different companies?—A. We own the plants of all the companies, real, personal, and everything else, with the exception of one small company in Lyons, N. Y., called the Manhattan Silver Plating Company, which the attorneys of our company as yet do not exactly know how to merge into the International Company. They have it in charge. But all the rest of the companies were purely Connecticut companies, concerns in the vicinity, neighbors and friends, and everything was transferred to the International Silver Company.

Q. So that in this case, for example, of your own, where you sold the majority of the stock to begin with, with the privilege to the minority of coming in at the same

rate, since that time the plants have been taken over, so that the International owns the plants directly instead of the stock?—A. There is no such concern as the concern I was formerly in; we own all the plants.

Q. With the exception of this one?—A. With the exception of this one. Oh, no; there is a small plant up in Canada, the Standard Silver Company in Canada, that we propose to take in. We own that stock. There is the same trouble there; the attorneys have not decided how to get this Canadian company in; but we propose, as fast as the attorneys can get it transferred, that it shall be in the name of the International Company.

Q. With reference to the options that were taken on these different plants, were those options taken on a cash basis or on a basis of stock?—A. I could give you no information in regard to that except as to our own plant; the one that I had. I agreed with this gentleman to sell the majority of our stock at so much cash and so much preferred and common stock in the International Company. My connection with the matter was very simple. I simply said to this gentleman, "You bring me a list of the companies that you propose, or that are proposed to be sold out to the International Company. Now, if you will get this certain list, and every one of them is sold to the International Company, I will sell you the majority of our stock at so much cash and so much preferred stock, provided the capitalization of the company, the stock issued, with these companies in, shall not exceed a certain amount." That was just simply the transaction that I had with him.

Q. Yes.—A. Knowing as I did—at least I thought I did; you do not always know what you think—I thought on that capitalization that the concern was all right.

Q. (By Mr. FARQUHAR.) This bonded indebtedness you spoke of, was that contracted before this combination or after the combination?—A. It was contracted—I think the mortgage is dated December 1, 1898.

Q. (By Mr. JENKS.) It was contracted by the International Silver Company itself, after the organization was made?—A. By the International Silver Company, yes.

Q. Did the company take over a bonded indebtedness from different companies it purchased?—A. Yes.

COMPETITORS.

Q. That was issued in part for that?—A. Yes; the International Company, of course, when they bought these plants, assumed all the liabilities and paid the debts. Why, as you might say, this International Company was a sort of family arrangement between a few Connecticut concerns that were all neighbors and friends and knew all about each other. Of course, there are probably 40 or 50 concerns in the same kind of business outside throughout the United States. We did not get after them particularly and they have not been after us. We have got another concern right there in our own town; a competing concern, organized under the New Jersey law.

Q. What concern is that?—A. C. Rogers & Bros., right in a competing line of business. There is a large concern in Cincinnati—Reed & Barton, of Taunton; and I could name you probably 40 different concerns in the same line of business. But our company is, as I say, a Connecticut company, with the exception of this small concern out in Lyons, N. Y.

NO "GOOD WILL" IN THE BUSINESS.

Q. With reference to your own establishment, the International Silver Company, what proportion of the value of your business do you consider is in plants, and what proportion in trade-marks, what proportion in good will—speaking broadly, of course?—A. I do not consider that the International Company has any good will. We have not been in business long enough to have a good will.

Q. When the International Silver Company bought these plants I suppose it bought some good will?—A. It bought the trade-marks; it bought the trade-mark of our concern, and we still manufacture goods under that trade-mark and sell them under the name of the International Silver Company.

Q. Then you do not consider, as far as your own plant was concerned, that your connection with customers and so on, which is ordinarily called good will, had any special value besides the trade-marks?—A. No, no.

Q. In taking the company as it stands, then, what proportion, would you say, of the value of the plants is in tangible property and what proportion in brands, trade-marks, and so on?—A. Well, I have not got those figures; I could not answer here.

Q. You might give a pretty definite estimate?—A. Well, I do not think I could. I do not think that is a question I should like to answer without our balance sheet before me.

Q. Can you, perhaps, send us that information?—A. Yes; I will send it to you very readily.

Q. Very well; I will ask you to do that.—A. Yes; I will do that.

(The following was furnished by the witness November 16, 1899: "In my opinion the proportion of the value of the International Silver Company's property in plants, machinery, merchandise, etc., is from 45 to 50 per cent. I think this is a perfectly fair and correct statement.")

Q. (By Mr. CLARKE.) The establishments which consolidated had an established business, had they not?—A. Yes.

Q. There was good will attached to that business, was there not?—A. No; I should say not; not really what you would call good will. I presume that the history of the concern that I managed was the history of all the concerns. We made and lost customers every day. Human nature is pretty much alike. The trade simply knew that when they got a piece of goods stamped with our name, it was a good piece of goods; but I do not think they cared anything about the manager of the old Wilcox Plate Company or any of the salesmen.

Q. (By Senator KYLE.) It is true that every institution has good will and it is valuable to the institution?—A. Well, I do not think it is as true in these days as it was 20 years ago. The company I formerly managed was called the Wilcox Silver Plate Company. We stamped that name on our goods. Now, if the same salesmen should go out offering goods stamped John Jones & Co., they could not sell them. I say there is no good will about that. They might like the Wilcox Plate Company. But say the good will is the trade-mark. There is a difference between the trade-mark and good will.

Q. (By Mr. CLARKE.) You had, and each of these concerns had, a certain number of pretty regular customers, I suppose?—A. Why, yes; we have probably got men on our books that buy goods of us that bought them of us 15 years ago, 20 years ago perhaps.

Q. It cost something to secure the trade of those customers and to hold it, did it not?—A. Yes; it cost the salaries and expense of traveling men.

Q. Is not that good will?—A. Well, we have these men traveling all through the entire country. I do not know that it is good will particularly. As I say, they would not buy our goods if they were not stamped Wilcox Silver Plate Company. The value is in the trade-mark, and not in the fact that Jones, Brown, or Smith runs the concern or is known as manager of the concern.

Q. Do you not think that when a concern treats its customers with such fairness that they like to trade there and they voluntarily send orders there, there is a good will attaching to that establishment?—A. Yes; I should think so if we sat down in our factories and received orders that way. Then I should think there might be good will.

Q. (By Mr. RATCHFORD.) Do you not think that it is equally true in a case where one salesman is putting your goods on the market, and a salesman representing a rival concern is putting goods on the market, and going and soliciting patronage, and yours is preferred; do you not think the same will hold equally good—the brand on your wares does much towards selling your goods?—A. Yes—that is what does sell our goods

COMBINATION MEANT TO MAKE ECONOMIES AND REPRESS COMPETITION.

Q. (By Mr. FARQUHAR.) You seem to think that there is an open standing competition all the time even against trade-marks and standard goods. What was the purpose of your combination—to repress this competition, or to make economies in manufacturing?—A. That was just what we were trying to do; both.

Q. Both?—A. To make economies and put the thing under one administration, just as I said before. That is about all there is to it.

Q. (By Mr. JENKS.) Do you get also what you consider a decided advantage from the common use of these trade-marks that you had before in separate establishments?—A. Certainly; we get this advantage, that if formerly there was a trade-mark—well, take the factory that I represented, the Wilcox Silver Plate Company—if our man went to sell a man a tea set, and the price of that tea set was \$28, and he was met by the Meriden Britannia's man, who said that he would sell it for \$27.50—of course, the International Silver Company control the prices of all the wares made by them now.

Q. Both?—A. The Meriden Britannia's man and the Wilcox Silver Plate Company's man would not go and cut each other's throats.

Q. Supposing you find that one brand is particularly popular, for some reason or other, do you get any advantage in being able to turn two or three factories on that one brand?—A. Well, I do not know; we have not got along as far as that. We have not tried anything of that kind.

Q. So that you have not found anything of that kind?—A. No.

PRICES NOT HIGHER BY REASON OF CONSOLIDATION.

Q. (By Mr. RATCHFORD.) That combination, if it results in the retaining of prices as between the representatives of the two rival concerns, surely makes dearer silver for the consumer, does it not?—A. They are not in rival concerns.

Q. They were at one time?—A. Yes.

Q. And because of the combination prices are maintained?—A. As far as the product of the International Silver Company is concerned, yes; not as between outsiders, of course.

Q. The International Silver Company represents now both of the concerns of which you spoke a few minutes ago?—A. Yes; those two; yes.

Q. The result to the consumer is what—higher prices?—A. No. As I said before, the consumer to-day is buying his goods relatively cheaper than he was before the International Silver Company. And allow me to say even if that was true before, the consumer—perhaps you will not care to have my particular views here; I did not come here to air them.

INTEREST OF WORKMEN IN SUPPRESSING COMPETITION.

Q. Yes; we do.—A. Even if that was true, when a concern meets this competition and has the same facilities for manufacturing goods and has the same efforts put into the management of the business, and when the struggle of the competitors simply means the survival of the fittest, one of those against the other, who has to stand the brunt of it? It is the man that stands at the bench and makes the goods, every time. He is cut down 5 per cent; he is cut down 10 per cent. Now, I say a fair price to the consumer that would pay a fair percentage on the capital invested is the proper thing for the labor that makes the goods to advocate every time.

Q. Does the man at the bench invariably receive a share of the advance in the prices?—A. I do not know.

Q. That is a very material point. As a manufacturer, it seems to me you ought to know it.—A. I only know I managed one concern for 31 years, and the employees that have been with us for years have always in good times—they always get the benefit of increased business and increased prices.

Q. You said, previously, that the wages during the past year had advanced from 5 per cent to 7½ per cent?—A. Yes; I did say so.

Q. Has that been in proportion with the advance of the wares in the markets?—A. Yes; fully so.

WAGES ARE NEVER RAISED VOLUNTARILY—NUMBER OF WORKMEN—MANAGEMENT OF THEM.

Q. (By Mr. A. L. HARRIS.) Has this advance been voluntary on the part of the company?—A. No, sir; I do not think that is human nature. I think that when a man wants more he comes and asks for it.

Q. My question was whether it was voluntary on your part to raise wages when the prices increased?—A. No, sir; and the employees know it just as well as the proprietors do.

Q. (By Mr. RATCHFORD.) Without an organization among your men, how are wages looked after?—A. As I stated, there is no uniform scale of wages. Take what we call the spoonmakers, or the turners and solderers. One man is worth double what the other is, perhaps; one man is worth 25 per cent more and one man is worth one-third more; it is skilled labor. It is not like wheeling a wheelbarrow or carrying a hod, and one man can do very much better work and very much faster work than another.

Q. (By Mr. FARQUHAR.) Do you pay by the time or piece?—A. Most of the labor is done by time—day work.

Q. Then how are you able to single out the experts among your employees?—A. Why, I think that is very easily done. We have never found any trouble about that. We have never found any trouble about a man soldering up a tea set, if you please, and doing it quicker than another, and nicer.

Q. (By Mr. JENKS.) About how many men do you employ now altogether?—A. In the International Silver Company?

Q. Yes.—A. I can not tell you.

Q. About how many men did you have in your plant before that?—A. I should say we had about 400.

Q. Taking the separate plants that you have in the establishment now, would they run on an average 250 to 400 in a plant—not over 400?—A. I should not think they would average that.

Q. Would they average 300, say?—A. That would be nearer it.

Q. Your idea is that one superintendent, by personal observation, can follow 300 men closely and so can pick out these good men without difficulty?—A. Yes.

Q. (By Senator KYLE.) What proportion is skilled labor?—A. I should say 90 per cent.

Q. That was true in your own private establishment before the organization of this company?—A. Yes.

CASH VALUE OF PLANTS AND TRADE-MARKS.

Q. (By Mr. JENKS.) We will come back for a moment to this question of capitalization. What, in your judgment, at the present time, would be the cash value of your plants and trade-marks?—A. Well, is that a proper question to ask me?

Q. I think so.—A. About the inside of a—you might say—a private corporation?

Q. If you will pardon me, I will give a reason for asking it. We hear a great deal in these late days in reference to the evils that come from overcapitalization. This commission has as one of its chief duties to recommend legislation to different States and to the United States, and that question comes up as a very pertinent one, whether any legislation can be suggested to prevent what is often considered an evil along that line. You yourself suggested that when Mr. Stewart came to you you put down as one condition of your sale that the amount of capital stock should not be over a certain fixed sum. So this question is one that we have asked regularly of many people, and we have had it answered with considerable frankness. Of course, we expect only an estimate, unless you have an opportunity to consult your books. I would just as soon put it in another way, as suggested to a witness yesterday, if you like. How does the capitalization of the company compare with the cash values? A gentleman said yesterday he thought about 5 to 1 in his establishment. Now, if you can give us information in reference to yours we shall be glad to have it.—A. Won't you please state that question again?

Q. Shall I state it in the first or the second form?—A. In the second form. That sounds better.

Q. What proportion of the capitalization of your company, the International Silver Company, do you consider the cash value of the plants and trade-marks to form? Now, you are capitalized at \$20,000,000.—A. Well, I do not think I ought to answer that question. I am inclined to be perfectly willing to give you anything. I have nothing to conceal about our company. As I said, this is all a family matter; but when you come to ask about the details of our business in that way—I can not give it to you here, because I have not any figures anyway, and I do not suppose you would care about opinion or guess particularly.

Q. That is what I want, your personal opinion on the matter.—A. I haven't any. You want to know, as I understand, what the cash value of our assets is.

Q. As compared with your capitalization of \$20,000,000. I would just as soon put it in another way, still, if you like. If we use the word in the ordinary sense, about how much water is there in your stock? I am not sure that I should have asked that question in that form, but ordinarily we have had the former question answered with frankness by most of the witnesses.—A. Well, I can answer that question by saying that it may be a matter of opinion what the trade-marks and patents and this sort of thing are worth. I might consider them worth \$1,000,000 and somebody else might consider them to be worth \$10,000,000. I do not think my opinion is of any particular value to this commission, as I am a private individual, and I do not know that I care to express opinions here. I will give you all the facts I have got.

Q. If you are unwilling to give an opinion, would you be willing—any more willing—to send us the facts after you have an opportunity of ascertaining what they are?—A. What do you mean by that?

Q. You said a while ago that you could only give a bare opinion here until you consulted the books. I thought you would rather give us an opinion than what your books show. The impression was that your opinion would be definite enough for the purpose of the commission. As I explained before, this is a question which is really of much public interest, and the commission has, practically, to express an opinion on this matter, and we have gathered what information we could find from a number of establishments.

Q. (By Senator KYLE.) May I ask what was your answer to the question a while ago as to the value of your plant, as you operated it before the organization of this new combination?—A. We considered our plant worth \$1,500,000.

Q. That is exclusive of good will and trade-marks?—A. Trade-marks, etc.

Q. Everything?—A. I will answer your question by guessing what I consider the trade-marks and patents of the International Silver Company worth. It is personal opinion, not my official opinion.

Q. That is all we care for.—A. I consider it worth \$10,000,000.

Q. (By Mr. JENKS.) You exclude from that the plants?—A. Yes.

Q. And what do you consider, speaking roundly, the value of the plants?—A. I should consider the value of the plants and the merchandise, etc., as much more, perhaps.

Q. So far as your opinion as to the value of the plants is concerned, you consider that a pretty positive one, do you?—A. Yes.

COMPANIES ABSORBED BY THE INTERNATIONAL SILVER COMPANY.

Q. Can you give us the names and locations of the plants that went into this organization?—A. I think I can, most of them: The Wilcox Silver Plate Company, the Meriden Britannia Company, the Meriden Silver Plate Company, in Meriden; the Barber Silver Plate Company, the William Rogers Manufacturing Company, of Hartford, Conn.; the Rogers Brothers and Rogers & Hamilton, of Waterbury, Conn.; the Middletown Plate Company, of Middletown, Conn.; the Derby Silver Company, of Derby, Conn.; the Holmes Edwards Silver Company, of Bridgeport, Conn.; the Simpson, Hall & Miller Company, of Wilmington, Conn.; Simpson Nickel Plate Company, of Wilmington, Conn.; Norwich Cutlery Company of Norwich; the Manhattan Silver Company, of Lyons, N. Y. (that is the concern I spoke of where we simply own the stock); the Standard Silver Company, of Toronto, Canada. I guess that is all.

Q. That is 15?—A. I guess that is all; the Wattrous Manufacturing Company, Warrington, Conn.

WALL STREET POOL.

Q. During the months of March and April the common stock of the International Silver Company was selling in the thirties somewhere; soon after the 1st of May the common stock dropped to below 15, considerably; 11, 12. There was a good deal of talk in the papers at the time about pooling of the common stock. Will you be kind enough to give us a statement as to the circumstances?—A. I can not give you any. The Wall street end I know nothing about; I have nothing to do with that. I can not give you any information in regard to it at all. I can not guess about it, even.

Q. (By Mr. FARQUHAR.) This is listed stock on the New York Exchange, is it not?—A. The common only.

Q. Common?—A. Yes. Well, it is what they call the unlisted; they call it there, but it is not regular; it is in unlisted securities.

TERMS OF SALE OF WILCOX SILVER PLATE COMPANY.

Q. (By Mr. A. L. HARRIS.) When these plants were purchased, in what were they paid for?—A. I do not know, sir.

Q. You were not in there then?—A. No, sir.

Q. You do not know whether it was cash or stock?—A. No, sir; I do not know. With the exception of one plant, I do not know what any of them got.

Q. In the case of that one plant, which was your own, did you receive in payment cash or stock?—A. We received in payment one-third in cash and two-thirds in preferred stock.

Q. Preferred stock?—A. Yes, the preferred stock; also one-half of the preferred in common stock.

Q. Well, you had some idea of what the values of these different companies were, the value of the property that you were obtaining in these different companies, at the time, had you not?—A. As I said, my arrangement was—my proposition was—that if the International Silver Company would obtain possession of these companies—and the Derby Company there and the Middletown Company were left out; these companies we have bought since that—if they would obtain possession of these companies on a capitalization of a certain amount, that I would sell a majority of the Wilcox Silver Plate Company stock to this man; what they were paid I cared nothing about. I said, here is the capitalization of these companies; they are all familiar to me, and my judgment is based on that capitalization; with these companies in, it would be a success; now, you can buy the Meriden Britannia Company for \$1,000 or \$2,000,000 for all I care.

Q. And your plant was taken on that proposition?—A. Yes.

Q. Would you care to state to the commission what that proposition was?—A. I would just as lief as not. As I have stated, if anyone wants to know, I can tell them. For par value of our stock, \$25 a share, our stockholders got \$25 in cash, and \$50 in preferred and \$25 in common stock.

NO GOOD WILL IN THE BUSINESS.

Q. (By Mr. CLARKE.) Now, what did this \$50 in preferred stock and \$25 in common stock represent?—A. It represented the stock of the International Silver Company based on this capitalization which I said I would go in at.

Q. You considered that your stock had become worth that much above par?—A. Yes, I did.

Q. Well, what made it worth that much above par?—A. Our previous earnings, sir.

Q. Well, that is good will, is it not?—A. No, sir.

Q. It is success in business, is it not?—A. Yes.

Q. It is having a line of custom well established, which you think you can maintain?—A. Well, I should differ with you on that. I suppose that is a matter of opinion. As I said before, if the Wilcox Plate Company had remained in business as a separate organization and had stamped our goods John Jones & Co., simply, we could not have sold them. I say it is our trade-mark, and not because the public like us particularly.

Q. Your trade-mark was yours, was it not?—A. Yes.

Q. The trade-mark itself did not cost anything?—A. I think it did. It cost us a great many years of labor, and a great many thousand dollars in money, before we could make the people believe that that trade-mark was a valuable thing.

Q. That is just the point I want to bring you to; whether or not the development of your business had not taken some form that other people call good will; you call it trade-mark; it is the same thing.—A. As I say, that is a matter of opinion. I call it trade-mark, and you simply call it good will.

DIMINUTION OF COMPETITION—COMPETITION REMAINING.

Q. (By Mr. FARQUHAR.) In part of your testimony you said that there was quite a fierce competition between various firms and corporations in your line of business previous to this combination. Has it been your experience that since you have combined you have eliminated a good deal of that competition?—A. No, sir; we have eliminated whatever competition there was between the concerns on that list.

Q. In other words, you have 16 plants here, 15 of which were in direct trade opposition to you in the Wilcox?—A. Yes.

Q. Since you have combined there are 15 competitors that have gone out of business?—A. Yes; that is right.

Q. Now, you answered a short time ago that you simply made the combination on account of economies in manufacturing, and the control, of course, of larger capital; but is it not a fact that one of your main reasons for going into the combination was to stop this ruinous competition, even in your neighborhood, or in the Connecticut manufacture?—A. Certainly it may have been an added reason to those I have given you.

Q. Was it not as good, if not a better, reason than simply the economies of manufacture?—A. I should say not. I should say that the reasons were about equal in that respect.

Q. Could you, if you desired, now under the combination arbitrarily raise prices at any time and force the market up?—A. No, sir.

Q. Is there enough competition outside of your combination to force the prices down and keep them down?—A. Yes.

Q. Is that competition now active against you?—A. Yes.

Q. Are they underselling you in any place?—A. Yes.

Q. Do you maintain as many men on the road as before the combination?—A. Yes; I think more.

Q. (By Mr. JENKS.) Do you meet their cuts in prices?—A. No, sir.

Q. (By Mr. RATCHFORD.) Is it or is it not a fact that the earnings of your combination have been increased more largely by reason of the elimination of competition than by the economy in manufacture?—A. I can not tell you until next February or March, when we take our inventory.

Q. What is your opinion about it? Have you any?—A. No, sir; I can not express any.

Q. (By Senator KYLE.) You stated a moment ago that you knew of about 40 concerns outside of yours?—A. I should say about that.

Q. Are they manufacturing a quality of goods similar to your own?—A. Reed & Barton have been in the business longer than any of the firms, and it is understood to the trade in a general way that they manufacture the very best goods, and have for many years—Reed & Barton, Taunton.

Q. So in your judgment, if you were to force the price of your finished products above a certain point, they would supply your trade?—A. Undoubtedly they would. There are a number of very large concerns that are still in competition with us. As I have already stated, and repeat again, ours is a sort of neighborhood matter, that we thought would be the best thing for friends and neighbors right around us. If you gentlemen were selling goods, you would find out that there was some competition outside of the International Silver Company, I guess.

QUALITY OF GOODS MAINTAINED OR IMPROVED.

The International Silver Company owned the original trade-marks of Rogers plate, which we consider very valuable on spoons and forks. There are about 1,400 Rogers families started up; all sorts of Rogerses.

Q. (By Mr. JENKS.) Is there any special Rogers brand? Any special date which is considered to be the standard, the genuine?—A. Yes; 1847, Rogers Brothers.

Q. You own that trade-mark?—A. Yes.

Q. That is the one you manufacture under?—A. Yes; that is the one we consider very valuable.

Q. Since the International Silver Company has been in business it has, of course, been using this trade-mark. Has the quality of the goods on which that trade-mark is put been kept exactly as it was before?—A. Yes; I will not say that; I think better.

Q. You are positive not poorer?—A. Yes.¹

Q. (By Senator KYLE.) You have added something to the Wilcox brand?—A. We can not add to that; that, Senator, was always up to A1; that can not be added to; the people in the country for these years ask for Wilcox, and they buy it.

WALL STREET POOL (RESUMED).

Q. (By Mr. JENKS.) You said a moment ago that you and the company knew nothing about the Wall street end of the business. I suppose that is so. May I ask one further question along that line? Did you yourself, after receiving your common stock, assign part or all of that to a New York banker or bankers before the 1st of May?—A. Did I myself personally?

Q. You or your firm—the person to whom the common stock was given when you sold out.—A. The common stock was given to—we had ninety-odd stockholders.

Q. Well, personally.—A. That, I think, comes right down to personal matters of Dodd.

Q. I tried to make it pointed.—A. I can not answer that unless you compel me to.

Q. I really think you ought to. I presume there is no harm in it?—A. No; there is no harm, I suppose. I am a law-abiding citizen, and I should not have interfered with the law.

Q. The question is, did you assign it?—A. Why, I do not believe I want to answer that.

Q. I think it is rather an important question, for the purpose of the commission, and that it ought to be answered.—A. Well, I think you are coming down to my private affairs. Have my private affairs anything to do with the public, with a Congressional commission?

Q. The way in which the stock of the industrial combinations of various kinds is dealt with, manipulated and so on, in Wall street, is very important, and the suggestion of legislation that may tend to lessen what many people consider to be those evils is an exceedingly important part of the work of the Industrial Commission. The commission, in consequence, feels it important to have some facts to base recommendations on.—A. Well, supposing I had gone into the market—if you will allow me to go on in an informal way—

Q. Certainly.—A. Supposing I had gone into the market and bought 500 shares of common stock, at market prices in Wall street, and then afterwards put it into this pool that you talk about; would that be a proper inquiry of the commission, if I kept my original stock out of the pool and bought 500 shares on the street, and then put it in the pool? Would that be a pertinent question?

Q. My own opinion is, and I presume it is the opinion of the commission, that any inquiry with reference to a pool in Wall street, in connection with this company, which seemed to have a very decided effect on the common stock, when there was a drop from considerably over 30 to 11, 12, or 13, in a few weeks, is rather a pertinent

¹ See Mr. Rogers, p. 1072.

inquiry and a proper one.¹ I am not asking you the number of shares you assigned, or anything of that kind. The question is whether you did assign stock of that kind to a banker or a firm of bankers in New York before the 1st of May?—A. Well, I can answer that question. I had just as lief freely answer the question that some stockholders did do that thing and that there was such a pool formed.

Q. You know that?—A. That I know from actual knowledge.

Q. That would perhaps answer just as well.—A. Certainly there was a pool formed. Anybody knows that.

Q. Will you be kind enough to give us the condition of the pool, and the nature of the pool?—A. Individuals were asked to put some of their stock in this pool with the understanding that the stock should not be sold for any less than a stated price.

Q. And that stated price?—A. I think that stated price was 30, as I recollect it. It is all gossip, because it is nothing to the officers of the International Silver Company.

Q. That is, as officers?—A. As officers of the Connecticut company they had nothing to do with that. If the stock was not sold it was to be returned to the holders.

Q. That is, if not sold before the 1st of May?—A. Yes; I think that was it; the 1st of May or the 1st of June. Anybody that knows anything about Wall street will give you that information, I suppose.

Q. (By Mr. CLARKE.) What is par of the common stock?—A. \$100 a share. This was a very unsuccessful deal. One gentleman told me within a week that he lost \$11,000 in it.

Q. (By Mr. JENKS.) You know from your own knowledge that such a pool was formed on that condition?—A. Yes.

Q. Now, how much of the common stock was in that pool?—A. That I do not know. I do not know whether it was a million or three million.

Q. That information is as much as I care for.—A. Yes; I know it from the fact that some of our old stockholders came to me, as manager of our company, and wanted my advice whether—they had been asked to put their stock in this pool.

Q. (By Senator KYLE.) This matter is not connected in any way officially with the International Silver Company?—A. No; not in the least.

Q. It is a matter entirely private?—A. Entirely private, with private stockholders. I simply gave them my private advice, and some of them acted on it, and some of them did not. I think the pool was a failure from the beginning to the end, from the gossip I got. I do not know anything about the facts. Never inquired, and do not care to.

TERMS OF SALE OF WILCOX SILVER PLATE COMPANY (RESUMED).

Q. (By Mr. A. L. HARRIS.) When you submitted your proposition to the promoter of this company, or promoters of this company, and agreed to take so much cash and so much in common stock, and so much in preferred stock, was that stock valued at par?—A. Our stock?

Q. The stock you were to take in payment. Was that to be valued at par, dollar for dollar?—A. Yes; so many shares.

¹ QUOTATIONS OF INTERNATIONAL SILVER COMPANY STOCKS.

The common stock was first called on the New York Stock Exchange on February 2, 1899. From that date the price of the common given here is the average of the high price and the low price for the day. Prices of common before that date, and prices of preferred throughout, are averages of bid prices and asked prices, as given by the Commercial and Financial Chronicle.

Date.	Pre-ferred.	Com-mon.	Date.	Pre-ferred.	Com-mon.
1899.			1899.		
Jan. 6.....	87½	23½	Apr. 14.....	74½	25½
13.....	82½	16½	21.....	75	21½
20.....	85	21	28.....	75	22½
27.....	82	23	May 1.....	75	19
Feb. 8.....	80	89½	5.....	75	14
10.....	83½	32½	6.....	.....	11
17.....	82½	33½	9.....	.....	11½
24.....	82½	39½	12.....	75	15½
Mar. 8.....	81½	81½	15.....	.....	14½
10.....	81½	80½	19.....	65	17½
17.....	81½	80	23.....	.....	17
24.....	80	29½	26.....	66½	17½
Apr. 1.....	79	26	31.....	.....	16½
7.....	79	27			

Q. Was anything added to the value of your plant on account of the payment you were to receive, or was it the actual cash value of the plant?—A. That is what we valued our business at.

Q. Well, I say the plant and the business, good will, etc.?—A. Yes.

Q. Nothing else was added on account of that?—A. Our arrangement was simply the price of our stock. Our stock was put in practically at the rate of 300. It sold in better times for 375, but the bad times, of course, reduced the value of it.

Q. You valued your plant on the value of your stock, really?—A. Yes.

Q. Now, what I want to get at is, whether that was the exact value that you turned your property over to the company at, and received in payment so much cash, and so much common, and so much preferred stock in the new company.—A. That is it, sir. (Testimony closed).

[The following interrogatories were subsequently proposed to the witness, and were answered by him as here shown.]¹

Q. At what time were salaries voted to the officers and directors of the International Silver Company?—A. March 27, 1899, to date from January 1, 1899.

Q. Have the salaries of either officers or directors been increased since that time?—A. No. I would also state that no director receives any salary unless he is the active manager of a factory.

Q. What are the salaries (a) of the president, (b) of the directors, (c) of the treasurer?—A. The president, \$12,000. Four directors, who are members of the executive committee and also managers of four of our largest factories, receive \$10,000 each for their entire services in both capacities. One director, who is also on executive committee and a manager of a plant, receives \$7,500. The treasurer has never been voted a salary and expects none, as he has no duties to perform and has never been inside of the company's office. The assistant treasurer receives \$8,000 per annum.

Q. Has the International Silver Company paid any dividend on its preferred stock?—A. No.

Q. Were the salaries of the officers fixed or increased at a meeting when it was decided to pass a dividend on the preferred stock?—A. We never passed any dividend, as no date was ever fixed either by by-law, act of incorporation, or vote of directors providing for the payment of a dividend.

SAMUEL DODD,

President of International Silver Company.

MERIDEN, CONN., November 22, 1899.

WASHINGTON, D. C., November 15, 1899.

TESTIMONY OF MR. WILLIAM H. WATROUS,

Director of the International Silver Company.

At 12.45 p. m. Mr. William H. Watrous, director of the International Silver Company, Hartford, Conn., was introduced as a witness, and, being duly sworn, testified as follows:

Q. (By Senator KYLE.) Will you state your full name, address, and business?—A. William H. Watrous, Hartford, Conn.

MANAGEMENT OF THE INTERNATIONAL SILVER COMPANY.

Q. (By Mr. JENKS.) Are you connected with the International Silver Company?—A. I am.

Q. In what capacity?—A. I am manager of the William Rogers Manufacturing Company.

Q. Are you one of the officers of the company?—A. I am a director of the company.

Q. You spoke of being the manager of one of the companies. Will you explain how the business is organized, and the position that the managers hold under the directors and under the main officers of the company?—A. The William Rogers Manufacturing Company is known as Factory H of the International Silver Company.

Q. Are the different factories designated in this way, by letters, and a manager appointed on salary to manage each of them?—A. Yes.

Q. Directly under the officers and the directors of the International Silver Company itself?—A. Yes.

¹ See Mr. Rogers, p. 1075; Mr. Watrous, p. 1066.

Q. You have heard the testimony given here by Mr. Dodd?—A. Yes.

Q. Does your own information and memory coincide with that as regards the facts?—A. Yes.

Q. And as regards the estimates that Mr. Dodd gave, would your estimates in the main coincide?—A. Yes.

Q. Did you notice any discrepancies there at all?—A. No more than to call attention to the fact that the \$20,000,000 is not issued.

Q. Mr. Dodd himself called attention to that fact, I believe; that the amount was in the neighborhood of \$15,000,000.¹ Have you yourself any information that you believe to be trustworthy with reference to the amount of common stock that went into this pool that was spoken of?—A. I do not know a thing about it. I have been manager of the William Rogers Manufacturing Company since 1879.

GAINS BY CONSOLIDATION.

Q. So far as the advantages of the combination are concerned, do you think that the advantage that comes from the common use of the trade-marks, of which so much was said, is to be considered one of the chief advantages—perhaps the chief advantage?—A. Yes.

Q. You consider that the chief advantage that comes to the combination?—A. Of course there is economy in running the business.

Q. But on the whole you think this other advantage, perhaps, the greater one?—A. There is economy in buying and economy in selling.

Q. Do you yourself think that the advantage that comes from eliminating the competition among the different firms that came into the combination is an important element?—A. Well, it helps.

Q. Would you consider that as important as any of the economies that you have spoken of?—A. I consider that outsiders set the price, and the nearer we come to that price the more we make; but any little jealousy between Hartford and Meriden, by which the profit is thrown away to throw a contract to that particular factory, is almost eliminated now.

Q. And you consider that the elimination of competition among the neighbors, as suggested there, is the most important saving?—A. No; I do not think it the most important.

Q. (By Mr. FARQUHAR.) Equally important?—A. Take, for instance, the cases that we put up our fancy goods in. We have them all made together by one party. While they were made before by one party, we found one factory was paying 15 and another 19, and 23, and another 14—no better, but all different prices, and scattered all over. Now we can get a box at a fair price and the same grade; and so with a great many other things.

Q. Can you form any estimate as to the saving that comes to the International Silver Company from using these uniform boxes, giving large orders, and putting them all through the hands of one manager?—A. It would be a guess. I do not know much about it, but I should say it would be up in the thousands of dollars.

Q. In a year?—A. Yes.

Q. (By Mr. JENKS.) About what has been the expense per year in your factory for these boxes in which you send out goods?—A. I can not tell you that, I am sure.

Q. So that you can not give any estimate as to the saving to the company, nearer than up in the thousands?—A. Oh, I think the International Silver Company saves thousands of dollars in every case like that. I can not tell you, only my own factory; I can not divide them in any way, but we spent a good deal of money on cases for goods.

Q. And you have saved a good deal by being able to get them in this way, uniform?—A. Well, possibly we were the ones that had the medium price. I do not know what any other companies will say.

TRADE-MARKS—SALESMEN.

Q. (By Senator KYLE.) I should like to know about this trade-mark. Under the International Silver Company, under what brand do you stamp your goods?—A. Just as before, the Rogers Manufacturing Company.

Q. And Mr. Dodd, the Wilcox goods?—A. Yes; we have just as many agents on the road and sell goods just the same way.

Q. (By Mr. JENKS.) So far as you know, the same trade-marks are made now by the same factories as before?—A. Certainly.

Q. There has been no putting of trade-marks from one factory to another at all?—A. No, sir.

¹ See p. 1053.

WORK PEOPLE, MEN AND WOMEN—NO UNION.

Q. (By Mr. FARQUHAR.) Is there much of a uniformity in your scale of prices for your workmen?—A. No, sir; I do not think there is.

Q. In the Rogers factory, do you hire just simply the individuals?—A. Yes.

Q. And pay them according to merit?—A. Yes.

Q. Skill and workmanship?—A. Yes.

Q. Steadiness of habits, etc.?—A. Yes.

Q. Are your employees residents of your town principally?—A. Yes; almost all of them live there, in Hartford.

Q. Are they New Englanders, or are there many foreigners employed?—A. They are what I call New Englanders, although there are some of German descent.

Q. Descent?—A. Native born.

Q. But not immigrants?—A. No, sir.

Q. Have you ever had any labor organization up in your section at all?—A. They have some in the city, but I do not know of any in our factory.

Q. You have never had anything to do, so far as wages are concerned, with any committee of outsiders?—A. No, sir; never had any trouble, and have had men working there for 20 and 30 years without trouble.

Q. Among your mechanics, what is about the highest rate of wages per day? I mean your skilled men; not foremen, but skilled men?—A. We pay from \$4 a day down to \$1.50.

Q. Do you employ female labor in your factory?—A. Yes.

Q. Any child labor?—A. No, sir.

Q. What is the proportion of female labor to male?—A. I can not tell you that exactly; I think it is more than half.

Q. In your business, how long is it since female labor came in?—A. They were there before I began—years ago.

Q. Has there been any increase of the female labor in your experience?—A. No; I think not any more than as the business increases. There are certain parts of the work that women can do.

Q. Since the so-called good times have got here, has there been an increase in wages in the Rogers factory?—A. Just the same as always before. When a man comes in, or a girl, they all begin at a certain price, and then if they improve, and are worth it, they get more, or else we let them go and get someone else that can work up to it. After a girl has been there so long she gets better wages.

Q. (By Mr. RATCHFORD.) Does she get the same rate of wages as men for the same work?—A. No; they do not do men's work.

Q. In any case?—A. No, sir.

Q. (By Senator KYLE.) You characterize your employees, then, as unorganized labor?—A. Yes.

Q. As a whole?—A. Yes; I would, as a whole.

Q. What are the classes of labor you employ?—A. We have in the departments—we have plating, burnishing, buffing, and packing.

Q. About how many men ordinarily are employed in these different classes; that is, in round numbers?—A. In the burnishing machine room there are about 4 machinists and 2 young men, and there may be 20 girls to run the burnishing machines. In the packing room it is almost all women; we just have the boys to bring in the work.

INDIVIDUAL BARGAINING FOR WAGES.

Q. In times of prosperity, when the men consider in their own minds that they want an advance in wages, what is the method of getting an increase? Do they talk among themselves and appoint a committee to see you?—A. They come singly, one at a time, and when one gets a raise then another comes around.

Q. Your plan is to treat all fairly? If there are 10 men in a room and you raise one man's wages, the men doing the same work ought to be raised also?—A. Well, no; they are scattered around doing different work. Take the plating room, for instance; they are not all competent to do the plating alike; some would do a nicer class of work, and they get the best wages.

Q. I presume you regard the state of the market?—A. Certainly.

Q. And raise in proportion?—A. Yes; if a man does the same work he gets the same pay.

Q. In times of general prosperity you expect to have to raise wages of your employees?—A. We have always made a habit of raising whether there was prosperity or not. So long as he is competent, he gets a raise when he does certain work.

Q. (By Mr. RATCHFORD.) Do you regard that as an equitable means of adjusting wages?—A. Yes. If a man came in to work in the machine room, and worked around there, sometimes running nothing but a planer, and was not a good machinist at all, and we should start him at \$2, he would have to be able to do what any other machinist did, if he got \$3. When he could, then he would get it.

Q. You said that your men came to you singly?—A. Yes.

Q. The first one that comes is speaking for himself?—A. And the others; yes.

Q. He is only representing himself, and yet the wages in that department of the factory, all of the factory, depend on the result of his interview with the manager?—A. No.

Q. While he is only representing himself directly, the wages in the factory depend on the result; is that so?—A. No.

Q. If his wages are advanced it will result in others following it?—A. When they are able to do a certain amount, they get a certain amount.

Q. Voluntarily?—A. Yes.

Q. Always fixed by the manager?—A. Yes.

Q. (By Mr. FARQUHAR.) In other words, they get paid according to the promotion; that is what you mean?—A. Yes.

Q. It is skill?—A. Yes.

Q. (By Mr. JENKS.) Do you, as manager of this plant, have the authority to increase wages and hire the men independently now as you did before the combination was made?—A. Yes.

Q. (By Mr. FARQUHAR.) Now, as far as you know, is there any uniformity in this Connecticut neighborhood in wages that are paid in all the factories?—A. I could not tell you.

Q. That is, are they all paid according to skill; is that a common practice with other factories?—A. Yes; I think it is.

Q. (By Mr. RATCHFORD.) If it be an established rule in your factory that men receive wages in proportion to their skill and merit, why is it necessary for one of your employes to come to you and ask for an increase, and be followed by others?—A. That has always been the method; I mean the rule.

Q. But in that we have two rules: First, you claim that men receive pay according to their skill and merit measured by the managers?—A. Yes.

Q. And next, that the men will come and solicit increased wages?—A. Yes.

Q. Now, if they receive pay according to their merit, and their merit is measured by the management, why should they come and solicit it?—A. It has always been the rule for them to come to us; no one else can raise the wages.

Q. Are wages ever raised voluntarily without any solicitation on the part of the men?—A. No; because the work is always—

NEVER REDUCED ANY WAGES.

Q. (Interrupting.) Are they ever reduced on the part of the management?—A. We never have reduced any wages.

Q. What?—A. We have not reduced any wages.

Q. Never have reduced any wages?—A. No.

Q. (By Mr. CLARKE.) Do not men sometimes think they are entitled to an advance before you think they are?—A. Yes. If we are paying \$3 for a certain amount of work and a man thinks he ought to receive more and we do not, of course, he is at liberty to go somewhere else. If that is the rule in the room, and he can not do any more than anyone else, we could not break the rule for that particular party.

MUTUAL RELATIONS OF FACTORIES.

Q. Are some of the other factories in the silver company engaged in producing the same kind of goods that you produce?—A. Yes.

Q. And has there been any decrease in your production, or any increase of it at any time since the consolidation, by orders from headquarters?—A. I do not believe I quite understand.

Q. Well, is the work at your factory diminished and taken to some other factory?—A. No.

Q. Or vice versa?—A. No.

Q. Could that be done in your line of business and make an economy for the whole establishment sometimes?—A. Just now we have all got all we can do. This is the harvest time of the year, the three months before Christmas; but of course in quiet times we could, by keeping all the factories running, push business while one of them might be delayed; it would be economy.

Q. I suppose your factories are practically so near together that nothing could be gained by saving in the cost of distribution. One could supply the market just as cheap as another, as far as freight rates go?—A. Certainly.

EMPLOYMENT OF WOMEN IN DIFFERENT DEPARTMENTS.

Q. (By Mr. JENKS.) Is the work that is done in the plant that you are managing the same in its general nature as that that is done in the other plants of the company, or is it different?—A. Some have both hollow and flat, some all flat, and some all hollow.

Q. What is the special branch of work that is done in your plant?—A. Flat ware—spoons, knives, and forks.

Q. Is it making the base?—A. No; simply plating and putting it on the market.

Q. You say that you do only the plating in your establishment?—A. Yes.

Q. Would you say that the proportion of the women in your plant was about half?—A. I should say it was over half.

Q. Is it as much in the other plants?—A. In this particular department do you mean?

Q. Yes; in this particular department.—A. I should say it was.

Q. How about the company as a whole? Are women employed to any material extent in the plants where they manufacture the base, for example, of spoons and forks?—A. No.

Q. No women at all?—A. Very few.

Q. So that you think that the proportion of women in your plant is perhaps larger than it is on the average?—A. Yes.

Q. Very much larger?—A. Yes.

Q. What special work do the women do in your plant?—A. They run the burnishing machines, burnish the spoons, and they pack.

Q. Packing and getting ready for the market?—A. Yes.

Q. So that in those plants where they manufacture the base on which the plating is done there would be no women employed, would there?—A. Very few. There might be a few to wash up and pack them to ship to us.

Q. But in the main it is only in those factories that do the finishing work that women are employed?—A. Yes.

(Testimony closed.)

Whereupon the commission took a recess until 2 o'clock p. m.

[The following interrogatories were subsequently proposed to the witness and were answered by him as here shown.]¹

Q. At what time were salaries voted to the officers and directors of the International Silver Company?—A. March 27, 1899.

Q. Have the salaries of either officers or directors been increased since that time?—A. No.

Q. What are the salaries (a) of the president, (b) of the directors, (c) of the treasurer?—A. The president gets \$12,000; 4 directors get \$10,000 each; 1 director gets \$7,500; the treasurer, \$8,000; but all directors are managers of factories and as such draw salaries, but no pay for being a director.

Q. Has the International Silver Company paid any dividend on its preferred stock?—A. No.

Q. Were the salaries of the officers fixed or increased at a meeting when it was decided to pass a dividend on the preferred stock?—A. No. We never paid a dividend and never passed a dividend.

WILLIAM H. WATROUS.

HARTFORD, CONN., November 24, 1899.

WASHINGTON, D. C., Wednesday, November 15, 1899.

TESTIMONY OF MR. N. BURTON ROGERS,

Vice-president of C. Rogers & Bros.

The commission met at 2.20 p. m., Chairman Kyle presiding. Mr. N. Burton Rogers, of Danbury, Conn., vice-president of C. Rogers & Bros., of Meriden, being duly sworn, testified as follows:

Q. (By Senator KYLE.) Please state your full name, address, and business.—A. N. Burton Rogers, Danbury, Conn. I am in the silver-plating business.

¹ See Mr. Rogers, p. 1075; see Mr. Dodd, p. 1062.

Q. (By Mr. JENKS.) Manufacturer?—A. Manufacturer, and vice-president of C. Rogers & Bros., of Meriden.

NEGOTIATIONS BEFORE THE FORMATION OF THE INTERNATIONAL SILVER COMPANY.

Q. Did you earlier have any connection with the formation of the International Silver Company?—A. Of what was contemplated at one time.

Q. That is, you did have some dealings, or some proposed dealings, with the promoters of this company?—A. Yes.

Q. Will you be kind enough to explain to us that matter somewhat in detail?—A. We were asked to give an option upon our business to the promoters, which we did, stating the price that we would take for our plants, with a number of other concerns that were enumerated as those that would be willing to sell their plants. Upon condition that they all sold, this option would stand. We submitted—each one submitted to an investigation of their books, which was to be confidential.

Q. That is, between the different concerns and the promoters?—A. And the promoters.

Q. It was not to go to the other concerns?—A. The others were not to know anything about it. It was practically what they call a blind pool. We submitted to an examination of our books, and we all met, we supposed, on an equal basis. At the meeting each company was represented by a director. At that meeting certain gentlemen proposed that they have additional directors for their concerns.

Q. On what grounds did they make that suggestion?—A. On account of their being larger holders, or larger concerns, than some others who were represented by one director. A proportion thought that was not fair, and they asked for an additional director. That was voted upon and carried by one majority, but was afterwards rescinded and no additional directors were added. A committee was appointed to proceed to the formation of this new company, but it was soon given out that the matter had been broken up. Previous to this we had agreed with the promoters upon the price which we were to have for our concern, and we supposed that we came to that meeting with every one in the same condition. Afterwards it fell through. Some of them demanded all cash, because there was an opportunity for them to withdraw on account of all the conditions not being complied with. And then we heard that there was a new combination to be formed, and that this new combination had accurate knowledge from the promoters of almost everything pertaining to the companies which had agreed to go in and had submitted to an examination of their books. In the new formation we were not asked to participate; but it was formed soon after with three or four left out, or more.

Q. Of those who had proposed originally to come in?—A. Those that had proposed to come in originally, and who had gone into it upon the supposition that there was to be a combination, and that they would be enabled to get sufficient from it to pay them. The competition had been so great that there would not be much money in the business if the competition did not cease.

Q. Had it been thought when this combination was first proposed that it would include practically all of the large manufacturers of silverware?—A. Yes; all of the principal ones and a number of the smaller ones were included in this list.

Q. Did the promoters, when they came to you with their offers, have any prospectus, to show you, as they stated, what concerns had given them options, so that you had good reason to believe that all of the large ones were coming in?—A. Yes.

Q. Would you explain to us in some detail the nature of this prospectus, and the nature of the representations that were made to you by the promoters?—A. We generally agreed that if all would come in it would be beneficial; but the smaller ones wanted protection; either that they should be able to manage their business, or that they should hold some position in the new combination either as director or salaried officer. We were not offered anything except a directorship, because we asked nothing. We simply said our plant, if they wished to buy it, we would sell at such a figure, and we finally agreed upon the figure; while others had some provision in their options, either that they should have a director, or other things pertaining to the business.

Q. From the information that you secured at this time with reference to the values of the different plants that went in, or the prices that were paid for the plants—
A. (Interrupting.) We had no knowledge of the price paid or agreed to be paid to the others.

OPTIONS TO DUMMIES.

Q. You had knowledge, of course, of the offer that they made to you?—A. Yes; that was in writing. I wish to say that the mode of operation is that they will take, as in this instance, a clerk in the promoter's office, a man without any financial

responsibility, and to him you give the option; and if all go into that agreement—if they carry it out, they can hold you; if they on their part do not, you have got no one but a dummy to take.

Q. So in the case of the formation of the International Silver Company these options were really taken by a person who was not financially responsible?—A. Not of any financial responsibility whatever; a clerk in the office.

AGREED TERMS OF SALE OF C. ROGERS & BROS.

Q. What was your opinion as to the prices that the promoters were willing to pay for the different plants? Were they, for the sake of forming the combination, paying in your judgment very high prices or simply moderate prices?—A. For C. Rogers & Bros. I can give the exact amount; I do not know what the others were. There was an inventory value, I believe, of over \$600,000; that is, the inventory value without good will or trade-marks or anything.

Q. That was simply the inventory value of the plant and of the stock on hand?—A. Yes; free of all indebtedness; that is the way we made this option.

Q. Of something over \$600,000?—A. Yes; that was the inventory value; but of course there came in the good will. They agreed to pay \$500,000 in cash, \$300,000 in preferred stock, and \$150,000 in common, which we understood was bonus; a bonus which might or might not be worth anything.

Q. (By Mr. CLARKE.) That is to say, the common was?—A. The common.

HOPED PREFERRED WOULD BE WORTH PAR.

Q. (By Mr. JENKS.) At about what figures were you reckoning the value of the preferred; something like 50 cents on the dollar?—A. Well, no; we thought, if the concerns were all brought together—well, that was not knowing how the others would come in. Still, this was the way I reasoned about it: That if they came in on a similar valuation the earning power would make that preferred stock worth par; if anyone desired to sell it before a dividend was declared it might go to even more. It did sell at 80 or 85 at the beginning; now it is offered for 65. But that was about the way we reckoned. The common might bring 30, if they were all in at a fair basis—that is, for profits.

Q. Were you given information at this time with reference to the proposed capitalization of \$20,000,000?—A. Yes.

Q. And from what you had known of the business and from what you yourself could see at the time, it had seemed to you that this \$9,000,000 that was issued in preferred stock was a fair valuation of the plants?—A. Well, of course, these were only impressions at the time. We began to fear toward the end that the capitalization was too large for the basis of regular paying dividends, although we did not know how much the others had been making; we knew there had been a series of very bad years.

PROMOTERS' PAY.

Q. Had you information at the time with reference to the amount that was to be paid to the promoters for their activity in this matter?—A. Yes.

Q. How much was that?—A. That was 3 per cent upon the total capitalization of \$20,000,000.

Q. They were to be paid in cash, were they?—A. No; in common stock.

Q. They were to have 3 per cent of \$20,000,000, but have it in common stock?—A. In common stock.

Q. Were they, out of that, to pay any expenses?—A. They were to pay all the expenses.

Q. All the expenses of organization were to come out of that?—A. Yes.

Q. And they were to have what was left?—A. Yes.

SAVINGS BY CONSOLIDATION.

Q. Now, with reference to the business of the International Silver Company itself, of which you are a competitor, do you judge from the business you have now that there are any material sources of saving from a combination of this kind?—A. Oh, yes.

Q. Will you tell what some of the sources of saving are, as they appear to you?—A. Well, it is a saving in middle men principally. If a concern, one of the concerns in the combination, is making money, they would not close that down unless they could bring it in connection with another, and save the different men that are required to run separate concerns.

Q. You think that, from the organization that was explained this morning, there is quite a material saving in the cost of management?—A. Oh, yes; properly conducted.

HISTORY OF THE ROGERS TRADE-MARKS.

Q. Would you think that there is any special saving to come from the common use of trade-marks in this business?—A. Well, in this case there are several names of Rogers on the market.

Q. Will you be kind enough to explain to us this Rogers trade-mark? Give us something of a history of it, and the way in which it is on the market now.—A. Years ago relatives of ours were in the silver-plate business, back in the 30's and 40's. They first started, I think, one of them, William Rogers, in Hartford, under the name of the William Rogers Manufacturing Company, or William Rogers & Sons. The brothers afterwards—Asa, Simeon, and William—went to Waterbury, and started there the original concern of Rogers & Bros. And to such a state of perfection did they get their goods that they were known as being very valuable and very reliable goods. Other silver-plate manufacturers started in spoons and forks, but they were unable to compete with Rogers & Bros. even at the same price, because the latter were so reliable. But after a time Rogers & Bros. sold out; it became a corporation. They wanted more money, and after a while they went out and sold their property; but the name remained. One of the brothers then went to New York. This was Asa. In connection with my brother, Gilbert Rogers, he started in New York, in John street, under the name of A. & G. Rogers. In the bad times that came on during the war they got a little frightened and stopped. Then the Meriden Britannia Company came forward to my brother Gilbert, and made an arrangement with him to give him 2 per cent, or something of that sort, upon all the goods sold with his name on them.

Q. That is, the Meriden Britannia Company bought from your brother the right to use this trade-mark?—A. Yes; and his compensation was to be $2\frac{1}{2}$ per cent or 2 cents a dozen, I have forgotten which, upon every dozen that was made and sold; and he was to have a position as salesman. Soon after, we heard that they had entered into an arrangement with the original Rogers Bros. to use their name.

Q. The Meriden Britannia Company?—A. That is, instead of Rogers & Bros., the name which the Waterbury concern had, it was Rogers Bros.; and they bought the use of that name, as I understand it, from the original brothers, who were to superintend the manufacturing for 10 years. They then dismissed G. Rogers. Of course there was no compensation to come, because they would not sell any. They had got the Rogers Bros., and they went forward and manufactured and sold those goods. In the meantime they had acquired the controlling interest of Rogers & Bros. in Waterbury.

Soon after their dismissal of G. Rogers my three brothers, Cephas, Gilbert, and William, formed the concern of C. Rogers & Bros. in Meriden, and a while afterwards commenced manufacturing spoons and forks and knives, stamping their name on them. The Meriden Britannia Company at once commenced a suit against them, claiming that they had, under their purchase from the original Rogers Bros., the sole right to use the name Rogers & Bros. After a long litigation the courts decided that C. Rogers & Bros. had a right to use their own name as long as they used it rightfully—that is, provided the goods they sold were equal in quality to those put upon the market by Rogers & Bros.; and that they proved was so, and there was no attempt to disprove it. We do not to-day know by what right the International has used Rogers Bros., 1847. As we understand it, their right to use it expired after the 10 years. In referring to it we have sometimes thought that we had a right to attempt to stop them as they tried to stop us; and the answer was that they controlled Rogers Bros., of Waterbury, and would be enabled to bring it to Meriden, so it would do us no good.

Q. Do you yourself in your own manufacture use the brand Rogers & Bros.?—A. C. Rogers & Bros.

Q. C. Rogers & Bros.?—A. We prefix the C. That was the name of the senior member of the concern, and we have not conflicted with the correspondence, and have abbreviated it as much as possible.

Q. You spoke of the International Silver Company advertising these brands. Do they in advertisements make statements that you think are unjustified by the facts in the case?—A. Yes.

Q. What statements do they make, for example, that you think are unjustifiable?—A. They rented an office in Maiden Lane; we also rented an office there. Each concern put up its name, C. Rogers & Bros. and the International Silver Company, and a notice that it would occupy the premises on such a date. Soon after there

appeared on the International Silver Company's sign, that was stretched across the face of the building, a statement that they controlled all the original Rogers brands or trade-marks for spoons, knives, and forks. That, of course, was not the fact, as no one controlled us but ourselves.

VALUE OF THE TRADE-MARK C. ROGERS & BROS.

Q. How would you consider that the value of those brands that you yourself use compares with the value of your plant itself?—A. In the formation of our present company the trade-mark was put in at \$100,000. In the new corporation of C. Rogers & Bros. the inventory value was \$600,000.

ROGERS TRADE-MARKS OUTSIDE THE COMBINATION.

Q. (By Mr. FARQUHAR.) If the new combination had acquired your plant would they have acquired really all of the Rogers trade-marks?—A. Yes; they would have had them all. There was one man by the name of W. A. Rogers, who was not a manufacturer, who was buying goods or having them made for him and sending them on the market, but it was not considered of very great importance.

Q. But yours was the one that comprised the manufacturing trade-mark?—A. We manufacture from beginning to end under the one name.

SAVING BY CONSOLIDATION—IN ADVERTISING.

Q. (By Mr. JENKS.) Do you consider that a combination like the International Silver Company has any special source of saving in advertising over the independent concerns?—A. They would if they just advertised one brand; but my observation is that there are different branches of manufacture which are still advertising; there are some that are not. Oh, yes; there would be a saving and is a saving, I should judge, to them in advertising.

Q. How do they make a saving?—A. For instance, the William Rogers Manufacturing Company of Hartford used to advertise very extensively; they do not now, and that is only one. I notice Simpson, Hall & Miller's advertisement now occasionally; but the Rogers 1847, the Rogers brand, is being far more extensively advertised than before.

Q. Do you think that they would have any advantage in the cost of advertising by being able to make better terms with advertising agents or with the magazines in which they advertise?—A. I do not. They could; but now there would not be so much advertising, if there were three that advertised before and now only two, unless they increased the space for one, making it equal in cost.

Q. But if there were formerly three advertising and now there is only one advertising, there would be a saving there, at any rate?—A. Yes; where the advertisements were as before.

Q. If the advertisements of all the different houses come through one concern, would they be able to make better terms with advertising agents than they could if they were each dealing independently?—A. Yes; I should judge they would.

Q. They would be able to get better discounts from the advertising agents?—A. Yes.

THE WALL STREET POOL IN INTERNATIONAL SILVER COMMON.

Q. Can you give us any information with reference to the pool in the common stock of the International Silver Company that was spoken of this morning?—A. I know from a very reliable source something in reference to it.

Q. I should be glad to have you state what you know.—A. The stock was, I understood, with Thomas & Post, the bankers who were the promoters in this consolidation; they went to the different stockholders and asked them to place the common stock in their hands.

Q. (By Mr. JENKS.) Assign it to them?—A. Assign it to them to be sold on or before May 1 for not less than 30. If they did not sell it for 30 or more, they were to return the unsold stock to them; and I understood that of the \$11,000,000 of the common they got in the neighborhood of \$8,000,000 or \$9,000,000.

Q. In their hands mostly in this way?—A. That is my information, which I consider reliable.

Q. This pool was to expire on the 1st of May?—A. Yes.

Q. Did you have any information with reference to the amount that was sold, or what the outcome was as regards the amount that they had disposed of?—A. From the same source I learned that the pool had about 800 shares more on their hands at the end of the time than they had at the beginning.

Q. You say that you have this from a reliable source. I suppose, from some man who was himself in the pool or had some interest?—A. I do not know what he had; he was a stockholder; that is, he did have stock.

Q. You understood that he had put his stock into the pool?—A. No; I did not understand that he individually said that. He said that that was the condition of things.

Q. And the source was such that you believe it to be entirely trustworthy?—A. Yes.

PRICES CUT AT FIRST BY THE INTERNATIONAL SILVER COMPANY.

Q. Have there been, since the formation of the International Silver Company a year ago, any changes in price of silverware that you could ascribe to the formation of the company?—A. At first, immediately afterwards, there was a reduction; after the formation of the company there was a vigorous cutting of prices.

Q. Did this cutting of prices come from the International Silver Company or from outsiders?—A. From the International Silver Company. They cut the price on knives, we thought, below cost, and that continued—the cutting in spoons and in forks continued up to the time when material and wages began to advance; then there was a circular issued advancing the prices.

Q. Was that last February?—A. Yes; and previous to that. In the meantime they took all the orders that it was possible to take from different concerns at the lower price, and then advanced the price.

NO FURTHER REQUEST TO JOIN THE COMBINATION.

Q. After they had cut the price or while the prices were held low, was there any further attempt made on their part, to your knowledge, to bring the independent concerns into the combination?—A. That was the most serious attempt. I do not know. We were never approached except in this way, meeting them occasionally, "Well, we must all be together;" but no formal request was made.

Q. Was it the opinion of the trade outside that this cutting in prices was for the purpose of forcing the competitors in?—A. It was for the purpose of injuring them; there was not any profit in it.

Q. (By Senator KYLE.) You stated that you had not been asked to join the combination the second time?—A. No.

PRICES HAD TENDED DOWNWARD, BUT HAVE LATELY RISEN.

Q. (By Mr. JENKS.) What has been the course of prices in your own establishment since 1897?—A. It has been gradually tending downward.

Q. Have you increased the prices of your goods at all within the last year on account of the increase in the price of raw material?—A. Yes; and labor.

Q. About how much? What percentage?—A. From 10 to 20 per cent.

WAGES VOLUNTARILY RAISED.

Q. About what has been the increase in labor in your establishment?—A. Fully as much.

Q. From 10 to 20 per cent?—A. I would not say that exactly. We are getting a little more profit now than we did then. We voluntarily advanced the wages of our employees, of course, before we got the advanced prices. It was dictated by a purpose to avoid any complication; the air was full of good times, and the working men naturally thought they ought to participate, and we voluntarily raised the wages of ours before we got the advanced prices.

PROFITS RATHER LARGER.

Q. About what time was it that you put your prices up?—A. That was early in the year.

Q. Do you find that the competition against you is any more vigorous, or has it been any more vigorous for the last 6 or 8 months, than it was before the organization of the International Silver Company?—A. There seems to be a greater demand for goods.

Q. For goods?—A. For goods, and that allowed us to have plenty to do; but we were not always obtaining the prices warranted by the cost, the increased cost.

Q. You would say that nevertheless, on the whole, your profits are rather larger now since this increase in prices than they were for a year or two before that?—A. Yes.

NUMBER OF TRAVELING MEN—TERRITORY COVERED.

Q. Do you employ traveling men?—A. Yes.

Q. About how many do you have?—A. About 12.

Q. (By Mr. FARQUHAR.) In what sections, what States, do your traveling men usually operate?—A. All over the United States and in Canada.

THE 1847 BRAND HELD UP—THE OTHERS CUT.

Q. (By Mr. JENKS.) Do your traveling men report that they find any more vigorous efforts to take trade away from them by the cutting of prices on the part of the International Silver Company than they met before from representatives of independent concerns?—A. Yes.

Q. They do find more vigorous efforts?—A. Yes.

Q. It is the experience of your company, then, that the International Silver Company is cutting prices against you?—A. Well, not so much lately; there is a little thing that you will have to understand.

Q. Certainly; give what explanation you think best.—A. They have advanced the brand of 1847 and maintain that, while the brand of William Rogers and other Rogerses they debauch.

Q. When you say "debauch," what do you mean by that?—A. Sell it lower than it formerly sold in comparison with the brand of 1847.

Q. The price of 1847 they have held up, but they have cut on the other Rogers brands they own?—A. Yes.

Q. Have they maintained the standard of the brands of Rogers Brothers as regards the quality of the goods?—A. We do not think they have.

Q. Have you made any test so that you feel confident on the matter?—A. Yes; we made tests and found that they did not come up to the standard.

Q. Is that true with reference to the brand of 1847?—A. We have not tested that. We were rather in the belief that they would not do that. Our reason for testing this other was that the price could not be very profitable that they were obtaining for the goods if they had the full value of silver and material in them.

Q. So you made tests of some of these other Rogers brands and found that they were not up to the standard?—A. No; they were not.

C. ROGERS & BROS., AND THE ROGERS SILVER PLATE COMPANY.

Q. How long has your present establishment been in operation?—A. C. Rogers & Bros. has been in operation for 34 years.

Q. How long have you been connected with this concern?—A. About a year.

Q. (By Mr. JENKS.) Will you explain what your business was, or whether you had an independent business, before your connection with this present concern?—A. Yes; the concern which I took up was the Rogers Silver Plate Company of Danbury, and that is about 13 or 14 years old. I was the younger brother, and my other brothers were stockholders in that, and two or three other members of the family. But after this combination was made, the International, we concluded that we would amalgamate, both for our protection as against what might take place and to lessen expenses; and we did so, and it is now a corporation. C. Rogers & Bros. was a partnership at will for 34 years.

TIME AND PIECE WORK—RISE OF WAGES—NO UNIONS—NO STRIKES.

Q. (By Mr. FARQUHAR.) You spoke of your labor, that you had voluntarily raised the wages. How do you employ the men; by time or piece work?—A. Both.

Q. Is that increase general in all your departments?—A. Yes; the raise of wages was almost universal.

Q. And you said the per cent was from 10 to 20?—A. Well, that would be in the Rogers Silver Plate Company of Danbury. There was not so large a percentage in the concern at Meriden.

Q. Have you had any knowledge of organized labor in respect to silver plate in those companies?—A. Not in reference to silver plating, but in reference to hatting. We are the only industry there outside of hatting, and that is almost entirely under labor organizations; the employees are all members of labor organizations.

Q. (By Mr. RATCHFORD.) Do you have any labor strikes?—A. No, sir; I never had any strikes.

Q. Among the silver platers there are no labor organizations in your place?—A. There are no labor organizations in our concern.

COMMON STOCK AS BONUS.

Q. You mentioned the fact that the common stock of this combination was in the character of a bonus. Do you mean by that that it was given over and above the cash and the preferred as a bonus?—A. Yes. If we would take more preferred—for instance, instead of \$300,000, if we would take \$400,000 preferred, we would get \$200,000 common. It was an inducement to take preferred stock instead of cash.

Q. Was this not a fact, too, that when the preferred stock of this company went on the market it was sold at 85? Now, instead of your common stock being a bonus, is it not a fact that the common stock was put in to level up your preferred to par?—A. It was in the hope that it would.

Q. Is not that the business reason, the business view, instead of saying that the common was given as a bonus; that you could not sell an industrial stock of that kind at par?—A. We all hoped that we could get a little more out of the preferred and common.

Q. Jointly?—A. Jointly; we thought it would amount to more than that.

Q. By combining your preferred and common, you would have a premium on the 100 per cent?—A. Yes, it was believed that would be the case, and for that reason I judged many would be induced to take more preferred than cash. Thus they would be enabled to sell on the market. It was to be listed, and they were going to sell it, at will.

SAVING ON LARGE PURCHASES—COMPETITION WITH THE INTERNATIONAL.

Q. (By Mr. RATCHFORD.) Are you a competitor of the International Silver Company?—A. Yes.

Q. Operating independently outside of that company?—A. Yes.

Q. What can you say with reference to the relative cost of raw material as compared with the cost to the International Silver Company? Can you buy your materials as cheaply as they can?—A. On general principles a person buying very large quantities might be able to buy for less than one who bought in smaller quantities. I think that we have been enabled to buy at the same price.

Q. That you can buy at the same price?—A. I think we have, but how long such a state of things will exist in general business activity I do not know. I should judge a larger quantity would be able to be bought better.

Q. As to the selling of your wares, do you receive about the same price that they do?—A. Yes; that is, we are compelled to meet competition.

Q. The competition is rather keen between you, is it not?—A. Yes.

WHY WAGES ROSE MORE IN DANBURY THAN IN MERIDEN.

Q. Mr. Dodd stated this morning that the wages of labor advanced within the last year in the International Silver Company from 5 to 7½ per cent. You have stated now that the wages of labor in your company advanced from 10 to 20 per cent?—A. That is in the Silver Plate Company of Danbury. That is a part of C. Rogers & Bros.

Q. I should judge that the price for labor would be the same, or the advance, with C. Rogers & Bros. in Meriden as it is with the International?—A. Yes.

Q. They are neighbors, I understand? The advance in Danbury is greater than it is in Meriden, is it?—A. Yes.

Q. Can you explain why it is?—A. We do not come under such competition as the Meriden house does.

Q. But the goods that are manufactured in both places— A. (Interrupting.) We manufacture different.

Q. Sell for about the same price to the consumer, do they not?—A. The concern in Danbury make a different class of goods from the concern in Meriden, and there is not the competition in that class of goods that there is in this—in flat ware, spoons and forks, such as the Meriden C. Rogers & Bros. make and the International make in Meriden.

Q. How about the skill and efficiency of the workmen? Are they equally skillful?—A. They do not require in Danbury as skilled workmen as they do in Meriden.

Q. And yet the wages in Danbury have increased more readily than those in Meriden?—A. Yes; and it is not as skilled.

Q. (By Mr. JENKS.) What is the special output of your Danbury establishment?—A. Silver-plated novelties, mirrors, clocks, lamps, mantel ornaments, and a certain line of upholstered goods.

Q. Is the general percentage of profit in goods of that kind larger than it is in articles like spoons and forks?—A. Yes. It is on account of their novelty. As soon as it gets over that point they go lower.

Q. Do I understand by that, then, that you are continually getting up new patterns, new kinds of goods, and so on, that you are putting out?—A. Yes.

EXPORTING TO ENGLAND.

Q. Have you any foreign competition in your business?—A. Yes; that is, we are able to sell in the foreign market now and are exporting a great many goods, particularly mantel ornaments and clocks for mantels.

Q. (By Mr. JENKS.) To what countries are you exporting?—A. England.

Q. (By Mr. RATCHFORD.) Do these foreign goods meet the home goods in these markets to any extent?—A. Not now. They did—it is reversed now. We are able to export, with trade increasing. We have always considered silverware lower in Europe or in England than it is here.

Q. Can you say that the domestic market belongs entirely to domestic manufacturers in your line?—A. Yes.

Q. You are extending your trade abroad?—A. Yes; we excel in finish and are now competing with them in price.

MANNER OF HIRING MEN.

Q. How are wages fixed with your employees?—A. By the piece. We take a young man of 16 or 17, and we will employ him by the day to begin with, in one branch I refer to now—buffing. An experienced buffer—that is, sand buffing on metal—an ordinary buffer will earn about \$2 per day. We are in a locality where we can not draw upon experienced labor—in Danbury; it is away from Meriden and other places where they have other factories to go into, so we take a young man and give him \$4 to \$6 a week and teach him. We pay him that while learning, but of course he does not earn his wages.

Q. You are paying him during apprenticeship?—A. We are paying him during apprenticeship. It may last in this case for 3 or 4 weeks. Then we put him at piece work, and they are able, as I say, to earn from \$6 to \$12 per week; and that is with the young man. I may say that this is possibly exceptional. There are other branches, like casting. There we will take young men and put them to work, and it is of such a nature that they learn very quickly—some do—and they are earning now all the way from \$9 to \$11 and \$12 a week.

Q. What is the number of hours' work?—A. Ten hours per day.

EXPORTS ONE-TENTH OF PRODUCT.

Q. (By Mr. JENKS.) What proportion of your goods do you export?—A. Not more than one-tenth now. It is increasing all the time—possibly more than that.

Q. From 10 per cent upward now you are exporting?—A. Yes.

Q. (By Mr. FARQUHAR.) What country principally do you export to?—A. England. We send to other parts of the world, but I am speaking of England alone; we send to Australia.

BETTER OUTSIDE THE COMBINATION—WALL STREET COMPETITION.

Q. (By Mr. FARQUHAR.) As you stand now, an independent manufacturer, would you just as soon be outside the combination as in it, as a business man?—A. I should prefer to be outside, whereby we don't come in contact with unnatural things, where one is receiving resources from things not pertaining to their business, and they are unable to seriously injure the outside concern.

Q. (By Mr. JENKS.) Will you tell just what you mean by that?—A. I mean this: It is our fear that the competition with the International would not be on a direct business basis of costs; that it would be governed rather by the amount that could be made in the rise and fall of the stock on the market in Wall street.

Q. (By Mr. FARQUHAR.) That is, that the stock market has something to do with the International and its business?—A. Yes; to use a term that will express it, that there are a good many in the International that are what are termed in Wall street "tape worms," or stockholders who are busily watching fluctuations on the market. I am pleased to say that I am on very friendly terms with each one of them, but I say we fear competition from that source, but fear nothing from active business competition.

Q. Fair play?—A. Fair play.

Q. (By Mr. JENKS.) You think then, that while there are advantages that you have yourself mentioned in combination, there are other advantages in being independent, each individual managing his own concern, which would perhaps offset those first mentioned?—A. There are benefits in a good combination, founded upon a good sound basis.

Q. (By Mr. FARQUHAR.) If it does not try to do too much?—A. If it does not try to do too much; but a good independent concern can always take care of itself if properly conducted—if it does not meet with what I have suggested; that is a thing that would be a very dangerous factor under the present condition.

THE INTERNATIONAL—NO DIVIDENDS—SALARIES OF OFFICERS.

Q. (By Mr. JENKS.) Has the International Company paid any dividends on the preferred stock yet?—A. No, sir.

Q. Have you any information with reference to the expenses of the company as regards the salaries of officers, or matters of that kind?—A. I understood, and have it from a reliable source, that they would receive \$5,000, each of the active directors, and \$7,000 for the president, voted at the first meeting. At about the time the dividend was to be declared, that dividend was passed, not paid, you understand, and they advanced the salaries of those who had been receiving \$5,000 to \$10,000, the president to \$12,000, and what the treasurer got, who was the Wall street end of it, I do not know, but I heard he got \$25,000.

Q. This information is from a source that you are certain, from the circumstances of the case, knows the facts?—A. Yes; from a stockholder of the company.

Q. (By Mr. CLARKE.) It is hearsay evidence, is it not?—A. It is evidence I believe I could bring a little proof of.¹

Q. You do not know about it yourself; you are not in the company?—A. Nothing more than what I have been told by a party who is a stockholder in it, and directly interested in it. I think you could have got that information if you had asked one of the gentlemen on the stand this morning.

(Testimony closed.)

¹See Mr. Dodd, p. 1062; Mr. Watrous, p. 1066.

STATE CORPORATION LAWS AND TRANSFER COMPANIES.

WASHINGTON, D. C., October 18, 1899.

TESTIMONY OF MR. JAMES B. DILL,

Attorney at law.

At a meeting of the United States Industrial Commission held at its offices in the Bliss Building at 11 a. m. October 18, 1899, Mr. James B. Dill, lawyer, being duly sworn, testified on the subject of trusts.

THE PROFESSION OF THE WITNESS.

Q. (By Mr. JENKs.) Will you give your name and address to the stenographer, please?—A. James B. Dill, No. 27 Pine street, New York.

Q. Your business?—A. Lawyer.

Q. How long have you been in the business?—A. About 25 years.

Q. Where have you been practicing?—A. In New York and New Jersey.

Q. You are familiar with the corporation laws of New Jersey?—A. Yes.

Q. Have you written or published anything on the subject?—A. In the first place, I was chairman of the State commission to revise the corporation laws of New Jersey relating to financial institutions. I am the author of the official edition of the corporation statutes of New Jersey, and author of Dill on New Jersey Corporations, which is the larger publication on the subject.

Q. Have you been, in your practice, associated with the organization of some of the larger combinations?—A. Yes.

Q. Can you give us any idea as to the amount of work along this line that you have done, the amount of capital organized in your office within a year or two?—A. I suppose this year that we have had charge of the law end of organizations whose aggregate capital would run from \$500,000 to \$1,000,000,000.

TRAMP CORPORATIONS DEFINED.

Q. What do you understand by what is called a tramp corporation?—A. A corporation which, having a charter from one State, assumes to carry on its entire function out of that State and to do business entirely in other States.

Q. Under the New Jersey laws would tramp corporations be possible?—A. Were the New Jersey laws strictly enforced a tramp corporation would be impossible.

Q. Will you mention the points of the New Jersey laws which prevent tramp organizations from being organized in New Jersey?—A. The distinction between what is commonly known as a tramp company and a proper corporation is the fact as to whether or not the stockholders are allowed by law to meet out of the State which creates the corporation. When States simply grant the charters and permit the entire work of the organizations to be carried on outside of the States, they are tramp organizations, in my judgment. The distinguishing features in New Jersey are as follows: First, the stockholders are forbidden by law to meet outside of the State, and secondly, by statute and decisions, any act of the stockholders convened in meetings outside of the State is void.

Q. All stockholders' meetings must be held in the State?—A. All stockholders' meetings must by statute be held not only within the State, but at the registered office; and the courts of New Jersey have held that stockholders assuming to convene outside of the State, and act as such, thereby render themselves liable as copartners for the transaction in question. In the next place, the statutes of New Jersey are more emphatic perhaps than those of any other State, in that a company must not only have but must maintain a principal and registered office in that State.

THE PRINCIPAL-OFFICE FEATURE OF THE NEW JERSEY CORPORATION LAW.

Q. What is meant by this principal office?—**A.** I might say parenthetically that these strict provisions with regard to maintaining an office and registering it are of recent growth—statutes enacted within the last 3 years, in obedience to what seems to be public demand for more publicity on the part of corporations as to maintaining a principal office. There are under the statutes the following requirements:

First. By the act adopted in 1897, every corporation must state, in every paper it files and in every statement it publishes, the street and number of its office in the State, and the name of the person in charge as its agent; and a misrepresentation in this respect renders all of the directors personally liable for all debts of the concern.

Second. The agent must be either a domestic corporation, or, by the statute of 1899, a trust company. This later legislation, which was passed under the banking commission, of which I was chairman, was passed because we recognized in New Jersey the necessity of having all these matters relating to publicity carried on by a corporation which had known responsibility and which was under the direct supervision of the insurance and banking department in the State.

Third. By the statutes of 1896, 1897, and 1898 the corporation is required, as I have said before, to have an agent in charge of that office at all times during business hours. They are also required—this bears directly on publicity—to have a person there who is authorized to transfer stock, and that person, under a penalty of \$200 a day, is required to keep three things: First, a book which shall contain the names and addresses of every stockholder, together with the number of shares held by him; second, a book which shall contain the name, residence, and address of every officer of the corporation in question; and third, by the law of 1898, a daily list, posted to date, which shall contain the names, alphabetically arranged, of every stockholder, the amount of his holdings, whence he derived them, and, when he transfers, to whom, together with his address.

A failure to keep this list on the part of the agent subjects him to a penalty of \$200 a day, and the failure of the officer to produce this list renders him ineligible under the statute to election to any office whatever in the corporation for the succeeding year. Finally, corporations are compelled to send out from this principal office a statement under oath of every addition to the payment of capital stock made by them and to state how much of that capital is cash and how much is property. Let me explain that this does not simply mean that reports must be made as to when all the capital is paid in, but when each and every installment is paid; and a misrepresentation or failure on the part of an officer to do that renders him liable for all the debts of the concern, and in the State of New Jersey is a tort.

PUBLICITY REQUIRED UNDER THE NEW JERSEY LAW.

Q. You say they are compelled to send out a statement under oath. What do you mean by sending it out?—**A.** They must file it in the office of the secretary of state, and inferentially, although not expressly in the statute, they should obtain a certified copy of each of these things and keep it in the office, open to the inspection of the stockholders. Finally, all of these records are, by the amendment of 1898, made open to the inspection of all stockholders of the company at all times during business hours, and the failure to do this on the part of any one of the officers not only subjects him to a penalty, but in my judgment, under the recent penal code, is a misdemeanor, for which he can be imprisoned.

Q. You said in accordance with the statutes of 1899 these agents of corporations must be trust companies?—**A.** Yes.

Q. Is it contrary to the law or illegal for individuals to act as agents?—**A.** There is no prohibition against individuals of full age who are residents of the State. There have sprung up a lot of companies whose responsibility I will not say was questioned, but was not known. There were important functions being carried on by corporations whose responsibility was not known in the State, and therefore that power was expressly taken away from them and expressly conferred on trust companies; the provisions as to trust companies in the State of New Jersey being strict beyond the ordinary.

Q. Did you say this power to act as agents for these corporations is taken away from individuals?—**A.** No; it was taken away from companies other than trust companies.

THE MOVING CHARTER OF WEST VIRGINIA.

Q. In what respects do the laws of Delaware and West Virginia differ from those of New Jersey in this particular?—**A.** West Virginia grants a charter for a fixed sum for any amount with any powers, the only restriction being a limitation of the capital

to \$5,000,000—what is commonly known as a roving charter. The stockholders may meet anywhere on earth. They may have their offices anywhere on earth. They may transact any business they choose outside of the State, and there is nothing that they are obliged to do in the State. Now, the point of that, and all members of the bar will appreciate it, is this: The State which grants that kind of a charter opens the door to fraud. It is a recognized principle of law that the State of New York has no power in its courts to compel a New Jersey corporation, even at the instance of a New York stockholder, to bring its books into New York for examination on the part of that stockholder. The gentleman, who is a member of the bar from New York, will recognize in the late decision of the Supreme Court on that subject that this has been uniformly held. The State of Maryland has not any power whatever, at the instance of a Maryland citizen who is a stockholder of a New York company, to compel the New York company to allow inspection of its books in Maryland. The moment the State of West Virginia permits its corporations to hold their meetings and keep their books anywhere, it at once grants them rights to take their books out of the State of West Virginia and keep them out of the State of West Virginia, and to put them into States where no courts have power to compel an inspection of them. That is what I call a roving charter.

CHARACTERISTICS OF THE DELAWARE LAW.

The law of the State of Delaware, which is a cross between that of West Virginia and that of New Jersey, does not require the keeping of stock and transfer books in the State, but says that duplicates must be kept. It does not have the requirement which is fundamental, namely, that a list shall be kept posted to date all the time, with the actual names, holdings, and addresses of the stockholders. Now, if you and I inspect the Delaware transfer books we can not find a thing, because, as a rule, they just keep a blank book without any names. There is no requirement that the books shall be posted to date. If they are filled up once a year, that is all that is required. Meanwhile the stockholders can not get the information that the law requires.

THE RIGHTS OF STOCKHOLDERS IN NEW YORK.

Q. In what respect does the law of New York differ from that of New Jersey as regards this matter of publicity to the stockholders?—A. There is no statute, but the courts in the State of New York have uniformly granted the fullest license to the stockholders in a company to examine its books, and they have laudably desired to find a law which would enable them to compel tramp organizations to show up in New York; but inasmuch as the courts of chancery have only the powers of the courts of the King's bench in England, that power was not one named, because in those days they did not have tramp organizations, and of course the court of chancery of England was not provided with a remedy against what did not exist.

Q. Then the courts of New York have protected the stockholders of New York corporations to the same extent substantially as the New Jersey laws protect New Jersey corporations?—A. They have as to their own citizens.

Q. That is what I mean.—A. But New Jersey has gone further, and says that the failure to keep that list shall not only subject the man who fails to keep it to a fine, but shall oust the entire board of directors or the entire list of officers at the next board of directors' election.

THE LAW REQUIRING PUBLICITY NOT ENFORCED IN NEW JERSEY.

Q. Have you any information as to the extent to which the corporations of the State of New Jersey comply with this law?—A. Yes; it is my impression that while the laws of the State of New Jersey on the statute books are more severe in the direction of publicity than those on the statute books of any other State as to who makes up the corporation, their enforcement is more honored in the breach than the observance.

Q. What basis have you on which to form an opinion of that kind?—A. The State of New Jersey puts it in the hands of the attorney-general, and the attorney-general alone, to bring suits against corporations for failure to file their annual reports—by annual reports I mean those reports which contain the name of the office and location of office by street and number, the name of the agent, the names of the officers with their addresses, the date when they were elected, and the time which they are to serve. The law prescribes a penalty of \$200, and I have seen the statement made in one of the newspapers of New Jersey that, taking 10,000 corporations at random, not as many as 2,000 of them have filed that one published statement.

Q. What reason have you for believing that this report in the public press is true? Have you any information beyond that general statement?—A. Yes; I see daily a list of every corporation organized in the State of New Jersey, as well as in some other States. In order to be sure about this question, I gave an order for public records at the office of the secretary of state, which any citizen is entitled to have, for every report filed there during the course of a year; and taking the number of corporations and comparing that with the number of corresponding reports, I was led to the conclusion that the gentleman who wrote the article in the newspaper had investigated the facts as well as myself.

Q. Then you formed this opinion largely from the reports that have been sent you from the office of the secretary of state?—A. Yes.

THE OVERCAPITALIZATION OF CORPORATIONS.

Q. From your experience in the organization of some of the large corporations have you been able to form any judgment on the question of overcapitalization, as to whether or not they are in many cases capitalized for considerably more than the real value of the properties put in?—A. If you will let me answer that question in my own way, I will do so by saying that there are corporations and corporations. There are very many corporations, which we will call combines, which are organized on a basis that presents no dangerous aspects to the public; but there are very many also organized with a good deal of capital that, in my judgment, if not intended originally for fraudulent purposes, will become the cause of fraudulent action.

Q. Will you explain that a little more in detail?—A. I assume that there are corporations that are grossly overcapitalized for various reasons and with various purposes. Any corporation that is grossly overcapitalized is presumably organized in the first instance for the purpose of getting the stock to the public. Now, in order to get such stock to the public, there must be either a misrepresentation of facts, or, what in my judgment is just as bad, a concealment of material facts; and in my judgment in many of the so-called combines there is a concealment of material facts.

Q. Do you base that opinion on what has come under your own observation?—A. Yes; if you do not take that answer to mean that I am of that opinion with respect to corporations I have organized myself. I have declined many organizations. Now, without calling names at all, a corporation was brought to my attention—I will say 2 months ago, so as not to bring it too near—concerning which, after a careful examination of the assets, the conclusion was reached in our office that \$500,000 would be a maximum fair valuation. We declined to organize that corporation for \$8,000,000 and float it. I should not want to be brought into any unpleasant position by having you ask the name; but it is advertised before the public to-day at \$8,000,000. Well, I do not know from reading the prospectus that any man could be indicted for making false representations; but I do know it lacks dreadfully in the statement of material facts—facts that the public ought to know.

Q. Does this overcapitalization and misrepresentation, in your judgment, chiefly affect the buyers of stock, or does it affect the consumers of goods through prices?—A. It affects industry in general, and I can not agree with very many of my colleagues, who say that the question of the amount of capitalization is simply a matter of adjustment with the public; because the ordinary company, largely capitalized, does not, as a rule, have the same directors as it has at first. It does not, as a rule, consist of exactly the same men the second year as the first. Now, whoever is in office as a director the first or second year feels it necessary, in order to keep his standing, and especially with concerns that have a Wall street end, either to make a showing of a dividend earned or to declare one that is not earned. In other words, so far as the race with honest competitors is concerned, the fraudulently capitalized company is bound to make an equal showing of honest earnings; and it results either in a robbing of the capital or in a resorting to artificial means to earn that dividend, which artificial means commonly consist, in addition to putting up the price of material, in putting down the price of labor. So, I say, I can not agree with the statement so frequently made, that the question of capital is merely a matter of adjustment. Inflation always, in my judgment, leads to a material error and possible wrongdoing.

Q. What is the provision of the laws of New Jersey with reference to the paying in of the capital stock?—A. The law of the State of New Jersey—and this is strictly enforced in New Jersey—is more stringent even than that of New York; the New Jersey law requires the capital to be paid in either in cash or in property at its fair valuation; the laws of New York, Delaware, and West Virginia permit stock to be issued for that terribly indefinite quantity, namely, services. And there is no one thing that the promoter so desires to capitalize as that; there is no one thing that so

troubles the promoter who is not strictly along proper lines as to know how to capitalize stock otherwise known as services. The moment you allow services to be capitalized, you open the door for the widest possible resulting wrong, because the first valuation of a man's services always comes from himself, and his idea of the value of his services is largely dependent on how much water he wants to put into the stock.

Q. Is there any provision in the law by which a check can be put upon the estimate of the valuation of the property put in?—A. Yes, in case of fraud; in case not of unintentional error or mistake of honest judgment, but of fraud or overvaluation, all the stockholders are held liable for the payment of the difference between what the court finds was the real or actual value and the amount for which stock was issued.

Q. How would that matter be determined?—A. By the courts, and only by the courts.

Q. Who would bring the suit?—A. Any creditor or stockholder. For instance, a case is now pending in the State of Pennsylvania in the supreme court, where the question of the New Jersey statute is at issue. Three promoters got together and agreed to issue—I am not mentioning the true amounts—\$5,000,000 for a piece of property. After the additional directors, who were business men, came in, they found out that that property was worth less than \$150,000. They then turned around and absolutely refused to issue that stock. In order to test that question, the stock having been obtained, they are suing the men who obtained it, or the men in question, for the difference between \$150,000 and \$5,000,000. The courts of other States are very free on that, and the courts of New Jersey are very strict, the chancellor and the vice-chancellors having great powers as common sense men to pass on that question. New Jersey is a very dangerous State to overcapitalize in.

WHY CORPORATIONS ORGANIZE IN NEW JERSEY RATHER THAN IN OTHER STATES.

Q. (By Representative LIVINGSTON.) Why is it, then, if the laws are such as you say, that 60 per cent of all the charters taken out by the syndicates, combines, and trusts are taken out in the State of New Jersey? What is there in the law of New Jersey that induces the whole world to go there for a charter?—A. I am afraid you are leading me into a long discussion, but I will answer you with great cheerfulness. In the first place, corporations go to the State of New Jersey for the reason assigned by a prominent banker in New York, a gentleman who is one of the best known, or represented one of the best known large banking houses there. He was asked at a board of trade dinner at which I was present, why he sent his corporations to New Jersey. Said he, "I, as a New York man, send my corporations to New Jersey for the same reason that I deposit in the City National Bank, the reason being that the State of New Jersey has a financial surplus in its treasury and, therefore, will not be driven to squeeze my corporations to make up a deficiency. The State of New York has a deficiency in its various departments, and its officials sit up nights to see how they can squeeze more money out of my corporations."

Q. That is not very complimentary to New York?—A. That is his opinion; not mine. Now, in the next place, the laws of the State of New Jersey have practically not changed since 1846, excepting in the addition of the restrictive provisions of which I have spoken; and, therefore, a man in going to New Jersey feels that he is going into a State that has had a definite policy for many years. In the next place, the principal thing that draws corporations to New Jersey is, in my judgment, the fact that the taxes are fixed. In other words, they are required to pay one-tenth of 1 per cent—a certain amount, no more and no less, while in other States—

Q. (By Mr. FARQUHAR, interrupting.) You mean a franchise tax?—A. I mean the only tax on corporations in the State.

Q. (By Representative LIVINGSTON.) Is what?—A. It is one-tenth of 1 per cent on the capital paid in on incorporation.

Q. That is the only tax paid by any corporation?—A. That is right. Now, then, the only official you can deal with in that matter is the State board of taxation, and as that position in New Jersey is considered an honorary one, you find a fine class of men whom you go and see and who do not come to see you, and the only question that can possibly be discussed with them as to the amount of your tax is the question of what you have paid in. In other words, in the State of New Jersey you can figure exactly what your tax will be, while in some other States there are three or four boards with half a dozen individuals, all of whom apparently prefer to see you at your room or in your office, rather than at their board meeting, as to what your taxes should be. I do not think that a gentleman, a prominent member of the bar of New York, stated a fact—at least I do not agree with him—when he did say

that in many States the practice of corporation law, especially the practice relating to taxes, had simply become a practice of corruption. There are also other reasons, if you want them.

Q. I want to be very candid with you; I want to understand why it is. I know from the amount of money you mention in your statement that it is no wonder your taxes are low.—A. Yes.

Q. What you get from corporations and syndicates in the way of charters in New Jersey is astounding to me and to the world.—A. That is right.

Q. No wonder you can make a uniform tax of one-tenth of 1 per cent.—A. That is right.

Q. But what astonishes me is to know that, with such restrictions as you throw around corporations and syndicates, holding them down to honesty, they go there so readily.—A. Now, I will give you another reason. I have heard this thing discussed by business men; I have sat in a syndicate, in an actual meeting of a large corporation, where \$5,000,000 was to be paid in and where a discussion arose as to whether they should go to Delaware, where they would have no tax—because certain classes of corporations, as telephone companies, are totally exempt from taxation there—or to West Virginia or New Jersey. West Virginia was turned down without much consideration, because they believe, as I believe, that the Supreme Court of the United States is eventually going to hold that corporations organized with a roving charter and which do not, like a live tree, keep their roots in the soil that created them, are simply partnerships.

Q. Your laws require them to keep open books in New Jersey?—A. Absolutely.

Q. What is the penalty?—A. In the first place the penalty is \$200 a day on the man who refuses; in the second place the failure to do it renders every officer of the company, including directors, ineligible to office at the next election.

Q. Do you know that a great many do not keep open books?—A. I do.

Q. Why do you not push them?—A. Do you ask me, as a New York lawyer, why I do not push them in the State of New Jersey?

THE PLAN FOR PAYING IN CAPITAL STOCK IN NEW JERSEY.

Q. (By Mr. JENKS.) You said the taxes are levied upon the amount of capital paid in. What provisions are made in the New Jersey law to compel the paying in of the nominal capital?—A. The State of New Jersey differs from some other States, in that you first name in your certificate of incorporation the limit to which you may ever issue stock without an amendment of your charter. You then name as your actual capital the amount with which you will begin business. In other words, it will generally read: "The stock which is subscribed to this corporation by the incorporators for the purpose of transacting business is so many dollars, divided as follows." And then there must follow the name of each subscriber, the amount of his capital stock and his residence, which is not required in other places.

Q. That is, the amount actually paid in may be as small as the incorporators please?—A. No; never under \$1,000.

Q. Never under \$1,000?—A. Now, as soon as that thousand is paid in, the incorporators must file a certificate under oath which states the amount that has been paid in, whether it is property or cash; then if they subsequently get \$20,000—call for \$20,000—making their capital thereby \$21,000 authorized, for example, they must file another certificate of similar character; and I may add here parenthetically, in answer to your question, that the statute provides that any officer making a false statement relating to corporations, whether verified or not, shall be deemed guilty of perjury.

Q. Is there any provision as to the amount that must be paid in during the first year?—A. A company can not transact business until it has paid in \$1,000.

Q. That is the only restriction?—A. That is the only restriction.

Q. Is there no provision as to the length of time before paying, or that half or 25 per cent of the stock shall be paid in?—A. Let me answer you another way. The company has no capital stock beyond the amount that is paid in, but as they go up each step of the stairs they have to file a certificate that they are now, for instance, on the third step—that so much has been paid in.

PUBLICITY AS PROVIDED FOR BY THE ENGLISH LAW.

Q. Can you also state the provisions of the English law regarding publicity so far as it differs from the New York and New Jersey laws?—A. The New Jersey law is largely founded upon the English act, but is about 3 years behind it in point of progress. The English law, which in my judgment will have to be passed in all States that desire to stand as proper charter-granting States, is about as follows: All stock issued

by any company, in whosever hands it shall be or shall come, shall be deemed to be held subject to be paid in full in cash, unless before the stock is issued a contract shall have been filed in the office of the company, and open to the public, which shall show which part of the stock has been issued for cash and which for property, and which shall disclose the character and value of the property thus taken. The statute then goes on to provide that anybody may have a copy of that contract on payment of a fixed fee. That is publicity.

Q. In providing that the character of the property shall be named, does the law also require that it shall be located?—A. Now that is just where the English act is lame, and they have got an act in to meet that. That English act was so worded that they could file a document which did not fully disclose; consequently to-day there are two acts pending in England for greater publicity. One is before the House of Lords and the other before the House of Commons. I should have brought them with me if I had supposed the subject would come up; but I will try to describe them. One bill—that before the House of Lords—provides, first, that every statement contained in the promotion scheme shall be deemed to refer to money unless otherwise stated; second, that every director and officer of the company shall be held liable personally for all statements or prospectuses issued by the company, it being borne in mind at this point that under the English law every company is compelled to issue and file a prospectus. The statute then goes on to say that every director elected, whether he resigns or not, shall be held liable as a director and officer of the company until after his resignation has been filed in the register's office and the new director substituted in his place. So that there is somebody liable all the time for either the making of statements or the failure to make them. The bill in the House of Commons is somewhat similar, but adds this clause, which I regard as very important, although likely to give rise to a great deal of litigation: Every director and officer of the company shall be responsible not only for statements made, but shall have the same degree of responsibility if the prospectus fails to state any material fact. Now, that is the advanced English legislation, and this country is rapidly following England in that direction. You will pardon me for not having stated those bills more accurately; but I did not know I was to be asked in regard to them or I should have produced them here.

Q. (By Representative LIVINGSTON.) Do you not think that if that law was adopted in the United States most of these companies would go out of existence?—A. No; I do not; I can not go as far as that with you, because I think there are good companies and bad companies.

Q. Of which are there the most?—A. Well, I think if you and I should check down the list, we should find a good many that would evaporate.

Q. You would find a good many directors that would?—A. You are right there. If you will tie a director on the cowcatcher of the engine of every train, you will never have a front-end collision.

THE RIGHT OF STOCKHOLDERS TO EXAMINE THE BOOKS OF NEW JERSEY COMPANIES.

Q. (By Mr. CLARKE.) Do the large companies, organized under the New Jersey law, with which you have been professionally connected, keep a set of books in New York also?—A. Yes; almost all of them do.

Q. As a matter of practice, which books are most consulted by the stockholders, those in New York or those in New Jersey?—A. Those in New Jersey are consulted by the stockholders.

Q. (By Mr. C. J. HARRIS.) The stockholder could not consult the books in New York except as a matter of courtesy, could he?—A. As a matter of law he could not, and as a matter of courtesy it would very much interrupt transfers of property for everybody to come to see them at the New York office; therefore in New Jersey they have either wired or mailed to them every day every transfer, and in the large companies that I have had to do with those transfers are absolutely balanced every day at 3 o'clock.

Q. (By Mr. CLARKE.) As a matter of practice, is there a constant or even a frequent examination of stock ledgers and transfer books by stockholders in these corporations?—A. Do you speak of the companies that I represent?

Q. Yes.—A. Yes; there is. You would be surprised at that. Just before a dividend was declared by one of these companies there were 77 inquiries in 8 hours in one afternoon, and the day does not go by that we do not get requests—telegrams and letters—as to what this man holds or that man holds. The only question we ask is whether you are a stockholder. If you are, you are entitled to it.

Q. In case of the neglect of the stockholder to comply with the law of New Jersey, and of the neglect of the New Jersey official to enforce the law, is there anything to prevent a stockholder residing in another State from obtaining a remedy or relief in the

courts of the United States?—A. The question as to whether a United States court which is situated in another place than where the principal office of the company is located has jurisdiction, has never yet been determined. I should say that the rules of the United States courts as to jurisdiction of defendants would govern that; but the United States court of the district embracing New Jersey would have jurisdiction at the instigation of any stockholder. And there is a provision in the law of the State of New Jersey that the chancellor may, on application by any stockholder and without any notice to the other side, compel the books to be brought to a designated place and kept there; and the failure to obey that order for 10 days vitiates the charter.

CLASSES OF STOCK OF NEW JERSEY COMPANIES.

Q. Have you been or are you familiar with the capitalization of the several companies organized under the laws of New Jersey with which you have been professionally connected?—A. Yes.

Q. Most of those companies have two classes of stock, I suppose?—A. Yes.

Q. Preferred and common?—A. Yes.

Q. In your opinion, does the common stock represent cash or property actually paid in?—A. That varies greatly. I could tell you of an instance where the preferred stock consisted simply of the working capital contributed by outside parties and where the common stock represented the plants put in, without any element of good will. I have always considered that the safest method of capitalization.

Q. Is good will, or the opportunity to do business, considered an element of capitalization in these companies?—A. I regard it in a majority of instances as worth more than the bare plant. I know of a house in New York of national reputation which failed 3 years ago. Its assets have all been disposed of excepting its good will. For that good will \$1,000,000 in cash was offered within the last month, although it was a defunct organization.

RIGHT OF STOCKHOLDERS TO SEE BOOKS RESUMED.

Q. (By Representative LIVINGSTON.) Do you remember the Ramapo case, where Mr. Hearst asked to see the books, and was, I think, refused, upon which he bought stock, but is still, I see from a newspaper statement, refused permission to see them? Is that the condition in New York? Do you have to take out a mandamus in order to see the books? Was that statement in the papers a fair representation of the condition of affairs?—A. I have not seen it; but almost any corporation that does not want to let you see their books will send you to the courts for the privilege.

Q. Is the Hearst case an example of the practical working of your New York law?—A. Well, without taking the newspaper account of it, I think that if a corporation does not want you to see its books, you will have to go through quite as much litigation in New York. There is no such thing in New York as the simple one-man power that exists in New Jersey to compel it. If that case had occurred in New Jersey they would simply have gone and got an order from the chancellor, which would not be appealable, and which would have designated a place where within 24 hours those books would have been brought and opened wide. The failure to do it would be followed by an absolute annulment of the charter. The only question in such a case would be, are you a stockholder? There is no such law in New York.

Q. (By Mr. JENKS.) Suppose the case of a member of a competitive company who buys a few shares of stock for the purpose of getting information. Is not that person, under the laws of both New Jersey and New York, entitled to that information?—A. There, you see, the burden shifts from the individual on to the corporation. If a man should purchase a few shares of stock with an intent which I felt confident I could show to the court was bad, I would go into court and get an injunction against him before he could get at me with a demand. Then the burden is on me, representing the corporation, to show that he is bad. Because in New Jersey, in this case, presumptively every man is guilty until he has been declared innocent, and the burden is on the man to show that he is innocent, as he is presumed to be guilty. It is otherwise in most of the States.

Q. You say that under the laws of New Jersey the chancellor can at any time order the books of any corporation to be brought into the State and exhibited to the stockholders?—A. Yes.

Q. Is not that in itself a sufficient protection for most of the stockholders where the real business of the corporation is carried on, we will say, in New York City, and where the books themselves are kept in New York City?—A. You and I will not confuse the meaning of the word "books." First, there is the stock book and the transfer book and the list of stockholders that must never go out of the State. Now,

if for any reason a stockholder desires to see the books of account, he goes direct to the chancellor, who sits in a very informal way, and gets an order. So we will not confuse the word "books." I understand you to mean documents, vouchers, and papers which do not relate to so much of the publicity of the company as respects stockholders.

Q. Suppose we ask the same question, however, with reference to the stock and transfer books. Would it not be a sufficient protection for the stockholders if the books could, in that way, be brought into the State?—A. No.

Q. Why? Is it not for the information and benefit of the stockholders that the books are kept there continually?—A. That is the difference between New York and New Jersey. But I maintain that those books should be like water at the bottom of the pump. If your pump is there, you do not want to get a mandamus before you can get the water. Now, a stockholder who has got two shares of stock ought not to be compelled to hire a lawyer and get out a mandamus in order to know who his associates are. The boot should be on the other fellow. They do not generally wish to pay that. In case of failure the corporation should pay \$200 a day, and not compel the stockholder to pay \$200 a day to get a lawyer.

THE TREATMENT OF FOREIGN CORPORATIONS DOING BUSINESS IN NEW JERSEY.

Q. (By Mr. FARQUHAR.) I should like to read you section 101 of the general corporation act of New Jersey, and ask your opinion about it.—A. Am I to be silenced with my own book?

Q. (Reading.) "When, by the laws of any other State or nation, any other or greater taxes, fines, penalties, licenses, fees or other obligations or requirements are imposed upon corporations of this State, doing business in such other State or nation, or upon their agents therein, than the laws of this State impose upon their corporations or agents doing business in this State, so long as such laws continue in force in such foreign State or nation, the same taxes, fines, penalties, licenses, fees, obligations, and requirements of whatever kind shall be imposed upon all corporations of such other State or nation doing business within this State and upon their agents here; provided, that nothing herein shall be held to repeal any duty, condition or requirement now imposed by law upon such corporations of other States or nations transacting business in the State." Now, the question is, by what process can you make that retaliatory upon the State of Wisconsin, Minnesota, Illinois, Missouri, or Ohio?—A. In my judgment, that is a provision that ought to be passed by every State in the Union. It answers the question so often asked, why should New Jersey grant charters to do business in the State of Illinois, where it is forbidden to a domestic corporation to do it. Now, the States of New York and New Jersey, and many others, have passed that provision, which means just this: So far as fees and the powers to do business are concerned, every foreign corporation must be subject to all the restrictions to which domestic corporations are. In other words, they stand on just the same footing; and, in my judgment, if that law was passed in every State, we should hear an end to the discussion as to whether Delaware corporations ought to go to New York and New York corporations to Delaware, or elsewhere, because then they would all be placed upon an equality, it being, as I understand the law, that a New Jersey company may have all its powers, under the law of comity, in Illinois in the absence of a statute bringing a foreign corporation down to the same level as a domestic. But the moment that statute is passed in a State the law of comity disappears. We passed that law in New Jersey, if you desire to know the reason for it, because the laws of New Jersey are very strict as to building and loan associations and other corporations which attempt to gather in the money of the poorer classes. We found that foreign building and loan associations were coming into New Jersey, over which the commissioner of banking and insurance had no power, and were gathering money from our farmers, wage earners, mill help, and other people of equal means, and were not subject to any other supervision. Therefore we passed that act to drive out and keep out of our borders financial institutions concerning which we knew nothing, of which we could find out nothing, and which we considered fraudulent.

Q. Have there been any suits under this retaliation act?—A. Yes. You notice that the last clause of the act takes it out of the retaliation class, because it excepts all obligations. There has been an injunction granted by the court of chancery of New Jersey against one of the national building and loan associations coming in, although I may say, and it is fair to the chancellor to add, that it was shown not only that they were a foreign corporation, but that they were not in a solvent condition. We thought it wise to show both facts and not rely upon the bare statute. We found that a great many Italian bankers, driven out by the laws of New York, had come

over to Jersey City and put up the name "banker." When we drove them out under our banking laws, they went to New York and founded a corporation, using the word "trust." Now under the laws of New York you can form the Washington Trust Company, although under the act it may be without any trust feature at all. In New Jersey you can not use the word "trust" unless you are under the banking act, have paid in your \$1,000, and received the approval of the banking commissioner. Now, those Italians would go to New York and organize a New Jersey Trust Company, then turn around and open a little place right near the ferry, and get their fellow-countrymen as they came off the steamers and fleece them. Under that act just as soon as an Italian attempted to do business as a trust company in the State of New Jersey we locked him up, and they all went back across the river again. That was another intention of that act. I am free to say that I believe if the laws of New Jersey are carried out they are as restrictive as any others in the Union, although there might be some additions made to them.

THE LIABILITY OF HOLDERS OF STOCK.

Q. (By Representative LIVINGSTON.) If I buy stock at 50 per cent, can you assess me under the laws of New Jersey for 100 per cent?—A. Of the company?

Q. Yes.—A. If you actually bought of the company and paid the money into the company to the extent of 50 cents on the dollar you can only be called upon to pay up the other 50. There is no double liability, as there is in Kentucky, Ohio, and some other States.

THE TAXATION OF NEW JERSEY CORPORATIONS.

Q. (By Mr. FARQUHAR.) Part of section 203, after providing for an annual license fee and franchise tax, says (reading): "That all other corporations incorporated under the laws of this State, and not hereinbefore provided for, shall make annual return to the State board of assessors of such information as may be required by said board to carry out the provisions of this act, and shall pay an annual license fee or franchise tax of one-tenth of 1 per centum on all amounts of capital stock issued and outstanding up to and including the sum of \$3,000,000; on all sums of capital stock issued and outstanding in excess of \$3,000,000 and not exceeding \$5,000,000 an annual license fee or franchise tax of one-twentieth of 1 per centum, and the further sum of \$50 per annum per \$1,000,000, or any part thereof, on all amounts of capital stock issued and outstanding in excess of \$5,000,000." Now, can you give any particular reason why such a sliding scale as that was adopted, giving the great moneyed interests an advantage over those with less capital?—A. I will answer that by saying that when that statute was passed we built the house for the boy and that the man has afterwards grown up. In other words, New Jersey is confronted by a new condition. When that statute was passed we never dreamed of \$59,000,000 corporations. I can remember the time when I took in a \$1,000,000 corporation and was proud; to-day I sneak in at the back door because it is so small. The legislature has not had time to meet and pass on this question; it is new. We have not changed the laws; we have not had time. It simply created a furor in the secretary of state's office when we filed the charter of the Federal Steel Company for \$200,000,000. That act was passed when corporations were at their normal size. That day has passed. Now, what the legislature of New Jersey will do with the new situation I do not know. It is a boy's clothes that the man is now wearing.

Q. I want to know whether you think that is an adequate and proper discrimination in any franchise tax? Why should a great corporation with \$30,000,000 or \$40,000,000 be taxed less heavily than one with \$2,000,000 or \$3,000,000?—A. My experience has always been that if you buy a man's suit you have got to pay more for it than for boy's clothes; and I do not see why the same reasoning does not apply to the State.

Q. (By Representative LIVINGSTON.) To put it for the sake of illustration, it is cheaper at wholesale than retail.

Q. (By Mr. FARQUHAR.) That was the question I was going to ask. Why put the relationship of wholesaler and retailer on your public franchise that controls such large amounts of money of that kind? These large amounts of money always go into the stock markets; we can not escape it. There are only one or two great corporations that can hold their own and that do not care whether they go into the stock market or not, like the Chemical Bank in New York and others we know. We know that this money is held within 10 or 12 families in this nation—the consumable capital. I do not know whether there is any prospect of an amendment of this. I want to know whether New Jersey discriminated in favor of great capi-

tal.—A. She discriminated before she knew great capital to exist; a new condition of affairs is confronting her.

Q. Still, this very premium that is placed on it is an invitation for great companies to come into New Jersey?—A. No. The Federal Steel Company paid the State of New Jersey \$40,000 for the privilege of coming in and pays about \$17,000 a year tax, when it could have gone to Delaware with reduced capital for \$50. It is an inducement, yes; but that it is a controlling inducement I do not know.

Q. At the same time you must take into account that Delaware chartered stock would not sell equally well with New Jersey stock; consequently where you would gain in the beginning you might lose in the end.—A. I fully agree with you, and am glad to hear so frank an opinion.

THE POWER OF THE FEDERAL GOVERNMENT TO REGULATE CORPORATIONS.

Q. (By Mr. CLARKE.) I should like to ask if you have considered the subject of a Federal corporation law.—A. Yes; I think there are only two alternatives for this country. I think that your commission is confronted to-day with the same situation that existed in early times when the question of banks arose, even so far back as the time of Alexander Hamilton. The question, as has been said here to-day, of corporations has, in my judgment, gone so far as to come under that clause of the Constitution of the United States which refers to public welfare. The subject to-day has got beyond being a State question; it is a national question; and you have got to get down to one of two things. You have got to come down to a statute in each State that will place a foreign corporation on the same level as a domestic, or else go higher up and grant a Federal charter to those corporations which are truly and in the widest sense Federal companies. I notice the tendency to-day of corporations to organize under such names as the Federal Steel Company, the Federal Telephone Company, and the United States and the American. If they are truly what their names designate, they should be under the laws of the United States, and I believe that Congress has the power under the Constitution to pass a law creating national corporations.

Q. (By Representative LIVINGSTON.) And regulating the manner and methods of doing business in the States?—A. Yes; if I understand your question. And I believe further that if you will pass such a law wisely, first, with safeguards in every direction; second, with liberality on unimportant matters, giving each corporation as to its internal management that does not affect the public a right to do as it sees fit, you will find the larger corporations will be seeking the advantages of the national act, just as to-day the State banks and national banks are distinguished by their size and importance. That is the only remedy for the existing condition.

Q. You think that, under the Constitution of the United States, considering the power reserved to the States, that can be done? You have looked into it?—A. I have looked into it. I should consider the assumption of any such power by Congress as dangerous from the point of view of those who are opposed to greater centralization and less State power. As to whether or not an amendment of the Constitution would be required in order to pass certain national corporation acts, I believe that facts can be shown sufficient to bring the subject under the public welfare clause, which, as was said in the Marshall case, would leave it entirely to Congress to decide whether or not it was a proper measure, and Congress having in its judgment decided that it was, the United States Supreme Court would be bound to sustain it, because they are the sole judges of the law and the fact in that respect.

Q. (By Senator MALLORY.) I do not like to engage in a constitutional argument, but I should like to ask a question on the subject of the general welfare clause. There are two parts of the Constitution in which the words "general welfare" are used. One is in the preamble, and the other is the taxing clause where Congress is authorized to impose taxes for certain purposes, winding up, "for the general welfare." Now, as I understand it, you contend that the expression "general welfare" in that part of the Constitution—for that is the only one to which it is applicable—would give Congress power to do anything which, in its judgment, is for the general welfare?—A. Permit me to retire behind the plea that I had no expectation, when I came here, of delivering an opinion on that subject; but I was really candidly giving my individual conviction. In the First National Bank case the United States Supreme Court decided, as I understand it, that, under the general welfare act, because the question of finances had become of universal interest, Congress had power to pass a corporation act. The decision then went on to hold that, inasmuch as it was found by Congress that the question of banking was a national question and a matter of public welfare, the court—having found affirmatively in the first place that Congress could create certain corporations—would not interfere with the judgment that Congress had passed on the subject.

Q. Was it not rather on the ground that the national banks as authorized were instrumentalities of government?—A. You are right, and that brings us right down to the point of discussion.

Q. The national banks were authorized on the ground that they were instrumentalities of government, and the incorporation of the Pacific Railroad, which is the only other instance, I believe, is on the same ground. They were at the time regarded as necessary instrumentalities of government; but when it comes to the pure ground of general welfare, it seems to me that this is a new doctrine that I am listening to now.—A. It was so held in the Pacific Railroad and bank cases, that are in my possession to-day; and it is my opinion that trusts and industrial corporations are just as much a matter of public welfare as was the incorporation of the Pacific Railroad.

Q. The question is not so much whether they are a matter of public welfare as whether they are instrumentalities of government.—A. I am only advancing a private opinion. I am not a very deep student of the subject.

Q. (By Mr. FARQUHAR.) The Maritime Canal Company got a charter from the State of Vermont which it was claimed was not wide enough in its provisions. One of its purposes, as you know, was to build the Nicaragua Canal. They then came to Congress and asked for and got a charter. Was not that charter granted because Congress felt that the company was simply a representative of this country in building a canal in a foreign land through concessions under treaty of a foreign and friendly power?—A. Yes.

Q. And that is as far as Congress has ever gone in respect to charters?—A. I think that is right. But I think Congress has the power to say to-day "This question has become a national question." If Congress assumes to state as a fact that they are the judges of the propriety of legislation, and pronounce it proper legislation, I do not think the United States Supreme Court can get away from the Marshall decision or the Alexander Hamilton opinion.

Q. In other words, you think the commercial and economic forces rule. Take a proposition like that of the unconstitutionality of a river and harbor bill. They are now perfectly constitutional and normal?—A. Yes; that is right.

Q. And yet, according to the solemn vetoes of Presidents and the authority of attorneys-general they were always unconstitutional?—A. That is right. Congress is just as much confronted with the new situation to-day as the State of New Jersey, and if it becomes too big for the State of New Jersey, there is only one power to take it up, and that is Congress.

THE TRANSFER OF STOCK IN NEW JERSEY CORPORATIONS (RESUMED).

Q. (By Mr. KENNEDY.) I believe a gentleman connected with one of these corporations testified yesterday that they kept transfer books in Chicago, New York, and East Orange, N. J.?—A. Yes.

Q. And, under the law of New Jersey, the transferring should be done in New Jersey. I should like to ask you if that is just a formal matter, while the real transferring is done either in New York or Chicago?—A. I noticed that the gentleman did not make himself clear. There is no law in the State of New Jersey that compels a corporation to do all the transferring in the State. It compels them to have a known place in the State where you and I can take our single shares and get them transferred. They have a perfect right to transfer all the rest of their stock in a half dozen other places if they want to, but every day they have got so to report their transfers that you and I can go there with our single shares and ascertain who all the rest are and where they are.

Q. (By Mr. FARQUHAR.) No matter where they are transferred?—A. They have got to be posted that day in New Jersey. The reason is that very many large corporations desire to have the public own the stock but do not want them to have any voice in the management. Therefore, if you and I own only 10 shares apiece in some company, and we do not know who the stockholders are, but the officers do, they can go and get votes and proxies enough to get themselves reelected; whereas, if the others are known, if we can go to the stockholders of the organization, we can win, or at least hold down an election. That is the objection to it. That is the way it is in the Delaware and West Virginia laws; men can perpetuate themselves in office. That is where you and I can not do anything about it; we are gone.

RECENT ACTION OF CORPORATIONS EXPLAINED.

Q. Do you know that many of these large corporations have not even attempted to comply with that law, but that, owing to a recent opinion of a New York judge, McAdam, I believe, they have taken their transfer books across the river to Jersey

City and other places?—A. In the first place, the decision of Judge McAdam was 10 years ago, in *Cruse v. Dusenberry*, 1 City Court.

Q. It has been quoted recently.—A. In the next place, I am going to assume that a great many corporations have not complied with the law. Inasmuch as that decision of Judge McAdam held that all the officers would be liable as partners, and inasmuch as it was an announced fact that this Industrial Commission was going to examine into that condition and that it might make them liable as partners, they were naturally induced to use transportation a little. I do not carry any freight and I have not sat on any box, yet I do not know but what if I was in that condition I should ship everything into the State as soon as I could, and come here and frankly state to the commission, "We put it there day before yesterday." With the investigation you have made, I should not attempt to say we have been there all the time.

I should like to say one thing more for New Jersey, and that is that it preserves the integrity of the laborers' lien beyond any State in the Union. Every dollar due for labor must first be paid over and above everything else. And they draw a line in New Jersey that they do not in New York; they do not include officers of the company in the class of labor liens. They protect labor liens ahead of mortgages, and things of that sort.

Q. Do those books [indicating books on the table] belong in New Jersey?—A. They are a part of the books. They belong to somebody else, to show you how the thing may be done correctly in four or five cities and yet be done every day.

(Testimony closed.)

WASHINGTON, D. C., October 18, 1899.

TESTIMONY OF HOWARD K. WOOD,

Assistant secretary of the Corporation Trust Company of New Jersey.

The commission met on Wednesday, October 18, 1899, Mr. Clarke presiding. Mr. Howard K. Wood appeared at 2.10 p. m., and, being duly sworn, testified as follows:

THE CORPORATION TRUST COMPANY OF NEW JERSEY.

Q. (By Mr. JENKS.) Will you give us your full name?—A. Howard K. Wood.

Q. Your residence?—A. No. 60 Grand street, Jersey City.

Q. Your business?—A. Assistant secretary of the Corporation Trust Company of New Jersey.

Q. Does this Corporation Trust Company act as the agent of corporations?—A. It does.

Q. Can you furnish us with a list of the corporations this trust company represents?—A. We can, if necessary.

Q. You have a list with you?—A. I have a list.

Q. Will you kindly furnish us with a copy in a day or two or leave one with us?—A. I will send you one.¹

ITS RELATION TO THE CORPORATIONS IT REPRESENTS.

Q. Do you receive from these companies you represent any written authority to represent them?—A. We do; in each instance we require it.

Q. In what form is that authorization given ordinarily?—A. It is usually a printed form, which follows the statute pretty closely, showing the requirements of the law and directing us to comply with them for the company.

Q. Perhaps you would be kind enough to read the form of authorization?—A. (Reading:)

"Ordered, (1) That, in compliance with the laws of the State of New Jersey, this corporation have and continuously maintain a principal office and place of business within the State of New Jersey, have an agent at all times in charge thereof, and upon which agent process against this corporation may be served, and in said office keep the stock and transfer books for the inspection of all who are authorized to see the same and for the transfer of stock. That the books in which the transfers of stock shall be registered and the books containing the names of the shareholders shall be

¹ Sent, and on file.

at all times, during the usual hours of business, open to the examination of every stockholder at said principal office.

"That the name of this corporation be at all times conspicuously displayed at the entrance of its principal office in this State.

"And be it further ordered, until this resolution be duly rescinded,

"(2) That such office and place of business be in and at the Corporation Trust Company building, 60 Grand street, Jersey City, N. J., and that this company be registered with the said trust company.

"(3) That the Corporation Trust Company of New Jersey be, and hereby is, appointed the agent of this corporation for all of the aforesaid purposes, and the agent of this company upon whom legal process against this corporation may be served within the State of New Jersey, and also the transfer agent of the stock of this company."

We require that in each instance.

NUMBER AND CAPITALIZATION OF COMPANIES REPRESENTED.

Q. Can you file with us copies showing just the authorization you have read there?—A. I have between 600 and 700 of these authorizations, one from each of the companies we represent.

Q. You require that form from all the companies you represent?—A. Yes.

Q. About how many companies do you represent?—A. Between 600 and 700 at the present time.

Q. Can you tell us about how much capitalization that represents?—A. I should say between one and two billion. It is something over a billion, but I can not give the exact figures; I know it is over a billion, but we have not figured it recently.

THE WORK PERFORMED BY THE TRUST COMPANY.

Q. Have you displayed, in accordance with the terms of the law, before your office, in a conspicuous place, signs of each one of these companies that you represent?—A. Yes; on the outside of the building, where they can be read easily by anyone.

Q. Do you keep in your office the stock and transfer books of every one of these companies?—A. Yes.

Q. You yourself are personally authorized to make the transfer of stock of these companies?—A. Yes.

TRANSFERS OF STOCK MAY BE MADE IN OTHER STATES.

Q. May I ask whether any of these companies have transfer offices in other States?—A. A few of them have.

Q. Where?—A. New York City principally; quite a number in Boston, and some in Chicago.

Q. Where there are transfer offices in other States what record do you keep in your office?—A. We keep the transfer books in our office and the stock register as required by law. I can show you that now.

Q. (By Mr. FARQUHAR.) Have they any authority under their charters to have these stock books elsewhere than in New Jersey?—A. They do not keep the stock books outside of the State; they merely make the transfer.

Q. They have authority under their charters to make transfers in offices outside of the State of New Jersey?—A. The statute does not say they shall have only one office. The transfers must be kept in New Jersey and are sent there every night.

Q. Why do they have transfer offices in other States?—A. For the convenience of stockholders.

Q. (By Mr. JENKS.) You have in your office a list that is corrected up to date?—A. Yes.

NATURE OF THE INFORMATION SOUGHT BY STOCKHOLDERS.

Q. (By Representative LIVINGSTON.) You always exhibit that list on the demand of any stockholder?—A. I do not know that that list is asked for. We can show that to the stockholders.

Q. (By Mr. JENKS.) If any stockholder asks to see the list, with the holdings of each, you show it to him?—A. Yes.

Q. Are requests of that kind frequently made by stockholders?—A. Requests are not frequently made to see the list; they ask more often about individual stockholdings.

Q. They give you the name of a stockholder and ask as to his holdings?—A. Or a number of stockholders, but not simply to see the list in general.

Q. When such a question is asked, you show the list?—A. If we are satisfied he is a stockholder.

Q. (By Mr. FARQUHAR.) Do not the questions generally asked relate to the pending negotiations with respect to transfers?—A. Largely, yes.

Q. (By Mr. JENKS.) Do you furnish information of that kind to stockholders who send in their requests by mail or telegram?—A. We do not do that unless we happen to know the signature of the stockholder.

Q. You want to be perfectly sure it is a stockholder?—A. We want to be perfectly sure. If we are familiar with the signature and he writes us on his letter head, we will give it.

Q. Or if you get a telegram from the office where he is you will answer the telegram? You want merely to be satisfied as to the genuineness of the request?—A. Yes.

SOURCE OF INQUIRIES ABOUT STOCKHOLDERS.

Q. (By Representative LIVINGSTON.) Do inquiries of that class frequently come from Wall street gentlemen?—A. Not so frequently; more often from out-of-town stockholders who want to know something of the stockholders. We do not get them very frequently from Wall street.

Q. You get numbers of them from Wall street?—A. They come from all over the country. We have so many stockholders in various companies, they come from all over the country.

THE WORK OF THE TRUST COMPANY EXPLAINED.

Q. (By Mr. JENKS.) You speak of the stock and transfer books; do you include in that the stock-certificate book?—A. That is a different book and does not have to be kept in New Jersey.

Q. You do not keep that in your office regularly?—A. No.

Q. Do you know whether the stock-certificate book gives the name and address of your company as transfer agent?—A. Sometimes it does and sometimes it does not; usually it does.

Q. If you will be kind enough to explain what your method is?—A. (Showing book.) This applies to one of the largest companies, which has a transfer office outside of the State. This is the transfer sheet on which the transfer is actually made by the attorney of the person making the transfer, and is sent to our office every night and filed there, and from this sheet is written up the stock ledger. This ledger is really an alphabetical list of the stockholders, showing the date of the transfer, the number of shares of stock, the name of the stockholder, from whom transferred, and to whom.¹ When the transfer is made it shows the whole.

Q. That is kept and balanced up every day?—A. Yes.

Q. For each company you represent?—A. Yes. Very frequently we have to work nights to keep these books up.

THE TRANSFER OF STOCK LOANED OR DEPOSITED AS COLLATERAL.

Q. (By Representative LIVINGSTON.) Do you ever loan these stocks for the time being to bankers, jobbers, and brokers?—A. Loan the stock? We do not keep the stock: as a rule, the stock is returned to the registrar.

Q. I will ask you if it is not done?—A. You mean the stock or the transfer sheet?

Q. I mean the certificate of stock. Suppose a man oversells his Federal Steel and wants to borrow, can he?—A. We have nothing to do with that.

¹ Name, _____, Address, _____

[illegible]

Q. It is not lawful under your charter to do it?—A. I do not know about that. The stock simply comes to us to be transferred and we send it to the registrar.

Q. What arrangements have you made for borrowing or loaning the stock?—A. Absolutely none. If done, it is done outside by the owner of the stock.

Q. (By Mr. JENKS.) You are the registration agent?—A. We are the registration agent.

Q. You keep a record of every transfer that is made—a list of sales?—A. Yes.

Q. (By Representative LIVINGSTON.) Then if I, as a stockholder, should loan my stock and not recover it, how is that transfer carried on the books? Suppose I borrow money from the Fourth National and deposit my stock as collateral; suppose I am never able to recover it, how would that stock be transferred?—A. So far as we are concerned, the stock would be lost; there would be a record showing you to be entitled, say, to 100 shares of stock, and if the stock is pledged as collateral, we should not know anything about that. Of course, if you could not reclaim the stock, you would have to assign to the bank and we should make the transfer to them.

Q. Suppose I did not do it?—A. It is the bank's fault if it is not transferred to them.

Q. The bank takes that risk when they borrow the stock and you are not in it?—A. We know nothing about it. If the bank brought in the stock we would not transfer it. The stock would remain in your name unless you directed us to transfer it.

Q. (By Mr. FARQUHAR.) Or the showing of a power of attorney to transfer it?—A. Yes.

Q. Either the party in person that owns the stock or one holding the power of attorney to make the transfer?—A. Yes.

METHOD OF KEEPING THE TRANSFER BOOKS.

Q. (By Mr. JENKS.) What other books do you keep besides this ledger?—A. This is the stock ledger, which, of course, is kept in slightly different forms to meet the requirements of each company, but generally the book is covered by this one form.

Q. Do you, in connection with this business, keep other books of a different nature?—A. We keep the stock ledger and the transfer books.

Q. Will you kindly let us see the form of the transfer books, or the form in which they are kept?—A. It shows the date of the transfer and the number; "For value received I, ———, do hereby sell, assign, and transfer to ——— shares capital stock of the ——— Company, standing in my name on the books of the company." It is signed by the party and by the Corporation Trust Company, by the officer whose duty it is to make the transfer.

Q. (By Representative LIVINGSTON.) You do not require a valuable consideration? Is that left out?—A. That is shown on the book certificate; it is there, "for value received."

Q. (By Mr. JENKS.) The amount of value received is not stated?—A. It is the usual form, "for value received."

Q. These two books and the way they are kept show substantially all of your business?—A. Yes; that is, as regards stock.

Q. What other business do you have as a registration or transfer company?—A. We maintain the actual business office, putting up the signs you mentioned. The office is kept open during business hours, and there is always an agent on whom process can be served, and it is customary to keep such papers as may be necessary.

ANNUAL REPORTS KEPT ON FILE BY THE TRUST COMPANY.

Q. What other papers do you ordinarily keep on file? Do you keep, for instance, all the annual reports they are required to make to the secretary of state?—A. We keep copies of the annual reports.

Q. Is it one of the requirements of your contract that the reports shall be filed with you?—A. It is. We see that they are filed.

Q. Suppose the annual report of one of the companies you represent ought to be filed on some date and you do not receive it by that time; what do you do?—A. We go after them personally or by letter and make them file it. If they refuse absolutely to comply with the law we terminate our contract with them. We do not care to represent them unless they comply with the law.

Q. (By Mr. FARQUHAR.) Is there a liability attaching to your company as a trust company, provided the corporation does not comply with the law?—A. Yes; we hold ourselves out to the world as being determined to see that they comply with the law, and so we see that they do comply with it.

Q. It is your custom to see that the regular annual reports are filed, and if they do not file them you terminate the contract. Can you say with perfect certainty that all the companies you represent have complied with the law in that particular?—A. Yes.

Q. Can you state, as a matter of fact, that you have terminated contracts because the companies have not complied with the law?—A. We have; yes. I can not give you the names at the moment, but I can furnish you with a list of the companies which we have discontinued.

Q. Will you be kind enough to do so?—A. Yes.¹

Q. Can you give us an estimate of the number of companies with whom you have discontinued the contract?—A. I do not think I can.

Q. Are there several of them?—A. Several of them. Of course, they hardly ever go as far as that, so there would not be very many.

Q. Can you furnish us before you leave to-day the blank forms you use, a blank page of the ledger and transfer book?—A. Yes.²

METHOD OF REGISTERING TRANSFERS (RESUMED).

Q. (By Senator MALLORY.) I do not understand your method of noting the transfers. How is your attention called to the fact that there is a transfer of shares from A to B?—A. The assigned stock certificate is handed in showing the transfer on the back.

Q. That is the only evidence you have?—A. Yes.

Q. You do not have anything else?—A. We do not have anything else.

Q. The original certificate signed by the parties who transferred the stock is the only evidence you have?—A. Yes.

Q. How long do you keep that certificate, as a rule?—A. Usually it is handed in to us one day and goes to the registrar the next day.

Q. To the registrar?—A. To the trust company which is registrar of the stock.

Q. Do you not register it yourselves?—A. We can not and comply with the requirements of the stock exchange where we are the transfer agent. The stock is registered by another company.

Q. (By Mr. JENKS.) Kindly explain to us the full process by which the stock is sold, how it goes through the hands of the registrar and your company and back again.—A. I would rather have that explained by the auditor; he is more familiar with it perhaps. I should have said the stock is returned to the owner instead of to the registrar.

Q. (By Senator MALLORY.) The stock is presented to you in Jersey City?—A. Yes.

Q. What do you do with it? What is the process you put it through?—A. We make the entry on the transfer book, post it in the ledger, then countersign the new certificate, cancel the old one, and return the new certificate to the party authorized to receive it.

Q. (By Mr. JENKS.) And file the old one?—A. If we are the custodian of the stock-certificate book we file it, otherwise we return it to the company to be filed in the stock-certificate book.

NO REASONS GIVEN FOR FAILURE TO FILE ANNUAL REPORTS.

Q. When you have companies who have failed to comply with this law in the matter of filing annual reports, what reasons have been given for their noncompliance with the law, or have they given any reasons?—A. Usually no reasons; usually the attorney says: "It is none of your business."

Q. Whether they file the report or not?—A. Yes; we know what that means; that there are reasons, and we terminate the contract because we do not care to have contracts of that kind.

Q. (By Mr. FARQUHAR.) Are the reasons usually given by the company?—A. They usually give no reasons why they do not care to file this report.

THE PENALTY FOR FAILURE TO FILE ANNUAL REPORT.

Q. Can parties in case of noncompliance with the law recover \$200 a day against them?—A. They can; yes.

Q. Is that done that you know of?—A. I do not know of any instance personally.

Q. So you do not know whether the law is carried out or not in that respect?—A. Not absolutely; I do not know of any case.

¹ Not filed.

² See p. 1061, footnote, for stock ledger.

Q. But they are all aware of the penalty attached to the law?—A. They are all aware of the penalty; yes.

THE COMPENSATION OF THE TRUST COMPANY.

Q. (By Mr. JENKS.) Doing this work for these various companies you expect some compensation, of course?—A. Usually; yes.

Q. What is the method by which you receive pay from them; is it so much an entry or so much for a period of time?—A. So much for a period of time, so much per month, or so much per year.

Q. The amount you charge depends on the amount of business done?—A. The amount of work actually done.

Q. You make a contract as to what the compensation will be when they first register with you?—A. Commonly at the end of 3 months, because it is usually almost impossible to tell how active their stock will be.

Q. You take them on trust for the first months and afterwards make a regular contract as to what the charge shall be?—A. Yes.

Q. (By Mr. KENNEDY.) Have you received a large number of books within the past few days from New York City or any of these companies?—A. None that I know of beyond the ordinary business.

Q. Do you know anything about a large shipment of books of this kind to the offices of these companies in Jersey City and other points?—A. Nothing beyond what I have seen in the papers. I know we have received none beyond the books due to come; on account of companies being organized, of course, we get books every day.

(Testimony closed.)

WASHINGTON, D. C., *October 18, 1899.*

TESTIMONY OF MR. FRANK R. HANSELL,

Secretary of the New Jersey Corporation Guarantee and Trust Company.

The commission met on Wednesday, October 18, 1899, Mr. Clarke presiding; Mr. Frank R. Hansell appeared at 2.37 p. m., and, being duly sworn, testified as follows:

THE NEW JERSEY CORPORATION GUARANTEE AND TRUST COMPANY.

Q. (By Mr. JENKS.) You may give us your full name and address?—A. Frank R. Hansell, 419 Market street, Camden, N. J.

Q. That is your business address?—A. Yes.

Q. What is your occupation?—A. Secretary of the New Jersey Corporation Guarantee and Trust Company.

Q. What is the business of this corporation?—A. Representing corporations in New Jersey and maintaining an office as required by the corporation laws.

Q. Is the method of doing business in your office substantially the same as, or is it different in some particulars from, that which we have had explained in the case of another company?¹—A. It is practically the same.

NUMBER AND CAPITALIZATION OF COMPANIES REPRESENTED.

Q. About how many companies do you represent?—A. About 500.

Q. How much capital is represented?—A. Well, at least \$500,000,000.

Q. Have you, in or on the outside of your office, signs displayed for every company you represent?—A. Every company; yes.

Q. Can you furnish us with a list of the companies you represent?—A. I can give it to you now; yes.

Q. The figures as to the capitalization of the different companies also?²—A. Yes.

Q. (By Mr. KENNEDY.) Showing the common and preferred stock?—A. No; the authorized capital.

¹ See testimony of Howard K. Wood.

² Filed.

RELATION TO COMPANIES REPRESENTED.

Q. (By Mr. JENKS.) Do you receive from these companies any written authorization to do this business for them?—A. We do; yes. I have nearly 500 here now from different companies we represent.

Q. Is it your practice to insist on this authorization?—A. Always. We do not consider that we really represent a company until it is signed and in our possession.

Q. Does the form of authorization differ in any particular from the one just read?—A. It is exactly the same.¹

THE WORK OF THE GUARANTEE AND TRUST COMPANY.

Q. You keep in your office the stock and transfer books?—A. The stock ledger and transfer books of all of them.

Q. The method of transfer is the same as explained before?—A. Yes.

Q. Do you keep also the alphabetical list of stockholders and the amount of holdings?—A. Yes.

Q. That is kept up every day?—A. Yes.

Q. What methods do you adopt with reference to the companies registered with you as to their compliance with the law regarding the filing of the annual reports?—A. We write them, or when they come into the office and hold their annual meeting we say, if the proper officers are there, we should like to have them sign the report before they go. If they leave without holding a directors' meeting and electing officers we wait a few days and then ask them to sign it, and keep on until we get it and see that it is filed.

Q. Do the stock sheets of all these companies give your name and address as transfer agent?—A. Many of them do; nearly all of them do.

Q. Do you yourselves sign the transfers of stock as transfer agent?—A. Yes.

METHOD OF REGISTERING THE TRANSFER OF STOCK EXPLAINED.

Q. Can you explain in a word or two the method you follow where stock is transferred out of New Jersey—in New York City, let us say—and the certificate is sent to you?—A. Yes. It is sent to the transfer agent in New York City and he forwards us a transfer sheet of this kind; these are smaller, but are the same thing as the larger, giving the names and the number of transferred shares. These are entered on the stock ledger.

Q. Does the stock ledger differ in form from the one shown to us before?—A. It is practically the same. It simply shows the stock here transferred to Crossen from the company, who has since transferred to another party. [Exhibiting certificate.]

Q. You enter from this sheet the details that come to you every day?—A. Yes.

Q. They are taken from that?—A. Yes.

Q. You post up the alphabetical list of stockholders and their holdings every day?—A. Yes.

Q. (By Senator MALLORY.) What becomes of the preceding certificates of stock?—A. Where certificates are sent to us for transfer?

Q. No. When you are notified of the fact that transfers have been made and the certificate of transfer is sent to you, what becomes of the old certificate?—A. That certificate of stock has been delivered to the company's office, and there a new certificate is made out as desired and signed by the proper officer. It then goes to the registrar, and after they are through with it both certificates are usually returned to the company's office, because that is where the brokers' boys come for them quite often. Sometimes they will go directly to the registrar. The old certificates are returned to the company, and, as a rule, pasted to their proper stub in the certificate book, so that when all the certificates are returned you have a full book of canceled certificates.

Q. You have nothing to do with the old certificates?—A. No.

TRANSFERS SOMETIMES MADE IN THE OFFICE OF THE GUARANTEE AND TRUST COMPANY.

Q. Do you ever receive them?—A. Sometimes the companies out of town will leave the certificate book in our office and ask us to keep it for them, saying, "We make very few transfers, and the proper officer will come and do it under your supervision." In that case we do it for them.

¹See testimony of Howard K. Wood, p. 1089.

Q. As a rule you know nothing about that old certificate?—A. Not as a rule, where the transfer is made out of our own office; where they come to the office we insist on seeing it and having the certificate guaranteed.

COMPANIES REPRESENTED BY THE GUARANTEE AND TRUST COMPANY COMPLY WITH THE LAW.

Q. (By Representative LIVINGSTON.) Have there been many violations of your State law in regard to these companies?—A. Well, of course I am only in a position to answer as to our own companies, and it is our boast that we keep them in good shape and see that they comply with the law.

Q. Have any of the 600 companies you represent ever failed to comply with the law of the State?—A. As to holding meetings, no.

Q. For any purpose?—A. Not to my knowledge. Of course, when a company will not do as we wish we cancel our contract with it. We do not care to have it.

Q. (By Senator MALLOY.) How long has your company been in existence?—A. About 4 years.

(Testimony closed.)

WASHINGTON, D. C., *October 18, 1899.*

TESTIMONY OF MR. JAMES MARWICK,

No. 27 Pine street, New York.

At a meeting of the United States Industrial Commission held at its offices in the Bliss Building October 18, 1899, Mr. James Marwick appeared at 3.45 p. m. and, after being duly sworn, testified on the subject of trusts.

BUSINESS OF THE WITNESS.

Q. (By Mr. JENK.) Will you kindly state your full name and business address?—A. James Marwick, 27 Pine street, New York.

Q. What is your business?—A. I am a chartered accountant and the auditor of the Corporation Trust Company of New Jersey.

Q. What is the nature of your work as auditor of this trust company of New Jersey?—A. I supervise all the work connected with the transfer business in New York.

Q. In New York City?—A. Yes, sir.

PURPOSE OF THE NEW YORK OFFICE OF THE TRUST COMPANY.

Q. Will you explain to us just what the nature of your work is in New York City, or how it is connected with the work of the trust company in Jersey City.—A. The office of the trust company in New York was established to receive certificates—to facilitate the work of the New York Stock Exchange. The broker sends the certificate to the office—

Q. That is, to your New York City office?—A. Yes; to our office, properly signed and stamped. We give in exchange for it a small slip, so that he can recover the new certificate when it is issued.

Q. The small slips that are issued are substantially receipts?—A. Just receipts; yes; so that he can identify the new certificate. We then make the transfer and make out the new certificate and have it recorded and properly signed in our new-certificate book. The following morning we deliver it to the registrar, who delivers it to the broker.

RELATION TO THE NEW JERSEY OFFICE.

Q. Then what relation exists between your office and the work you do there and the work that is done in the New Jersey office?—A. We receive the certificates and send the transfers over to the New Jersey office on the forms which you have been shown.

Q. When you speak of making transfers you mean you receive the certificates and send them to the transfer office and transfer them and they are returned to you?—A. We receive the certificate, which is in blank, and write out the transfer and send it over to New Jersey.

Q. And then in New Jersey they make the transfer on the books?—A. Each day our sheet is added to the transfer book, which is afterwards bound up; it is complete in every respect; every day shows the total up to date; it is signed and makes a complete record, and the best record we can have.

Q. And then you say the certificates are returned to the New York office; and to whom—to you?—A. We send the old certificates with the new certificates to the registrar, who cancels the old certificates and issues the new ones; then he returns the old certificates to us in New York, so we can answer any inquiry made by the New York Stock Exchange.

OLD CERTIFICATES FILED IN THE NEW YORK OFFICE.

Q. And you keep the old certificates in your office?—A. We file every certificate. I can show you any certificate filed in our office that has been out of the office and come back again.

Q. So that, as a matter of fact, these old certificates are all of them kept on file in your office?—A. Yes; if any question is asked by the New York Stock Exchange in connection with these certificates we can reply to it. We hold them instead of the company holding them, for the convenience of the brokers.

KIND OF BOOKS KEPT IN THE NEW YORK OFFICE.

Q. Now, in regard to the books that you use in this transfer business, do they differ in any respect from those already shown?—A. [Showing book.] This is my record book, or transfer book. I make a record of the transfer that I send over to New Jersey; this is my record here; this is written up in the corporation office in New York, as a record of what we send over to New Jersey. Then this is posted in a ledger. We post this in New York and balance up with the New Jersey office every 3 months or so; we have an exact list in both places.

Q. I suppose the ledger you keep in the New York office is exactly the same in all particulars as that kept in the New Jersey office?—A. They differ to a slight extent, but this is the latest form, a self-balancing ledger.

RELATION OF THE EASTERN OFFICES AND THE CHICAGO OFFICE.

Q. How do some of those companies that have transfer offices, not simply in New Jersey and New York, but also in Chicago, keep in touch with the Chicago office? You have explained about the New Jersey office; how about the Chicago office?—A. We send them a note of every transfer that is made.

Q. Do you make daily reports to them?—A. Yes; in the case of one of the large companies, we send a complete report of every transfer in our office, so that they know exactly every transfer that is made.

CORPORATIONS REPRESENTED AND THE AMOUNT OF WORK REQUIRED IN THE BUSINESS.

Q. You represent corporations, of course, of different sizes—small corporations and large ones?—A. No small ones in New York.

Q. Those you represent in New York are substantially those that you represent on the New York Stock Exchange?—A. Yes.

Q. Can you give us some estimate as to the amount of work required to do the business for a large company; for instance, the Federal Steel Company?—A. How do you mean?

Q. How many clerks?—A. I could not undertake to do the work with less than 6 clerks; but of course the work is not the same at all times; sometimes it would not require so many.

Q. You mean 6 for one company?—A. Yes; I have been called on to issue in one night \$9,000,000 of securities. I have closed my office at 3 o'clock in the afternoon for receiving transfers, but every security was out and new certificates issued by 10 o'clock the next morning for over \$9,000,000.

Q. How much time do you have to make this transfer on the Stock Exchange?—A. From 3 o'clock in the afternoon until 10 o'clock in the morning.

Q. So that for every sale made on the New York Stock Exchange you must have a report made up by 10 o'clock the next morning?—A. Yes; of course we post our books after that.

Q. You say that in the case of a large company, like the Federal Steel, it requires 6 clerks to do the work?—A. When I tell you that we have had to get out nine millions of securities in one night you can easily see what it means.

Q. Of course the amount of work will vary daily with the conditions on the Stock Exchange?—A. Yes; but we have to be prepared for big days.

Q. And so you keep the force employed regularly in order to do that work?—A. Yes.

Q. (By Representative LIVINGSTON.) Who pays for it?—A. The company that the Corporation Trust Company represents.

(Testimony closed.)

WASHINGTON, D. C., October 18, 1899

TESTIMONY OF MR. JAMES S. GARVIN,*Assistant Secretary of the New Jersey Registration and Trust Company.*

At a meeting of the United States Industrial Commission, held at its offices in the Bliss Building, 11.10 a. m., October 18, 1899, Senator Mallory presiding, Mr. James S. Garvin appeared at 2.55 p. m., and, after being duly sworn, testified as follows on the subject of trusts:

THE NEW JERSEY REGISTRATION AND TRUST COMPANY.

Q. (By Mr. JENKS.) Will you kindly give us your name and address?—A. James S. Garvin, New Jersey Registration and Trust Company, No. 525 Main street, East Orange.

Q. What is your occupation?—A. Assistant secretary.

Q. Of this company you have just mentioned?—A. Yes.

Q. About how many companies does this trust company represent?—A. Between 275 and 300.

Q. About what is their capitalization?—A. Between \$300,000,000 and \$400,000,000, I believe.

Q. Have you written authorization from these companies?—A. We have.

Q. Do you receive any companies without this written authorization?—A. We do not.

Q. Do you keep signs displayed, for all these companies, before your office?—A. We do.

Q. Can you furnish the commission a list of the corporations that you represent, with their capitalization?—A. Yes.

Q. You have a copy with you now?—A. I have one, but not alphabetically arranged, and I would rather send one.

Q. Will you within a day or two?—A. I will.¹

Q. Do you keep in your office the stock and transfer books of all of these corporations?—A. Yes.

BUSINESS METHODS THE SAME AS THOSE OF OTHER COMPANIES.

Q. Does your method of doing the work differ particularly from the methods that have been explained here by the two previous witnesses?—A. No, sir; it is substantially the same.

Q. And the forms of your record books are about the same?—A. Almost exactly.

Q. You can perhaps furnish us with the blanks you use?—A. Yes, sir.

Q. What measures do you take to see to it that the companies that you represent comply with the law as regards the filing of their annual report?—A. We keep a record of the dates upon which their meetings should be held, and we notify them of the approach of that meeting; we also, immediately after that date, notify them that the report has not been received, if such is the case, and continue to do that every 2 or 3 days until it is either received or we conclude that they do not intend to file it; in which case we notify them of the penalty attached to such an omission, and notify the secretary of state simultaneously that we have ceased to represent them.

Q. Have you terminated your relation with any companies for that reason?—A. I have not, personally, but I believe the company has.

Q. How long have you been in this office?—A. Just about 10 days. But I might add that I find the system exactly as stated by the other witnesses. I find we are supplied with exactly the same material, and the same form is being followed by the corporation since I have been there.

Q. You do not find that there is any essential difference between your methods of doing business and those of the others?—A. I might say they are exactly the same. They are formulated on the same lines and carried out in the same way.

Q. You also keep this list of stockholders with their holdings, alphabetically arranged, and posted up to date?—A. Yes.

Q. And you furnish information to stockholders who inquire for it?—A. Yes.

IDENTIFICATION OF STOCKHOLDERS.

Q. What measures do you actually take to identify stockholders?—A. I have not yet been required to secure the identification of any, but I should take the ordinary precautions; and if the stock was not in the proper hands as stated, and I could not get the ordinary identification that would be required by a bank, I should hold the certificate over until I could identify the man. In other words, I would not give the information unless I was sure I was giving it to the proper person.

NUMBER OF REGISTRATION COMPANIES IN NEW JERSEY.

Q. Can you give us any information as to how many of these trust companies of the nature of yours there are in the State of New Jersey—have you any idea?—A. I have been told there are 7 or 8 of them.

Q. Seven or 8 of them?—A. That is, of these registration companies.

Q. Can you give any information as to the number of authorized agents there are representing corporations in the State of New Jersey?—A. No, I can not.

Q. Under the laws of New Jersey, is an individual permitted to represent a corporation, or must it be a trust company?—A. I have been told that in some cases individuals do represent them, and it was owing to the unsatisfactory representation that the necessity for these trust companies arose.

NEW YORK OFFICES OF COMPANIES.

Q. Have you a New York office?—A. We have; yes.

Q. Where is your New York office?—A. No. 27 Pine street.

Q. Is your New York office the same as the one just spoken of by Mr. Marwick?—A. For some companies, yes; we maintain a separate New York office as well.

Q. Your address, I notice, is the same?—A. It is the same building, but not the same office.

Q. Is the matter of the New York office, as compared with the New Jersey corporation office, left to the company concerned?—A. Yes.

Q. The companies in some cases have one and sometimes two New York offices, both dealing with you?—A. Yes.

Q. Do you keep your records with the different New York offices up to date in substantially the same form as to all of them?—A. Yes.

Q. How many offices do you have in New York representing the different companies?—A. Well, we only have the two—our own office and Mr. Marwick's office. (Testimony closed.)

WASHINGTON, D. C., October 18, 1899.

TESTIMONY OF MR. DENNIS B. RYAN,

Attorney-at-law.

At a meeting of the United States Industrial Commission, held at its offices in the Bliss Building, October 18, 1899, Senator Mallory presiding, Mr. Dennis B. Ryan, of No. 1 Montgomery street, Jersey City, N. J., after having duly affirmed, at 3 o'clock p. m., testified on the subject of trusts.

BUSINESS OF THE WITNESS.

Q. (By Mr. JENKS.) Will you give your name and address to the stenographer?—A. Dennis B. Ryan, No. 1 Montgomery street, Jersey City, N. J.

Q. What is your occupation?—A. Attorney-at-law.

Q. Are you the registry agent in New Jersey for any corporations?—A. Yes, for some of them.

Q. About how many do you represent?—A. It may be from 10 to 30—that is, I mean to say by 10 to 30 that I am representing 10 to-day and 30 to-morrow.

Q. Will you kindly explain?—A. After they have been organized I simply resign from them, and tell them to secure offices elsewhere.

CONNECTION OF WITNESS WITH COMPANIES

Q. Will you explain why that is; what the circumstances are under which you resign?—A. They often come in with papers all prepared, and ask me if they may use my office, and I tell them they may; they ask me if I care to represent them as their New Jersey agent, and if they come to my terms, I do; often I simply say good day.

Q. Can you furnish to the commission a list of the corporations you have represented within the last 30 days?—A. I think I could. I do not keep a record of them; they come in and organize and get out, and I do not bother about it.

Q. They come in and organize, and appoint you as agent and pay you a fee, and get out?—A. Not in all cases.

Q. And you resign the next day?—A. Where a payment is made I do keep a record of it, but where they appoint me, they might have a business in New Jersey and have their office in their factory.

Q. Why in that case should they ask you to be their registered agent; if they have an office elsewhere in the State, and wish you to be appointed simply for the use—

A. I do not know why they should ask me.

Q. But if they come in and ask you if you will take the position as registered agent, you say yes; and they ask you to resign, and you resign the next hour?—A. Yes; I do that, and frequently without being asked.

Q. Then you will furnish us a list of the companies you have represented, for which you have been registered agent within the last 30 days, with the dates of your taking the position, and the length of time you held it?—A. Yes.

Q. You will make that complete?—A. Yes.¹

Q. (By Mr. FARQUHAR.) What do you mean by resignation? The certificate of incorporation is there, and you stand as an officer representing the corporation, do you not?—A. Well, they have their own subscribers to the stock and organize themselves; it is not necessary that I should be the organizer.

Q. But do you not stand as the representative, as far as the law in New Jersey is concerned, of the corporation?—A. Do I not stand as what?

Q. As the New Jersey representative of the corporation under the law.—A. Yes; in some corporations I do.

Q. Just a minute ago you said you would resign?—A. Yes.

Q. Now, in what condition is the company left when you resign?—without a representative?—A. I do not concern myself about where they stand.

Q. (By Mr. JENKS.) When you appear as the registered agent of the company, are you not so named in their articles of incorporation, and will not your name so stand?—A. I should think that way.

Q. Your name should appear as the registered agent of the company?—A. Yes.

Q. Then if you held that position for a day, and then resigned, the company would be left without any agent, unless it took the pains to get another in the State?—A. Yes.

Q. And if it wants to do that, you say that is the business of the company, and not yours?—A. That is where I stand.

Q. Where you hold this position for an hour you hold the position for the company that they give you?—A. Yes.

Q. And you think you have done the work they have asked you to do, and that ends it so far as you are concerned?—A. That ends it, and I quit.

Q. The rest is their business?—A. Exactly.

Q. (By Mr. FARQUHAR.) Is the character of your work that of a brokerage or judiciary agent?—A. No; it is just like anyone else coming into my office to effect any company's organization.

Q. Just like a client coming in on an assault and battery case?—A. Yes; I have no knowledge.

Q. In cases of that kind what is your relation to the company? Will you explain it?—A. Well, they seem to be satisfied to have me do that, and I do not inquire very deeply into them.

CHARACTER AND CAPITALIZATION OF COMPANIES REPRESENTED.

Q. What class of companies are you speaking of?—A. Manufacturing companies.

Q. Of how much capital?—A. Some of \$100,000 and some of \$200,000.

Q. (By Mr. JENKS.) When you furnish us a list of the companies, will you also state their capitalization?—A. Yes.

¹ Not furnished, though a list obtained elsewhere was partly checked by Mr. Ryan.

Q. You have records so you can do that?—A. Well, I can not say definitely; I may have some of them and I may not; as I say, any papers I have been connected with I have turned over to the company; I just simply keep the name of them in many cases.

Q. You have the names of all the companies?—A. Yes.

Q. Where you have the names of the companies, have you also the names of the incorporators; do you take them down?—A. In most cases I do.

Q. You take down the names of the officers as they appear?—A. No.

Q. You have simply the names of the incorporators?—A. Simply the incorporators, because they may only hold the stockholders' meeting in my office and the directors' meeting may be in other offices.

Q. You do not keep any list of the directors or officers that they elect?—A. No.

Q. Do you collect your fees before they leave the office?—A. Well, if I know them I do not; if I do not know them I generally like to get paid in advance.

Q. I was thinking you might want to know their address, if you did not collect the fee in advance?—A. Yes.

DESCRIPTION OF SOME COMPANIES REPRESENTED BY WITNESS.

Q. (By Mr. KENNEDY.) I should like to have the names of a few of those companies?—A. Well, I have been trying to think of them for 15 minutes, but I can not. Q. Let us have the names of some of the companies that you have represented simply for a few minutes in this way?—A. Well, the Wigwam Publishing Company.

Q. Of where?—A. Of New Jersey.

Q. (By Mr. JENKS.) Do you know where the main office of that company is?—A. I do not; they are all dead. All the incorporators died in about a month.

Q. (By Representative LIVINGSTON.) Give us one where they have not all died.—A. It is either a dead corporation or a dead man; it is oftentimes the man.

Q. I do not understand that?—A. If they cease to take an interest that is when it goes up.

Q. After the stock is sold?—A. No, sir; the stock is oftentimes not sold at all; in that case they did not sell a dollar's worth of stock.

Q. (By Mr. JENKS.) Will you give us the history of this Wigwam Company, as far as you know it?—A. A gentleman came in and had a book which he called the "White Indian," a picture book for children, which he was publishing; he had 2 gentlemen with him, and had the papers regularly drawn, and I organized him right then and filed the certificate. The next I heard was from his brother-in-law, who came and asked if I had anything belonging to him. I said I had nothing except the certificate of incorporation. He said his brother-in-law had died. A short time after that some gentleman inquired about the company, and said that all the men connected with it had died. I thought I was rather lucky.

Q. (By Mr. KENNEDY.) What was the capital stock of that company?—A. As far as I can recollect, \$100,000.

Q. (By Mr. JENKS.) Would you mind telling us what fee you ordinarily charge for incorporation, when you expect to resign immediately?—A. If I do not have much work to do I charge \$5; if there is considerable work I charge considerably more.

Q. Do you have any scale at all according to the amount for which they are capitalized?—A. No.

Q. For example, if capitalized for \$1,000,000, you would do it just as cheap?—A. Oh, no; oftentimes when they come in, if I am not familiar with the matter, they do all the work and I simply stand around.

Q. You simply let them have your name?—A. Yes.

Q. And give your office as their principal office in New Jersey?

Q. (By Mr. KENNEDY.) What is the largest capitalization of any company you have organized?—A. As far as I can recollect, half a million.

Q. What fees did you get in that case?—A. In that case I had nothing to do at all.

Q. You got a fee?—A. Yes; about \$10.

CONNECTION WITH PROMOTERS IN NEW YORK.

Q. (By Mr. C. J. HARRIS.) Have you any connection with a New York office?—A. I have no New York office.

Q. Are you connected with some promoters there?—A. I am.

Q. (By Mr. JENKS.) Who are the promoters?—A. Peter Whitney, No. 100 Broadway.

Q. (By Mr. C. J. HARRIS.) Do you know Noblett?—A. I have not been connected with him for about 6 months.

Q. Is your business of such a pressing nature that you do not follow them after they are incorporated? Do you keep the transfer books in your office in some cases?—A. Yes; such as they are.

Q. (By Mr. JENKS.) How many companies are there of which you are really the permanent New Jersey agent? Do you pretend to keep the work up in those cases?—A. I can not tell you that exactly until I look them up.

Q. Are there 10?—A. Hardly 10.

THE MONTGOMERY TEXTILE COMPANY.

Q. Will you give the names of some of those now?—A. The Montgomery Textile Company.

Q. For how long a time have you been agent of that company?—A. A year.

Q. (By Mr. KENNEDY.) Of Montgomery, Ala.?—A. No; of North Wales, Pa.

Q. (By Mr. JENKS.) What is the capitalization of that company?—A. I can not tell you; I do not remember.

Q. Do you know where their home office is?—A. North Wales, Pa.

Q. Their factories are there?—A. Yes.

Q. In preparing that list, will you include also a list of the presidents?—A. As far as I have them.

Q. Now, as regards this Montgomery Textile Company; you say you represented them about a year?—A. About a year.

Q. Did that company file an annual report?—A. I believe it did.

Q. Did you get a copy of that annual report yourself, so that you have it in your office?—A. Well, I can not say definitely, but I believe I have.

Q. Inasmuch as you have not the information at hand, but have it in your office, will you also include that in the information you send, making it complete with respect to all that you have represented long enough so that they have had to file an annual report? Do you, yourself, take pains to notify the few companies that you are representing in a permanent way when their annual report is due?—A. Well, I tell them when they come when it is first due, and afterwards—

Q. You think that is their business?—A. Yes.

Q. And you pay no further attention to them?—A. No.

DISPLAYING THE SIGNS OF COMPANIES.

Q. Do you keep the names of these companies on signs before your office?—A. Well, I have had them on tin signs, but I have taken the tin signs down for a short time.

Q. So that you have no signs now?—A. We are painting one sign for all.

Q. Why did you not leave them up until the other was completed?—A. It was a matter of neglect, I suppose.

Q. Is it not a matter of noncompliance with the law?—A. Well, we should have had the signs displayed at the entrance to the office.

Q. In all cases?—A. Yes.

Q. So if you took the tin signs down and are not ready to put the other up, you are, as agent, violating the law?—A. No; I hardly think that, or I should not do it.

LISTS OF STOCKHOLDERS.

Q. Do you keep a list of the stockholders of these companies?—A. In some cases I do; in others I do not.

Q. Have you in your office a full list of the stockholders of any of the companies that you represent?—A. I think I have.

Q. Of what company?—A. I can not say offhand.

Q. Do you think you have a complete list of the stockholders of the Montgomery Textile Company?—A. Yes; I think I can name them offhand. There are about six.

Q. Do you have any written list of them?—A. Well, some of them I took from the stock book, and the secretary prepares me an alphabetical list.

Q. How often?—A. About once a year.

Q. That is, he prepares that a while before the time of the annual meeting?—A. That is according to the by-laws; 3 weeks, and sometimes a month.

Q. Do you recollect whether the law of New Jersey has any provision with reference to the preparation of this list before the annual meeting?—A. It is required, if my recollection serves me right, that the alphabetical list be prepared before the election.

- Q. Do you recollect how long a time before election?—A. I think 10 days.
- Q. Do you recollect whether a copy of that list is to be posted in the office for 10 days before the election?—A. Yes.
- Q. Have you seen to it that you have had the list for 10 days before the election in the case of all the companies that you represent?—A. Only one of the companies has ever had an annual meeting.
- Q. Which one was that?—A. The Montgomery Textile Company.
- Q. They have had more than one?—A. They have had two.
- Q. But you have never represented any other company which has had an annual meeting in your office?—A. That is the only one.
- Q. Do you know whether the law at present considers it sufficient to have the list out 10 days before the meeting, or whether it requires it to be kept up to date continuously?—A. I do not think the law requires that it be kept up to date continuously; simply before the books close; 10 days before the election.
- Q. You think that is all that is required?—A. Yes.
- Q. And the matter will then lie over until the next annual meeting?—A. After the meeting of the Montgomery Textile Company I direct the secretary to make up a written list to date.
- Q. That is right after the meeting?—A. Yes.

THE TRANSFERRING OF STOCK.

- Q. Do you yourself make the transfers of stock of any of the companies that you represent? Have you ever made any transfers of stock?—A. Yes, a few.
- Q. For what companies?—A. For the Davis International Telegraph and Telephone Company, I think.
- Q. You are the regular accredited agent of that company now?—A. No.
- Q. You were, earlier?—A. Yes.
- Q. And during the time you made transfers of stock?—A. Yes.
- Q. Why did you sever your connection with that company?—A. Well, in the first instance, they did not think they were making enough money, and one man was putting out too much; he discontinued, and I, of course, discontinued also; he was paying me himself, not the company.
- Q. This was an individual matter, as far as the company was concerned?—A. It was an individual matter between him and myself.
- Q. Is that company still in existence?—A. No.
- Q. Do you regularly keep the transfer books in your office, of all the companies that you represent for a period, we will say, of 3 months?—A. Well, some of them use the stock book, that is, the stock certificate book, for that business; not having many stockholders. That gives, of whom bought and to whom transferred.
- Q. In that case do you keep the stock certificate book in your office?—A. I have several of them.
- Q. Have you kept stock certificate books regularly in your office?—A. When I get them from a company I keep them continuously.
- Q. And then are the transfers of stock made in your office?—A. Sometimes. In one or two instances I recollect of several coming who held stock certificates and giving me a letter.
- Q. And asking you to make a transfer?—A. Yes. I write usually in red ink across the old certificate, "Canceled," and put on the date. Then I draw another certificate and forward it to the office of the company, either to the president or secretary, and they sign their names there.
- Q. And you call that making a transfer in your office?—A. Yes.
- Q. (By Representative LIVINGSTON.) About how many of these books have been sent over to New Jersey to your office within the last 30 days that you are not in the habit of keeping there?—A. None at all.
- Q. You have not received any books lately?—A. Not in the last 30 days.
- Q. (By Senator MALLORY.) Do you know whether the class of companies you have been acting for do much transferring of stock, as a rule?—A. No, they do not.
- Q. Very little of their stock is transferred?—A. Very little.
- Q. (By Mr. JENKS.) Have you been authorized to make transfers of stock for these companies?—A. Yes.
- Q. For all the companies for which you have kept stock books?—A. Where I have held the books I generally get a letter from them; very frequently when they have been there I ask to have resolutions passed directing me.
- Q. And in that case you keep a copy, I suppose, of the resolutions?—A. I have not any of them on file; I get that list from the secretary of state; he sends it to me, a certificate every day.

INFORMATION GIVEN TO STOCKHOLDERS.

Q. (By Mr. C. J. HARRIS.) Does the stockholder often not know anything about the standing of the company? Suppose there should be a stockholder who wished to investigate, could he get any information in your office in New Jersey?—A. If I was satisfied that he was a stockholder I would tell him all I knew about it.

Q. Well, would that be much of anything?—A. Oftentimes he would know far more than I would.

Q. (By Mr. JENKS.) You think you would be willing and able to tell, in almost every case where you were still the authorized agent, the names of the stockholders?—A. That is too general a question to answer; sometimes I could tell by the certificate books to whom the stock was issued. That is as far as I could go; I could not trace the holdings of it.

Q. You could not trace the holdings?—A. Oh, no.

Q. Have you kept a stock certificate book in every case where you have remained the permanent agent?—A. Yes.

Q. In every case?—A. Yes. I say that, because I can not tell offhand how many I have resigned from; but it is my usual method to do so; I keep a stock book or the certificates themselves.

WITNESS HAS NO OFFICE HELP.

Q. (By Mr. KENNEDY.) Is a very large force of clerks required to do all the work done in your office?—A. No, sir.

Q. How many do you have?—A. I have none.

Q. You are your own clerk, are you?—A. Yes.

Q. (By Mr. JENKS.) I understood you to say that the number of transfers made in the companies you represent is very small?—A. Very small; oftentimes there are no transfers at all. A good many people hold their stock right along.

Q. It is substantially a private company, you think?—A. Yes.

Q. Do you represent any companies where the stock is bought and sold on the New York Stock Exchange?—A. Not that I know of.

Q. So that the matter of transfers of stock would not ordinarily occupy more than an hour or two a week?—A. Oh, no; in the case of this company it would not take 5 minutes to make out a new certificate and cancel the old one.

Q. (By Representative LIVINGSTON.) You deal with the little fish?—A. You can make a company as large as you want. You can make it a million as well as a hundred thousand. It does not take any longer to say a million than a hundred thousand.

Q. (By Mr. JENKS.) But in some of the companies which were incorporated for \$500,000 would the transferring of stock, in your judgment, be very slight?—A. Well, I can not answer as to that now.

NATURE OF COMPANIES ORGANIZED FOR NEW YORK PROMOTERS.

Q. (By Mr. C. J. HARRIS.) How many companies have you organized for that New York man, Peter Whitney, within the last year?—A. I should say about 25.

Q. What is the nature of these companies—are they public or private corporations?—A. Public corporations.

Q. Are they organized with an idea of putting the stock on the market?—A. By that you mean putting the stock on the exchanges for sale?

Q. Yes, to float it about?—A. Well, I can not answer that question. Of course, my experience has been with the same man holding the stock and continuing to hold it.

Q. (By Mr. JENKS.) In the case of the companies organized for Mr. Whitney, have you ordinarily resigned promptly?—A. Yes.

Q. You have simply acted as agent for the moment?—A. Yes; many of them are New Jersey people and have their own places; they simply come to me to start the companies; after they are started they leave and afterwards proceed by themselves.

Q. That has been true practically of all of the companies organized for Mr. Whitney?—A. I should say of a large number of them.

Q. I will ask you also, when you send in that list, to name the companies you have organized for Mr. Whitney?—A. Yes.

Q. (By Mr. FARQUHAR.) How many companies have you represented since you commenced the business?—A. Well, you mean since I have been an attorney?

Q. Since you commenced this business of representing companies, how many have you represented?—A. Well, I might say 75.

Q. How many do you represent now?—A. I can not tell you that offhand.

Q. (By Representative LIVINGSTON.) Who pays the State fees of these companies in New Jersey?—A. The incorporators.

Q. Do you know that they do pay them?—A. Well, they could not get the certificate if they did not.

NATURE OF WORK DONE BY WITNESS.

Q. (By Mr. FARQUHAR.) Do you think the method you have described here to-day, that of representing a company for less than 24 hours and then surrendering it, is a fair and legal way of doing business?—A. I am afraid you misunderstand me. For the purpose of organizing they come in with a certificate of organization secured from the secretary of state before I see it, and hold their organization meeting in my office.

Q. In other words, your work consists simply in placing with the secretary of state that certification?—A. No; I have nothing to do with that. That is all done before I see the gentlemen.

Q. Then it is simply to use your name?—A. They do not use my name.

Q. (By Mr. KENNEDY.) It seems to me they get organized before they name an agent.—A. No; they may have my name put in the certificate.

Q. Then they do not use your name for unlawful purposes?—A. No; since I acquiesce afterwards I do not see that it is unlawful.

Q. (By Mr. JENKS.) Do I understand that you have, substantially, an arrangement with Mr. Whitney whereby he may use your name in an organization scheme so that, when they go into your office with your name printed as agent, you officially work for them by letting your name stand as the New Jersey agent?—A. No; I do not know of any such arrangement as that. He makes use of my office; he must pay for all clerical work and attend to that himself. I am oftentimes not in the office when it happens.

Q. You say you are often not in the office when he comes there to do this work, but your office stands there as the New Jersey office for the time being?—A. Yes; it is kept open all day long.

Q. So that the provision of the law requiring the office to be kept open during business hours is complied with?—A. Yes; there is always somebody there.

Q. You suggested that you had organized a good many companies for Mr. Whitney. What other men have you organized companies for; Mr. Noblett, for instance?—A. Yes.

Q. Can you tell about how many you have organized for him?—A. Possibly 30 or 35.

Q. And in these cases you have ordinarily resigned immediately afterwards?—A. Yes.

Q. Can you give us the names of some you have organized for him?—A. Well, I can not answer that offhand.

Q. When you send in the information we have asked for, will you kindly include them also?—A. Yes.

WITNESS HAS COMPLIED WITH THE LAW.

Q. (By Mr. FARQUHAR.) Section 43 of the corporation law of New Jersey says: "Every certificate, report, or statement, now or hereafter required by any law of this State to be made to any officer or department of this State, or to be published, filed, or recorded, by any corporation, domestic or foreign, shall, in addition to the other matter required by law, set forth the location (town or city, street and number, if number there may be) of its principal office in this State, and the name of the agent therein and in charge thereof, and upon whom process against the corporation may be served."

Q. Have you complied with that?—A. Yes, I think I have.

Q. Not "think," but have you complied?—A. Yes.

Q. (By Mr. KENNEDY.) What is generally the amount of the capitalization, \$40,000, \$50,000, or \$100,000?—A. It runs from \$50,000 and \$100,000 up to \$200,000.

Q. In the incorporation of the Montgomery Textile Company, it seems to me you ought to have some record of your connection with it?—A. Well, I did not say that I had not. I simply say I make the memoranda at the time. I do not pretend to commit the names of the companies to memory.

Q. You have a list of all of these companies that you have organized?—A. Yes, I have one.

Q. (By Mr. JENKS.) Will you give a complete list of all of them within 30 days?—A. I will give you the names of all the companies I know anything about, with which I have had anything to do.

Q. (By Senator MALLORY.) In speaking of resigning, did you mean that you make a formal resignation?—A. I did not exactly mean resigning, but severing my relation with the company. I simply say, "Have you got an office elsewhere, or do you desire this one?" Sometimes they say, "We have one." Of course that settles the business with me.

Q. Do you always know when the corporation wishes to regard you as representing them? Is that always understood between you and them, or does it drift along without your being positive that you are or are not representing them?—A. Yes, I know when I do; they may think I do not, but I do. For instance, I ask them to do certain things, and they do not do them, and if they are not done, I am not and will not until they do them.

(Testimony closed.)

WASHINGTON, D. C., November 13, 1899.

TESTIMONY OF MR. CHARLES N. KING,

Secretary and general manager of the New Jersey Corporations Agency.

The commission met at 10.55 a. m., Chairman Kyle presiding. Mr. Charles N. King, of Jersey City, N. J., was introduced, and, being duly sworn, testified as follows:

Q. (By Senator KYLE.) What is your name?—A. Charles N. King.

Q. (By Mr. JENKS.) And your address?—A. 243 Washington street, Jersey City.

Q. What is your business?—A. I am secretary and general manager of the New Jersey Corporations Agency.

BUSINESS OF NEW JERSEY CORPORATIONS AGENCY.

Q. Will you tell us what the business of this corporations agency is?—A. It is organized for the purpose of furnishing corporations with all of the facilities for complying with the laws of the State of New Jersey.

Q. What are the special provisions of the laws of New Jersey that are to be carried out by this corporations agency?—A. Furnishing them with an office, the keeping of their transfer and stock books, the filing of their papers as required by the statute.

Q. What papers are required?—A. They have to file annually a report of their officers and directors, and they have to make a statement to the State yearly regarding their capital issued, for the purpose of taxation.

Q. How many different corporations are represented by your office?—A. I could not tell you exactly, but there are several hundred.

Q. Can you give us an estimate as to the total amount of capital represented by those companies?—A. No; but it is several hundred millions.

Q. Please mention the names of some of the more prominent ones that have their offices with you.—A. The Amalgamated Copper Company is one, with a capital of \$75,000,000; the American Car and Foundry Company, with \$60,000,000; the American Thread Company; the Pressed Steel Car Company; the American Soda Fountain Company.

Q. That is perhaps sufficient. Could you have prepared in your office and file with the commission a list of the companies that you represent, with the capitalization of each, and will you be kind enough to do so?—A. You could get all that at Trenton; their certificates are filed in Trenton, and their capital.

Q. With the name of the agent?—A. Yes.

Q. Is it a fact or not that this requirement of the law that the name of the resident agent shall be filed with the secretary of state is carried out?—A. Yes, it is with our company.

Q. In every case, then, where you have been mentioned as agent, that will appear in the records at Trenton?—A. Yes, in every report that is filed there it is stated. We have regular printed reports, and it states who the agent in charge is. It may be me personally or it may be our corporation.

Q. Do you know whether that provision of the law is invariably carried out in the secretary of state's office?—A. Only so far as relates to our company; we see that it is.

Q. You see that it is?—A. There is a penalty for failure to file that report.

Q. In the case of a company that you represent, you are certain that either the name of the company or your own name as agent does appear in the records in the office of the secretary of state?—A. Yes.

Q. The commission would like to have you file a list of the companies you represent, with their capitalization. I might perhaps give the reason why. It is quite possible that there may be in that list a number of large corporations that we might wish to know something further about, and in this way we could get the information as to what they are—what their capitalization is—more conveniently than by

sending a clerk to the office of the secretary of state.—A. Do I understand that you want a complete list or the large companies?

Q. Supposing we say the companies with a capitalization of \$250,000 and above that.¹

Q. (By Mr. FARQUHAR.) Is there not a system of illegitimate certification in the State of New Jersey by irresponsible agents, lawyers, and others, who, for a small fee, get the certification of certain companies, and under that certification have issued stock and sold it in New York City?—A. Well, such a thing may happen; it is never done with our concern.

Q. I did not speak particularly of you, but of your own knowledge.—A. No; not of my own knowledge; I could not state.

STOCK AND TRANSFER OFFICE.

Q. (By Mr. JENKS.) With reference to these hundreds of companies that are registered in your office, do you in every case keep the stock and transfer books of these companies in your office?—A. Yes.

Q. In the case of transfers of stock, are the transfers regularly made in your office?—A. The statute provides that every corporation shall maintain a principal office in the State, where they can have their stock transferred. We transfer that stock or see that it is transferred. Those books are delivered to us, and they are coming and going all the while. We let them out to be written up. Now, take small corporations; they may not have any transfers at all, and others have them every day. There is a list furnished to us, either daily or weekly, by the large corporations, and we keep the books posted; but they do have transfers—the statute permits it—in other States.

Q. Yes. Of course, then, with reference to these larger companies, where there are frequent transfers of stock, as I understand you, you have transfer books of all these in your office. If they make transfers, say in New York City, those transfers are reported to you at least as often as once a week, and you post your books up as often as once a week?—A. You say where they transfer every day?

Q. No; where they occur right along?—A. No; some of these are taken monthly. It just depends on the activity of the stock and how much time it takes to keep it up.

Q. In case the stock is not very active, in case there are only a few transfers every day, in some cases you post those books once a month?—A. In some cases, but we have slips and keep them there right up.

Q. So that on any day it would be possible for a stockholder of one of those companies, who should prove to you clearly that he was a stockholder, to see just what the list of stockholders of that company was on that day, and what the holdings of each stockholder were?—A. Yes; he could ascertain who is a stockholder and what his address is and how many shares he holds.

Q. He could do that any day in your office?—A. Yes, generally.

DISPLAY OF NAME—ANNUAL REPORT—LIST OF STOCKHOLDERS.

Q. With reference to this other provision of the New Jersey law, that before the principal office there shall be kept a sign giving the names of the corporations represented there, is that provision of the law carried out by you regularly?—A. Yes.

Q. Invariably?—A. Yes.

Q. What provisions do you make with reference to seeing that the corporations represented by you comply with the provision of the law requiring the making of annual reports?—A. The notices from the state board of assessors or the comptroller are sent to us, and we see that they get to each corporation, and the reports are made back to us and we send them to Trenton. From the time they start until they finish they probably go through our office half a dozen times.

Q. That is, in case there is any delay on the part of the corporation that seems to be so much that it is really violating the spirit of the law, you notify the corporation, of course, and see to it that they are kept up thoroughly?—A. Yes.

Q. (By Mr. FARQUHAR.) What is the penalty for not making a report?—A. On the officers and directors I think it is \$200 for each offense, and I do not know but the directors are liable too.

Q. (By Mr. JENKS.) Do you keep regularly also in your office, for the use of the stockholders, an alphabetical list of the stockholders of each corporation, so that that can readily be consulted, or do they have to inquire from the clerks or the books?—A. Well, the statute requires that that alphabetical list be posted 10 days before the annual meeting, and we hammer them until we get it.

¹ Not filed.

Q. You say it is ready at the election?—A. Yes.

Q. But has not that law been amended so that at the present time it requires that this list shall be kept up regularly?—A. No, sir; not to my knowledge. Your stock ledger or transfer book is accessible to any stockholder at any time.

Q. Ten days before?—A. Yes; the alphabetical list is required to be filed 10 days previous to the annual meeting.

ADVANTAGES OF NEW JERSEY CORPORATION LAW.

Q. What special advantages does New Jersey offer to foreign corporations to incorporate in that State as compared with other States, New York for example?—A. Well, there are a great many of them; I do not know just what one to touch on.

Q. Please enumerate the ones that have occurred to you.—A. Well, in the first place, I think they can get a more liberal charter in New Jersey than they can in New York.

Q. In what particulars?—A. I think that besides that the stockholders, and directors, and officers of the company are better protected under New Jersey.

Q. Can you mention the particulars?—A. As I understand it, in New York—supposing 5 men associate themselves into a corporation under our laws they can pay—and New York, too—a certain amount, a certain percentage of the par value of that stock. Supposing they call for 50 per cent of that stock and it is paid in; they run along and do not require any more. They are both subject to 50 per cent whenever it is called.

Q. (By Senator KYLE.) That is in New York State?—A. In both States. Well, if there did come a time when they required more capital and they called upon them, each man would be liable for his other 50 per cent. In New York State if 4 men are no good, fail in the meantime, I believe the fifth man is liable for it all. I think so.

Q. (By Mr. JENKS.) Do you think of any other provisions that are specially favorable to corporations in New Jersey?—A. Yes; it allows a corporation by a two-thirds vote of the stockholders to consolidate with other corporations, and one man can not block the consolidation.

Q. Is not a merger of different corporations possible in New York also?—A. No; I do not know whether it is or not on a two-thirds vote.

Q. Do you think of any advantages that New Jersey gives in the line of taxation, license taxes, and so on?—A. On filing a certificate in New Jersey, you pay what they call a filing fee. In New York you not only have to pay a filing fee, but you have to pay one-eighth of 1 per cent on the authorized capital. In New Jersey you pay one-tenth of 1 per cent yearly up to \$3,000,000; one-twentieth from \$3,000,000 to \$5,000,000, and \$50 a million over \$5,000,000.

Q. So that New Jersey really encourages the incorporation of companies with very large capital by lessening the taxation as the capitalization increases?

Q. (By Mr. FARQUHAR.) On a sliding scale?—A. Yes; it would be a sliding scale.

Q. Is it on the authorized capital or the paid-up capital?—A. On the capital issued and outstanding. But New York, as I understand it, taxes the nominal capital one-eighth of 1 per cent. A company with \$1,000,000 capital, when they file a certificate in New York, would have to send \$1,250 to the secretary of state.

DESIRABILITY OF HAVING A LIST OF STOCKHOLDERS IN A REGISTERED OFFICE.

Q. (By Mr. JENKS.) How long have you been engaged in this business that you have now, in connection with this trust company?—A. I think since 1895 in this company; but I first embarked in this business in 1891 or 1892.

Q. In another company?—A. Another company; yes.

Q. With reference to these smaller companies, where transfers of stock are comparatively seldom made, do you consider it a matter of importance in the law that the stock and transfer books be kept in a public office of this kind, in order that the stockholders may be able to see at any time who their fellow stockholders are?—A. Well, yes and no. If they had a list there, that would be sufficient; and if they did not, why I think the books ought to be kept there.

Q. So that they can be found at any time?—A. So that a stockholder can ascertain who the stockholders of that company are, their addresses, and the number of shares they hold.

Q. In the case of the smaller private corporations, where there are, we will say, from 5 to 15 stockholders, where there are practically no transfers of stock, what is the reason for having this list there? Is there any reason particularly, or is it simply for uniformity?—A. Supposing 14 of that company know all about that corporation and the fifteenth man does not know how much the holdings of the other 14 are; the principal office in this State is the only place where he can ascertain that under our laws.

Q. So that you think even in the case of these smaller private corporations it is quite important that the provision of the law be lived up to rigidly?—A. I think so; yes.

IS THE PUBLIC BETTER PROTECTED?

Q. (By Representative LIVINGSTON.) You said a moment ago that you thought that in New Jersey the officers are better protected than in New York and other States, and that is one reason why there are so many charters taken. Is the public better protected in New Jersey at the same time?—A. Yes; for the reasons that I state. If I am right in the amount that these men pay on their stock, and if the fifth man, as I stated there, is liable for the other four, that is not so in New Jersey, and that is one great protection.

Q. Better protection to the stockholder. The question I asked you was this: Is the public better protected? If these trusts and combines are an evil, you have to take it for granted that they are antagonistic to the interests of the common people. If they were chartered in New York, would the public be better protected there than in New Jersey?—A. I do not think so.

Q. Is there any protection to the public any way in the whole business?—A. Under the New Jersey law?

Q. Or any other laws authorizing these combines and trusts—is there any protection to the public?—A. Yes; I think the public are better protected under our laws.

Q. You may state to the commission how.—A. Well, when you speak of the public do I understand the stockholders?

Q. No; indeed you do not. They are anything else but the stockholders. I mean a man that does not own any stock at all; that does not know anything about the company and can not know anything about it.—A. Well, wherein would he be hurt?

Q. Where do you make your money if you don't make it out of the public? You don't rob each other and make it out of each other, I hope?—A. Well, if the public become stockholders in that corporation, they participate in the earnings of the company.

Q. I understand. Take the steel trust, take any trust that you are agent for, all their money is made out of the public?—A. Yes.

Q. But how is it that the public is protected under the laws of New Jersey if the stockholders and officers are better protected, as you stated, in New Jersey than in any other State? How is the public protected, if at all?—A. Well, the only answer that I can give you to that—

Q. (Interrupting.) Wait a moment; may be you will understand. Now, then, if the laws of New Jersey are more favorable to money making by that process than those of any other State, then it must be for a selfish, purely a selfish reason that they take their charters there. Then it would seem a natural inference that New York cares more for the public than New Jersey, as she does not have the same statute?—A. The New Jersey statutes have been pretty well adjudicated, and there corporations know just how much protection they get and where they stand; and in a great many of these other States they do not.

Q. (By Senator KYLE.) Your statement was that in case of debts, in the State of New York, the one man, the fifth man, would be holden for it all?—A. That used to be the law, and I do not think it has been repealed.

Q. But in New Jersey?—A. Each man is only liable for the amount of stock that he holds. I think that is a just law.

SHOULD THE ANNUAL REPORT INCLUDE A BALANCE SHEET?

Q. (By Mr. JENKS.) You spoke of the annual report that had to be made by these corporations. Can you state what is contained in that annual report?—A. A list of the officers and directors, and when they were elected, and how long they are elected for.

Q. With the addresses, I suppose, of the officers?—A. Well, yes; they have to give their business address.

Q. They may give as their business address your office?—A. If the corporation is located with us they can give their business address with us, and all communications that come to our office for any stockholder or director or officer of the company are forwarded to him.

Q. Do you yourself think that it would be a greater protection to the public—that is, to the purchasers of the goods of these companies—if they were required to give, in addition to these facts, in their annual report also a balance sheet showing the condition of the business, so that would-be competitors would be able to judge somewhat better whether it would be worth their while to engage in competition with them?—A. No; I do not. I think that would be giving away the business of the concern to the competitor.

Q. The assumption is, of course, that if a report of that kind were required a similar report would be required from all of the competitors, so that no special advantage would be given to one over the other in that particular. Do you think that this would be giving more than the public interests would require?—A. I do; yes.

Q. (By Representative LIVINGSTON.) You have got a public franchise granted by the sovereign State of New Jersey. Why not give the citizens of New Jersey all and any information that will better their condition? Why do you want a public franchise and then want a private corporation? What is there right about that?—A. The citizens of New Jersey may not be dealing with that corporation at all, and why should they want any information regarding it?

Q. Why do you want any franchise at the hands of the people if you are not willing to give the people all the information they ask? Practically you get this franchise from the people through their representatives?—A. That is right.

Q. Now, then, when the people ask for information, why not just give it? You say because it would be giving away your private business. Well, you did not think of that when you went to the public for your franchise, did you?—A. The public may not be your competitors; but you may have competitors, and in giving it to the public you would have to give it to your competitors.

SHOULD THE ARTICLES OF INCORPORATION DESCRIBE ANY PROPERTY OR SERVICES RECEIVED FOR STOCK?

Q. (By Mr. JENKS.) The suggestion has been made here that it would be a protection to the public if, when a corporation filed its articles of incorporation, it were required to state not merely the amount of capital stock, but also for what that capital stock was issued. That is to say, a certain proportion of it would be issued for cash paid in; a certain proportion for property. It has been suggested that the amount be named that is represented by property, and that there be added to that a list of the properties with their location. In the State of New York it is provided also that stock may be issued for services performed. It has been suggested that the amount issued for services— A. (Interrupting.) You can not do that in our State.

Q. I know you can not. That the nature of the services and the amount paid for those services should also be named. Would you favor any addition of that kind?—A. No, I would not; and I will tell you why. You organize a company to take over a patent. Now, until that patent is exploited, nobody knows really the value of it. The vendor or owner of that patent may think it is worth millions, like Colonel Sellers, and it may turn out to be worth millions and it may not. So how would you do? Our law requires that when this stock is issued and fully paid a statement be filed showing how much is paid in in cash and how much in property, and that has to be filed within ten days after that stock is issued.

Q. But you would not favor making a further proviso that when it states how much is represented by property the property itself should be named?—A. No; I would not.

Q. With its location?—A. That would be a hard matter to get at in the case of patents.

Q. In the case of a patent, this suggestion has been made to us—it might simply say so many hundreds of thousands, so many millions, stand for such a patent?—A. Or patents?

Q. Or patents. In that case the idea is, it should name the specific patents that it stands for.—A. Some of them would be required to file a pretty big statement.

Q. True enough, a pretty big list; why not?—A. But I think, if you will pardon me, I think that if any stock is issued for services it should be stated.

Q. The amount that is issued for services and to whom paid?—A. Yes.

Q. In the State of New Jersey no stock is issued for services?—A. Under our law I believe you can not do that.

NEW JERSEY NOT THE MOST "LIBERAL" STATE.—WHY IT GETS MOST CORPORATIONS.

Q. (By Senator KYLE.) Is not New Jersey more liberal than any other State in the Union in regard to granting charters to such corporations?—A. Oh, I don't know.

Q. What other States are as liberal?—A. I have understood that West Virginia is a pretty liberal State. They are so liberal that they don't require anything down there; but I have always been given to understand that corporations organized in West Virginia have considerable difficulty in placing their stocks and bonds.

Q. Why is it that so many are incorporated in New Jersey?—A. I mentioned the better protection that New Jersey gives to the stockholders and directors.

Q. (By Mr. RATCHFORD.) If the laws of West Virginia are as liberal as those of New Jersey, how do you account for the fact that 90 per cent of the corporations are organized in New Jersey?—A. Because West Virginia limits them to \$5,000,000.

Q. Then in that particular sense the law is not as liberal; is that right?—A. That is as I understand it.

Q. (By Senator KYLE.) West Virginia is just as liberal as regards the liability of stockholders?—A. I guess they are more so, because they do not require anything; and I do not know what more you want than that.

NAME OF RESIDENT AGENT CAN ALWAYS BE FOUND AT TRENTON

Q. (By Mr. FARQUHAR.) Are there parties in New Jersey that secure corporations and are nominally agents, that go to Trenton and file the papers, and cease to be agents within 24 or 48 hours after the filing of the papers of certification?—A. I think that is possible.

Q. (By Representative LIVINGSTON.) That is pretty liberal, is it not?—A. Well, when they file that report of their officers and directors, it shows who the agent is, and he must be a resident of that State, or a corporation.

Q. If this agent, within 48 hours after the articles of incorporation have been filed, resigns his position as agent— A. Excuse me one minute. He could not resign until after that corporation was organized.

Q. (By Mr. FARQUHAR.) It is organized before you file them.—A. No; not under our statutes. You can organize, but you can not do any business until after you have filed that certificate with the secretary of state.

Q. (By Mr. JENKS.) After the certificate has been filed the agent may then resign?—A. Yes; but they would have to amend their certificate to state who the agent is, or file an appointment of a new agent.

Q. Do you know, as a matter of fact, if the names of the agents do always appear in the papers that are filed in the office of the secretary of state?—A. The statute requires them to state in their certificate the principal office and their agent.

Q. I asked you if you had any definite information that, as a matter of fact, that law is carried out in that particular?—A. Oh, I am pretty certain that it is.

Q. You think that in the office of the secretary of state it is invariably possible to find the name of the resident agent who is at that time acting agent?—A. Yes.

Q. And not the man who was first appointed as agent?—A. Yes.

Q. A question asked a moment ago was not answered, as to whether you have any definite information regarding people in the State of New Jersey who permit their names to be used as agents of corporations and then immediately afterwards resign as agents?—A. I have no definite knowledge of that, but I have heard so.

Q. You have heard that is so, but you have no definite knowledge?—A. The first information I had of it was a report from a party that was down here before your commission. I did not think it was possible that a man would do that sort of thing.

INCOME OF NEW JERSEY FROM CORPORATION TAXES.

Q. (By Mr. RATCHFORD.) Have you definite information as to the amount that accrues to the State annually from the organization of corporations?—A. I believe in the statement of the last fiscal year it was \$558,000 or \$528,000 filing fees.

Q. (By Mr. FARQUHAR.) Filing fees?—A. Filing fees. The State charges 20 cents a thousand, but in no case less than \$25.

Q. But you have no knowledge of what the State gets through the taxation of stocks?—A. No.

(Testimony closed.)

WASHINGTON, D. C., Monday, November 13, 1899.

TESTIMONY OF MR. ANDREW PARKER NEVINS

Attorney at law.

The commission met at 10.55 a. m., Chairman Kyle presiding. At 11.40 a. m. Mr. Andrew Parker Nevins was introduced as a witness, and, being duly sworn, testified as follows:

Q. (By Senator KYLE.) State your full name and post-office address.—A. Andrew Parker Nevins; 149 Broadway, New York City.

Q. (By Mr. JENKS.) What is your business?—A. I am a lawyer.

Q. Are you connected in any way with any West Virginia trust company with

which West Virginia corporations are registered?—A. I am counsel for the Corporation Trust Company of West Virginia.

Q. Where is this corporation trust company located?—A. Its principal office is in Charleston, W. Va.

Q. And they have a branch office in New York?—A. We have an agency in New York.

Q. And you represent them?—A. Yes.

WEST VIRGINIA CORPORATION LAW—REPRESENTATIVE—LIST OF STOCKHOLDERS.

Q. What are the provisions of the West Virginia law regarding representation by some agent within the State?—A. Within 30 days after the agreement for incorporation is filed with the secretary of state, the company must file with the secretary of state a power of attorney, sworn to by the president of the company, designating some person residing in the county in the State of West Virginia in which the certificate of incorporation is filed; said person to be the legal representative or agent of the company in that State.

Q. Each corporation is required to have an agent in the State?—A. If it does not have one the charter is liable to forfeiture.

Q. What are the requirements with reference to this principal agent, or principal office, as to the business that it shall do, the reports that it shall keep in the office, etc.?—A. The power of attorney appointing the agent is recorded in the office of the county clerk, as I said before, of the county in which the certificate is filed, and also in the office of the secretary of state of West Virginia. His specific function is to accept process in case process is necessary against that company. You will bear in mind, gentlemen, that his business is especially with reference to companies which are organized under the laws of West Virginia, but doing business elsewhere. To a certain extent, therefore, his function is similar to that of the Corporation Agency which Mr. King has testified about, and also other companies situated in New Jersey.

Q. In the State of West Virginia this agent of the corporation must keep in his office a list of the officers of the corporations, so that he can communicate with them at any time?—A. He does so; whether by the law he is required to I do not know; I do not think he is.

Q. Is there any requirement in the laws of West Virginia with reference to the keeping of the stock and transfer books of the company within the State?—A. No.

Q. Is there any provision with reference to the keeping of a duplicate list of stockholders within the State?—A. I believe there is not. The list of incorporators, of course, appears in the original certificate of incorporation and also in the charter.

SITUS OF A COMPANY.

Q. Is it also possible under the law of the State of West Virginia for a company incorporated in that State to have its business carried on outside entirely, and the list of stockholders kept outside entirely, in such a way that a stockholder residing in West Virginia would have no means of finding out who his fellow-stockholders were and the amount of their holdings?—A. The method of obtaining such information by such a stockholder as you suggest would be to consult the certificate of incorporation and find out just where the legal situs of the company is. The legal situs is either that situs which is directly specified in the agreement itself or it is where the actual business of the company is carried on.

Q. The place where the actual business of the company is carried on is also filed in the articles of incorporation?—A. No.

Q. How can you find that out?—A. It is supposed to be where it is specified in the charter, and it usually is.

Q. But not necessarily?—A. Not necessarily. For example, you can have a company organized under the laws of West Virginia whose principal place of business is in the city of New York. Now, that company is not limited in its corporate activity and transactions to the State of New York or the city of New York. It can do business in any State.

Q. When the articles of incorporation are filed, is it necessary that it should be stated therein that its principal office is in the State of New York?—A. It is necessary that its principal office be stated.

Q. Supposing that we were to take this case that you have stated, where the actual place of business is in New York City, and the articles of incorporation stated that its principal place of business was in Austin, Tex.; is there any penalty for that falsification?—A. I should not consider it a falsification, because it may be the intention of the incorporators at the time to have the place of business in Austin, Tex. But as

I said before, the laws of West Virginia are not specific as to whether the actual place of business determines the legal situs or whether the specification of agreement does; but in most cases, as far as I know, it is where it is specified in the charter.

Q. It is fair to presume it would be?—A. Yes.

Q. The question is this: Supposing that the incorporators have formed their corporation largely for the purpose of speculating in the stock, and that it would be a desirable thing for themselves not to be readily located—not to have their place of business readily located—is there any way by which the laws of the State of West Virginia will prevent them from any such fraudulent action?—A. I do not know of any—possibly by quo warranto proceedings.

TAXATION.

Q. What are the provisions of the laws of the State of West Virginia regarding the taxation of corporations; in the first place, regarding the preliminary tax when the articles are filed?—A. There is no tax on the stock, as such, under the statute of West Virginia. If the company is a thoroughly domestic company—that is to say, if it is doing business exclusively in West Virginia, they pay an annual license fee to the secretary of state of \$10 a year. They are not to do business out of the State. If, however, the company has its principal place of business, let us say, in New York, in that event the company must pay, upon the filing of the certificate of incorporation, \$50 to the secretary of state. That is its fee.

Q. (By Mr. FARQUHAR.) And how much thereafter?—A. That \$50 is paid every year as an annual tax.

Q. Regardless of the capitalization?—A. Regardless of the capitalization. The maximum capitalization is \$5,000,000.

MEETINGS—LIST OF STOCKHOLDERS—REPORTS.

Q. (By Mr. JENKS.) Is there any provision regarding the holding of the meetings of the directors or the meetings of the shareholders?—A. The meetings of a corporation organized under the laws of West Virginia may be held in any State, provided the majority of the stock is represented, and provided the meeting is held not less than 21 days after the filing of the agreement of incorporation.

Q. It is understood, then, that the first meeting of the shareholders must be within the State?—A. No.

Q. Not even the first one?—A. Not unless there is a mutual agreement.

Q. What provisions are made with reference to the keeping of a list of stockholders for the information of the stockholders themselves, at the annual meeting or otherwise?—A. I think there is no record kept. There is a provision, however, which is not mandatory, that a list of the stockholders be kept in the office of the representative agent there. This is simply suggestive; it is not mandatory; there is no penalty if it is not obeyed. There is no provision there that the name of the company shall be posted in a conspicuous place, which is a very prominent provision of the New Jersey law.

Q. There is no provision that a list of the stockholders shall be kept and there is no penalty if it is not kept?—A. No.

Q. Is there any provision requiring reports to stockholders by directors at their annual meetings?—A. I think that is usually provided in the by-laws. If you would like to see a uniform copy of the by-laws—

Q. Is it compulsory?—A. I believe not.

Q. Can you furnish to the commission any papers or articles or blanks which will show what these customary by-laws are?—A. I should be very glad indeed to furnish you with copies of the forms of our minutes. We have copies of the usual by-laws.

Q. (By Mr. CONGER.) I would like to inquire if the company for which the witness is counsel is incorporated under the laws of West Virginia?—A. It is.

Q. Do the laws of West Virginia require any reports to be filed with the State officers?—A. No.

Q. Are you doing business in New York City?—A. A little business; yes. I should like to explain the general object of this company.

Q. Well, I should like to inquire first if you are compelled to file or do file any reports with the secretary of state of the State of New York?—A. No; we have not done so so far.

Q. Do not the laws of the State of New York require you to do that?—A. If they do require it, I have not received notice; and as soon as I receive notice I shall file the necessary report.

Q. How long have you been doing business in New York City?—A. About 10 months.

Q. Not a year yet?—A. Not a year yet.

METHOD OF INCORPORATION—REPRESENTATION.

Q. That is all.—A. Now, the object, gentlemen, of this corporation is not quite as extended as that of the New Jersey companies. The proximity of New Jersey to the city of New York renders possible the great popularity of New Jersey. I make that in the way of a suggestion. Perhaps not. This company is organized to facilitate the organization of corporations under the laws of West Virginia. For example, we must have five incorporators to obtain a charter. If they want to organize under the laws of West Virginia, and if they happen to hear of our company, they come to me and tell me the objects for which they wish to incorporate. Necessarily they inquire about the expense. I give them what information I can. I keep blank forms there, and we draw up the charter. We send it down to the representative of the company, Mr Harrison B. Smith, Charleston, W. Va., and he attends to seeing that these articles of agreement are filed and that the charter is obtained. The charter is sent to me and I hand it over to the company. It is a very simple matter.

Q. (By Representative LIVINGSTON.) Where do they organize; in your office?—A. Not necessarily.

Q. (By Mr. JENKS.) They may organize in your office or wherever they please under the laws of the State of West Virginia?—A. Certainly; I hand them back the charter and they take a copy of the minutes and hold a meeting.

Q. (By Mr. CONGER.) Anywhere?—A. Anywhere they please.

Q. Anywhere in the United States?—A. Yes.

Q. Usually hold it in your office?—A. No, not in my office; in the office of the lawyer whom they may have.

Q. In the office of a New York lawyer?—A. Yes.

Q. (By Mr. JENKS.) You keep convenient blanks and forms of articles and charters, etc., in your office?—A. Yes.

Q. Your company supplies them for the use and convenience of customers?—A. The forms I have used I get from the secretary of state.

Q. From the secretary of state?—A. Yes.

Q. So that you are sure that the forms you have are approved under the laws of the State?—A. Yes; the secretary of state represents a great many of these companies.

Q. Will you explain a little further about that?—A. As I said before, we must have a representative down there in West Virginia; and if any man here should write down for information with reference to the corporation law of West Virginia, you would naturally write to the secretary of state. He will furnish you with the necessary blank forms, perfectly correct, and he will act as your attorney of record down there if you so wish.

Q. (By Mr. JENKS.) And he will, in addition to the usual fee for filing the articles of incorporation, charge you a special personal fee for acting as your personal legal representative?—A. Yes.

Q. Under the laws of the State of West Virginia any individual, I suppose, may act as this agent?—A. Yes.

Q. As well as any company?—A. In our case Mr. Smith usually appears as attorney of record for the company.

Q. Instead of the company as such you have the secretary of the company appear?—A. Yes. Mr. Smith is not secretary; he is president.

Q. In the State of West Virginia the secretary of state is very frequently appointed as State agent?—A. So I understand.

CORPORATIONS AND TRUSTS—CAPITAL LIMITED.

Q. (By Mr. RATCHFORD.) Do we understand you to say that this company is organized for the purpose of facilitating the organization of other companies under the laws of the State of West Virginia?—A. That is true.

Q. In other words, to make it plain, your company is organized for the purpose of encouraging the organization of trusts and corporations under the laws of West Virginia?—A. I would use the word "corporation;" I would not like to put myself on record upon the subject of trusts, because I think there is a decided difference between trusts and corporations.

Q. (By Senator KYLE.) What facilities are there with reference to the formation of trusts in your State?—A. The formation of trusts under the laws of West Virginia I am not familiar with.

Q. I thought you were. It was said by the preceding witness—you were in the room at the time—that the laws of New Jersey permitted by a two-thirds vote of the stockholders the consolidation of these corporations. That means trusts?—A. Yes.

Q. What are the features of the West Virginia law along that line?—A. I do not know, but I can find it out for you.

Q. (By Mr. JENKS.) You say that the capitalization of the West Virginia corporations is limited to \$5,000,000?—A. Yes; that is the maximum capitalization.

Q. Can you state whether there is any provision under the laws of West Virginia for the merging of corporations?—A. I can not state that offhand; I will let you know that.

NO REPORTS REQUIRED.

Q. (By Mr. FARQUHAR.) When you incorporate a company, that company can change its principal place of business and its general office at will; and there is a bare possibility that the incorporators are dummies. What control has the secretary of state, or has your office, or has any person, over the stock of that company 6 months after its organization?—A. The record is to be found, as I said before, in the articles of agreement. I think the secretary of state, or the proper official in West Virginia, should keep a record of the change of address of the company.

Q. (By Mr. JENKS.) But he is not compelled to do so under the law?—A. No.

Q. (By Mr. FARQUHAR.) And there is no charter issued by the State of West Virginia that demands a report to the State of West Virginia one day after you have organized?—A. I think not, sir.

Q. (By Mr. JENKS.) I understood that you would yourself favor an amendment to the laws of West Virginia providing that such a record be kept in the office of the secretary of state?—A. I think that would be a very advisable and salutary measure indeed, sir.

Q. Are you willing to furnish to the commission a list of the corporations represented by your company?—A. I should be most happy to furnish you with a complete list of all companies, together with the capitalization and the names of the directors, if you would like it.

Q. I should be glad to have that, if you will kindly do that.

LIMIT OF CAPITAL—TIME LIMIT OF CHARTERS—LIABILITY OF STOCKHOLDERS.

Q. (By Senator KYLE.) What is the object of your State legislature in limiting the amount to \$5,000,000?—A. Well, what was in the minds of the legislators when they enacted that provision I do not know; but I think it was a very wise thing to do. If you put a limitation on the capitalization you have one chance of determining what the capital of your company is. You must have some.

Q. What is the limit in New Jersey?—A. I think there is no limit there.

Q. (By Representative LIVINGSTON.) Is there any time limit to a charter in West Virginia?—A. Fifty years is the statutory limitation.

Q. There is none in New Jersey?—A. None.

Q. (By Mr. CLARKE.) In regard to the liability of stockholders, what is the provision of your law?—A. The liability of stockholders is simply the liability for stock which they own, except in case of money corporations, where, I believe, they are liable for that amount multiplied by 2.

Q. (By Mr. RATCHFORD.) Do you believe it is advantageous to the State to limit the capitalization of companies to \$5,000,000?—A. I do.

Q. Why?—A. Because I think that the ordinary company does not need a much larger capitalization than that. If you are going to have a company with hundreds of millions of capitalization, then there is a State provided for it.

WATERING OF STOCK—PAYMENT OF CAPITAL.

Q. Is there any limit to the watering of stock under the laws of West Virginia?—A. May I ask what you mean by watering the stock?

Q. What do we mean by it?—A. Yes; I ask for my own information.

Q. I shall answer it in this way: Is there any limit under the laws of West Virginia to the creation of fictitious values or securities?—A. Well, when a company is organized there is a blank form, partially blank, for an application for a charter under the laws of West Virginia. "Any number of persons not less than 5 desiring to become a corporation for the purpose or business designated in the second section, except for road purposes, shall sign an agreement to the following effect: 'The undersigned agree to become a corporation by the name of _____ [here insert the name by which it is intended a corporation shall be known], for the purpose of _____ [here describe fully and particularly the purpose for which the corporation is to be formed, and the kind of business to be carried on by it], which corporation shall keep its office or

place of business at —, in the county of —, and is to expire on the — day of — (presumably 50 years unless otherwise mentioned), and for the purpose of forming the said corporation we have subscribed the sum of — dollars to the capital thereof, and have paid in on said subscription the sum of — dollars.”

Now, the amount of money, actual money, which must be paid in before you can get your charter must be 10 per cent of the amount subscribed for in your charter, so that in that respect, if I may make a comparison, I think we have quite an advantage over the new laws of Delaware.

Q. And the other 90 per cent would be paid when?—A. Well, that may be paid later on.

Q. It must be paid sometime, must it?—A. Yes; just allow me to continue: “And desire the privilege of increasing the said capital by the sale of additional shares from time to time to — dollars in all. The capital so subscribed is divided into shares of — dollars each, which are held by the undersigned respectively as follows; that is to say, by — [here insert the name of each incorporator, with his residence, and the number of shares held by him] and the capital to be hereafter sold is to be divided into shares of like amount.”

Now, there comes in your authorized capital; the maximum amount is \$5,000,000.

Q. (By Mr. FARQUHAR.) But the paid-in capital need not be the same as the authorized?—A. No.

Q. The paid-in capital has got to be how much? What is the least amount of paid-in capital under the laws of the State of West Virginia?—A. I do not know what the least amount is. I think that most of the companies start in with a rather small amount to begin business. If they have an enterprise, the value of which they are perhaps in doubt about, they do not want to start in with an enormous capitalization; I mean with an enormous subscription. They simply want to organize and go ahead with their business.

Q. Is it not the usual rule in West Virginia that the company starts in with 10 per cent?—A. Ten per cent of the amount subscribed for must be paid in; that is statutory.

CONSOLIDATION OF COMPANIES.

Q. (By Representative LIVINGSTON.) Under the West Virginia law can corporations possibly consolidate if the consolidation will amount to over \$5,000,000?—A. No; I do not see how they possibly could.

Q. They would still be limited to a capital of \$5,000,000?—A. I do not see any reason to put a different construction on the statutes in that respect.

Q. (By Mr. FARQUHAR.) Can not one board of directors run five, ten, or twenty of these companies?—A. That I do not know.

Q. No law against it?—A. No law against as many companies as you want.

PROPERTY AND SERVICES FOR CAPITAL—TIME OF PAYMENT.

Q. (By Mr. JENKS.) In what form must this capital be paid in—cash, property, or services, or what?—A. The law in that regard is that property can be accepted for cash.

Q. May services also?—A. I think services may be. I think we have no decision in direct opposition to such a proposition.

Q. The value of this property that shall be taken is determined by the board of directors at their will?—A. I presume so.

Q. Will you be kind enough to file with the commission here the blanks that you use, so that it will show in detail the methods of incorporation of these companies?—A. Yes, I will do that, and I will furthermore send you a blank form already filled out.

Q. (By Mr. RATCHFORD.) I do not think you have answered the question as to the time in which the remaining 90 per cent of the capital shall be paid in?—A. I think that is a matter of discretion with the board of directors.

Q. A matter of discretion?—A. I made that answer, not in reference to the West Virginia corporations, but to any corporation.

Q. (By Mr. CONGER.) Is it not a fact then that if a company is organized for 50 years they may wait 49 years and 11 months before paying the additional 90 per cent?—A. I should think it quite likely, but I do not see how they could do any business unless they had money in the company.

Q. They might do it with the 10 per cent?—A. Certainly.

Q. In other words, it is entirely possible to do business with 90 per cent water and 10 per cent paid in. On the payment of this 10 per cent, is it customary for the incorporators to meet and issue this stock?—A. I think it is, but I do not care to say positively. I think they do it.

INTERSTATE COMITY.

Q. (By Mr. A. L. HARRIS.) Do I understand that a corporation chartered under the law of West Virginia can do business in any other State of the Union? In your opinion they can?—A. Well, there is always the implied condition that the State in which they are going to do business gives them the right to do that.

Q. Then each State can protect its own citizens if it desires to?—A. Yes; I think the Supreme Court of the United States held that a corporation is not a person in the sense of an individual; so they can restrict a foreign company, and the company that does business in another State does it at the sufferance, through the amity and the comity, of this other State.

Q. Then you do not claim by virtue of having a charter in the State of West Virginia that you can go into a State and do business in opposition to the laws of that State?—A. No; we can not confer rights upon a corporation to do business in any State which are at variance with the law of that State.

Q. (By Mr. FARQUHAR.) The title of your company is the Corporation Trust Company of West Virginia?—A. Yes.

Q. Are you incorporated under the laws of the State of New York, or under the State of West Virginia?—A. West Virginia. The principal place of business is West Virginia. As I said, in that case we pay an annual license tax of \$10. If we had designated New York as the place of business we should have had to pay \$50. The suggestion may have occurred to you that a great many companies would like to pay \$10 instead of \$50. They can not do that; they have got to swear to a very strong, positive, and unequivocal affidavit that when they do pay the license fee of \$10 they are not doing it to avoid paying \$50. I will furnish you a copy of that affidavit.

Q. Will you also furnish, through the secretary of state of West Virginia, a new form of by-laws that corporations have formed under?—A. Yes.

Q. Issued some 6 months ago, possibly?—A. Yes; I am under the impression that I have those, but whether or not they are the ones that the secretary of state authorized, I do not know. I got some about 5 months ago from Mr. Smith, copies of which I have with me.

ADVANTAGES OF WEST VIRGINIA LAW.

Q. (By Mr. JENKS.) Have you any further suggestions you care to make in reference to the corporation laws?—A. No, except I would like very much to draw the attention of the commission to the rather sweeping statement regarding there being no limitation whatever to the West Virginia law. I think the chief characteristics of the corporation law of West Virginia are the simplicity of it and the publicity; and perhaps the last explains its popularity. The fees are moderate, but they are not as low as New Jersey in some cases, and not as low as Delaware.

Q. (By Mr. A. L. HARRIS.) You said the publicity. What do you mean by that? Publicity as to the workings of the corporation after it organizes its business?—A. I mean the publicity of the organization.

Q. (By Mr. FARQUHAR.) How much capital does this incorporation law bring into the State of West Virginia as working capital among its own people?—A. I do not know, sir.

Q. Have you any idea?—A. I think comparatively little.

Q. Then the State is simply used as a creative power for foreign companies elsewhere at small fees?—A. Very largely.

Q. And the working capital of these companies is not utilized in the State of West Virginia at all, but entirely outside?—A. It may be.

(Testimony closed.)

[Submitted later in reply to questions whose answers were reserved.]

CAPITALIZATION.

The policy of the State of West Virginia in regard to the capital stock of joint-stock companies has been quite different from most of our other States. In almost every other State, before a charter is filed by the secretary of state, a certain taxation must be paid, the amount of said tax being based upon the total authorized capitalization as contained in the agreement of incorporation. For instance, in New Jersey the fee for incorporation is 20 cents for each \$1,000 of the total amount of capital stock authorized, but in no case less than \$25; so that in New Jersey a company can obtain its charter, with an authorized capital of \$125,000, upon the payment of the sum of \$25. The fee for each additional \$1,000 is 20 cents likewise. Under the recently enacted corporation law of Delaware the fee is 15 cents for each \$1,000 of the total authorized capital, and in no case less than \$20. West Virginia, however, had

adopted a different principle in its initial organization charges. It levies no organization tax on the capital authorized in the agreement of incorporation, but in lieu thereof imposes a fixed annual license fee irrespective of the capitalization. This fee is \$50 per annum when the principal office or principal place of business of the company is to be located outside of the territorial limits of the State of West Virginia. This fee must in all cases be paid before a charter is issued. If the corporation is to be exclusively a domestic West Virginia concern, the principal office or place of business of which is to be in the State, the annual license tax is \$10 a year; so that, for example, if a company is organized under the laws of West Virginia and designates New York City as the location of its principal office or place of business, such a company must pay the State of West Virginia annually the license fee of \$50; but if its principal office or place of business is Charleston, let us say, it would be required to pay only an annual license fee of \$10.

The maximum capitalization for all corporations organized under West Virginia statutes, with the exception of railroad and canal companies, is \$5,000,000. Under the Code (ch. 53, sec. 26) no stock in a corporation shall be regarded as taken, or the person subscribing therefor considered entitled to the same, until the first installment is paid. And under section 25 of the same chapter it is expressly provided that at least 10 per cent of the par value of each share shall be paid at the time of subscription. The payment of this 10 per cent upon the shares subscribed for naturally prevents and checks reckless subscriptions. Whether or not the value of a certificate of stock is actually realized depends entirely, in the last analysis, on whether the enterprise for which the company was organized is a success or not. The disposition of stock subsequent to organization is a matter which the company, usually through its directors, regulates in accordance with what it deems the best interest of the corporate enterprise.

Whether or not a corporation organized in West Virginia has the right to take property in payment for its capital stock has been questioned, and this point was inquired into with some degree of particularity by the Industrial Commission. There is no provision in the statutes expressly requiring that stock shall be paid for in cash; and the authorities seem united in the view that unless the statutes prohibit a corporation from doing so it may sell its stock for property (2 Thompson Corp., secs. 1604, 1605; *Clark v. Beavers*, 139 U. S., 89-112; *Fogg v. Blair*, 139 U. S., 119). It has even been held that where the stock is fully paid in cash or property there must be actual fraud in the transaction to enable even creditors to assail it (119 U. S., 345). The inference, therefore, in view of the fact that the West Virginia statutes do not prohibit payment for stock in property, and there is no mandatory provision for payment in cash, is that property can be legally deemed payment for stock. The common-law rule that the transaction must be one of good faith must of course be observed. If the corporate officers act according to their best judgment, without fraudulent intent, the selling of stock for property is legitimate and regular.

CORPORATION REPRESENTATION IN WEST VIRGINIA.

One of the most important features of corporate regulation under the laws of West Virginia is the provision requiring that companies doing business outside of West Virginia shall keep a representative or agent in West Virginia and duly empowered so to act. A corporation organized in West Virginia and having its principal office or place of business in another State must have a registered agent in West Virginia to accept service of process in behalf of the company.

The necessity and practical expediency of such a provision is obvious. The statute, furthermore, on this requirement is not directory, but absolutely mandatory. In view of the erroneously published reports on the testimony given before the commission on November 13, 1899, in regard to this provision, it will not be inappropriate to cite section 24, chapter 54, of the Code of West Virginia, reading as follows:

"Every such corporation having its principal office or place of business in this State shall, within 30 days after organization, by power of attorney duly executed, appoint some person residing in the county in this State wherein its business is conducted, to accept service on behalf of said corporation, and upon whom service may be had of any process or notice; and to make such return for and on behalf of said corporation to the assessor of the county or district wherein its business is carried on as is required by the forty-first section of the twenty-ninth chapter of the code. Every such corporation having its principal office or place of business outside this State shall, within 30 days after organizing, by power of attorney duly executed, appoint some person residing in this State to accept service on behalf of such corporation, and upon whom service may be had of any process or notice, and to make return of its property in this State for taxation as aforesaid.

"The said power of attorney shall be recorded in the office of the clerk of the county court of the county in which the attorney resides, and filed and recorded in the office of the secretary of state, and the admission to record of such power of attorney shall be deemed evidence of compliance with the requirements of this section.

"Corporations heretofore organized may comply with said requirements at any time within 3 months after the passage of this act. Any corporation failing to comply with said requirements within 6 months after the passage of this act shall forfeit not less than \$200 nor more than \$500, and shall, moreover, during the continuance of such failure be deemed a nonresident of this State; and its property, real and personal, shall be liable to attachment in like manner as the property of nonresident defendants; any corporation failing so to comply within 12 months after the passage of this act shall, by reason of such failure, forfeit its charter to the State, and the provisions of section 8, chapter 20, acts 1885, relative to notice and publication, shall apply thereto."

It will clearly appear from this statutory requirement that it is absolutely obligatory that every company have a legally qualified representative in West Virginia. By this arrangement a means of direct communication between the State and its corporations can readily be effected. In every agreement of incorporation, furthermore, the location of the principal office or place of business of the company must be expressly stated. In fine, West Virginia insists on keeping a record of its companies, (1) by having within the State some person directly and legally representing the company, and (2) by always having on file the registered address of the company. It is quite true that West Virginia has not imitated New Jersey in imposing regulations that the name of the company must be displayed in a "conspicuous position" in the office of its resident agent. It is submitted that such a provision, while it may apparently evidence great paternal vigilance and precaution on the part of the State, is in practical operation usually an absurdity. The names of hundreds of corporations displayed on so many streets in New Jersey seem to

MERGER.

The most popular State for the organization of immense industrial combinations or trusts is certainly New Jersey. The law in that State permits merger to a generous limit. Their statute says: "Any two or more corporations organized or to be organized under any law or laws of this State for the purpose of carrying on any kind of business of the same or similar nature may merge or consolidate into a single corporation, which may be either one of said merging or consolidating corporations or a new corporation to be formed by means of such merger and consolidation," etc. Inasmuch as there is no limitation on the capitalization of New Jersey corporations, the industrial consolidators naturally go there. In West Virginia the statutory limit of \$5,000,000 necessarily prevents such combinations. In fact, there is no provision in the West Virginia law with reference to merger or consolidation except that railroad unions can be effected under certain conditions and limitations.

WASHINGTON, D. C., November 13, 1899.

TESTIMONY OF MR. J. ERNEST SMITH,

Attorney at law.

The commission met at 10.55 a. m. November 13, 1899, Senator Kyle presiding. At 12.20 p. m. Mr. J. Ernest Smith was introduced as a witness, and, having duly affirmed, testified as follows:

Q. (By Mr. JENKS.) Will you kindly give your name and address?—A. J. Ernest Smith, Wilmington, Del.

Q. And your business?—A. Attorney at law.

CHANGE IN INCORPORATION LAW OF DELAWARE.

Q. You are the author of the book on the Law of Private Companies, relating to business corporations of the State of Delaware?—A. I am.

Q. Will you state the provisions of the corporation laws of the State of Delaware that seem particularly advantageous to corporations, as compared with the laws of

New Jersey, let us say, or West Virginia?—A. I am not familiar with the laws of West Virginia. I have studied the law of New Jersey. Delaware's law is very largely modeled after the New Jersey law; many of the provisions of the Delaware law are taken almost entirely from the New Jersey law. Prior to the passage of the present corporation law of Delaware we had a general incorporation law, passed in 1883, which was very limited in its scope, and applied to comparatively few organizations, like manufacturing companies and building and loan associations. Our new constitution, adopted in 1897, authorized the legislature to formulate a new corporation law. The new law was drawn up by a committee of the two branches of the legislature, aided by counsel. It was submitted to the legislature, and by both branches of the legislature unanimously passed. Prior to that time all charters of all kinds were granted by special act of the legislature, except as above mentioned. The necessity of getting through so many private bills was considered a very bad thing; so that the constitutional convention deemed it better to pass a general act. Our act was based very largely upon the New Jersey act; really there are comparatively few differences between the two. What is good in the New Jersey act is also good in Delaware; probably what is bad in New Jersey is just as bad in Delaware.

Q. At what time was this general corporation law of the State of Delaware passed?—A. In March, 1899.

COMPARISON OF DELAWARE AND NEW JERSEY LAW.

Q. If you can, enumerate some of the differences between the two that were put in by the legislature, and state the apparent purpose.—A. Well, I hardly know how to answer your question. If you can give me some idea of any particular point you desire, I shall be pleased to answer.

Q. How can you compare the original incorporation tax of the two States, New Jersey and Delaware?—A. As regards the tax, I think New Jersey charges 20 cents on every \$1,000 for its incorporation tax, whereas Delaware charges 15 cents. On its franchise tax New Jersey charges one-tenth of 1 per cent and Delaware one-twentieth of 1 per cent up to \$3,000,000. New Jersey one-twentieth of 1 per cent to \$5,000,000, and Delaware one-fortieth. Over \$5,000,000 New Jersey charges \$50 a million and Delaware \$30 a million.

Q. (By Senator KYLE.) You have a slight advantage?—A. We have a slight advantage.

Q. A sort of a cut rate?—A. A sort of a cut rate.

Q. (By Mr. JENKS.) What is the provision of the Delaware law with reference to holding stockholders' meetings?—A. The stockholders' meetings, after the first meeting, can be held anywhere, if the charter so provides.

Q. And need not be held in the State?—A. No; but the first meeting should be held in the State of Delaware.

Q. What is the provision of the Delaware constitution with reference to the repeal of Delaware charters by the legislature?—A. There is none, except that revocation must be by general, not special, act.

Q. May they be repealed by the legislature?—A. They can not by special act.

Q. How is it in New Jersey?—A. They can be.

Q. So in that particular again the Delaware law is considered somewhat more favorable to corporations?—A. It might be considered so. It is out of our power by our act, if the legislature makes a contract in the nature of a charter with a corporation, to repeal it. Our late general corporation act can be repealed by the legislature, but each particular charter granted under the act can not be repealed. New Jersey can suspend, alter, amend, or repeal any charter it grants.

Q. What provision is made in the Delaware law regarding the keeping of stock and transfer books in the State?—A. It is very similar to the New Jersey law. All stock books or transfer books, or duplicates of them, are required to be kept in the principal office in the State of Delaware, subject at any time to examination by any stockholder, and, at the time of the meeting of the stockholders, a list is to be prepared in alphabetical order, and submitted to the stockholders at least 10 days prior to the time of the meeting.

Q. Is it necessary that the original transfer books be kept in the State, or may duplicates be made up?—A. It is not; duplicate transfer books and stock books may be kept in the State of Delaware, and those duplicate stock books are accepted by our courts of law under the charter as of the same validity as the original stock books. I suppose the reason of that law was this: Where corporations are operating largely out of the State of Delaware it is more convenient for them to have the original books outside of the State.

Q. With reference to the corporations of Delaware whose original transfer books are kept out of the State—say in the State of New York—is there any provision that requires that the duplicate stock books shall be kept up to date? How long a time

may elapse after the transfer has been made in New York before it must be recorded in these duplicate books in Delaware?—A. Our law is very new; we have had no test of it in our courts whatever.

Q. Not at all? Do you know what the custom is in that particular; whether these duplicate books are written up every month or every week?—A. I do not know. I have no knowledge of that at all.

Q. What form of annual report is required in the State of Delaware?—A. During January the secretary or the president, secretary and treasurer are required, I think, under oath to make a return to the secretary of state of the officers composing the organization, the residences of the officers, the situation of the principal office, the name of the agent in charge thereof on whom process may be served, and also an absolute statement of the amount of stock issued by that corporation and outstanding at the time this report is made.

CAPITALIZATION AND PAYING IN OF CAPITAL.

Q. How much of the capital must be paid in at the time the corporation organizes its business?—A. No charter can be granted for less than \$2,000, and no corporation can commence business unless \$1,000 of that is subscribed. Upon subscription of that \$1,000 the charter can be sent to the secretary of state and he will issue a certificate. The company then can start its organization.

Q. There is no limitation as to the amount that must be actually paid in by the company?—A. No limitation.

Q. What are the provisions with reference to the method by which it may be paid in? Must it be paid in cash or property, or may it be paid in services?—A. Our constitutional convention took that matter up, and probably I can tell you that more quickly in the words of the constitution itself than anything else. "Section 3, article 93: No corporation shall issue stock except for money paid, labor done, or personal property or real estate, or leases thereof, actually acquired by such corporation, and neither labor nor property shall be received in payment of stock at a greater price than the actual value at the time the said labor was done, or property delivered, or title acquired."

Q. Who is it that determines what the actual value of the labor or of the property acquired is?—A. That question as to what is the actual value has not been determined in our State. Our legislature in a certain section has undertaken to say that the judgment of the directors, in the absence of fraud, shall be final. How far the legislature can go in expounding the constitution you gentlemen know as well as I. That is to say, it is entirely a question for the courts to determine. I should say, when it comes to the question of actual value, it would depend very materially upon the facts covering each particular case.

Q. The law itself provides, if I understand you, that the judgment of the directors shall be conclusive?—A. Yes.

Q. And the matter has not yet been decided in the courts as to whether that provision is constitutional or not?—A. It has not.

PENALTIES.

Q. What penalties are provided in Delaware for failure to file these annual reports, for failure to keep the stock and transfer books in the State, and so on? If you do not recollect the exact amounts, state whether they are substantial money penalties.—A. Practically the same as New Jersey. But each misstatement and fraudulent statement made by the directors on any statement issued, inducing other people to go in, is perjury. That is a very strong point of the law. When a false statement is made by the directors of any corporation, inducing investment—I do not mean a mere verbal statement, but an announcement issued under their direction—that subjects them to the charge of perjury, which is a very serious matter.

NO LIMIT OF CAPITAL OR OF TIME.

Q. Is there any maximum limit upon the amount for which a company may incorporate?—A. No, sir.

Q. What is the provision with reference to the time for which they may incorporate?—A. It can be made for 1 year, 5 years, or perpetual, as the incorporators select in their charter.

Q. It may be perpetual?—A. Yes. Prior to that, under our general corporation law of 1883, all corporations expired in 20 years time unless specifically changed by the legislature. That was a very great detriment. Twenty years passed away quite

rapidly and corporations acquired a large amount of property. I found it a very great difficulty. Sometimes it would lapse; it would be overlooked by the directors, and then would come the question of whether your franchise had not been lost—whether the personality had not gone to the State and the realty back to the original grantors; and a company would be left in a very serious condition. That was talked over very carefully by the constitutional convention, and it was concluded that it was better to allow them to select a certain number of years or perpetuity, whichever they might prefer.

SITUS—TAXATION.

Q. For the purpose of taxation, do you know whether the capital stock is to be considered personal property; and if so, where the situs of the capital stock is to be?—A. The capital stock is considered personal property, and the situs of it, for purposes of attachment and garnishment and assessment and taxation, is in the State of Delaware.

Q. So that if a corporation is incorporated, we will say, for \$50,000,000, is doing all of its business out of the State, is holding its stockholders' and directors' meetings outside of the State—if the State of Delaware wishes, it may tax this capital stock itself as if it was in the State?—A. Unquestionably; and by that law, having the situs of the capital stock in the State, the State of Delaware has a larger control over its corporations and the charters granted by it, I think, than any other State in the Union. It is generally admitted everywhere, and it is the general law, by various decisions, that the situs of the stock is where the domicile of the company is, in the State where its charter is granted. Delaware has simply put that into its statute which the general decisions have determined to be the fact.

Q. Does the State of Delaware levy any tax upon the capital stock?—A. As it is issued; oh, yes.

Q. Any other than this license tax that you have spoken of?—A. No. Delaware is a very conservative State. It has no State debt whatever. It has assets of quite a considerable amount of money, and it taxes its companies very lightly, and I see very little prospect that the franchise tax will be at any time greater than now. In all probability the franchise tax in Delaware will be very greatly reduced in a few years, if we are as successful in obtaining new corporations as they have been, because we have apparently no need for money.

Q. (By Senator KYLE.) They have no State debts?—A. No State debts. There may be some contingent debts—guaranties to one railroad, I think, but that railroad has thoroughly good assets to meet all indebtedness. I mean that the good assets of the State are greater than its debts, and Delaware is practically free of debt.

REPORTS—PAYMENT OF CAPITAL.

Q. (By Mr. JENKS.) Does the certificate of incorporation in Delaware show the number of shares of capital stock subscribed by the incorporators?—A. It does not necessarily.

Q. How is it with reference to New Jersey?—A. In New Jersey I think the subscribers have to designate the number they take.

Q. And the name and residence of the incorporators are required?—A. Yes; and we make affidavit that the facts as stated in the certificate of incorporation are true. I understand the New Jersey certificate does not require this.

Q. What are the forms of the annual reports of these corporations, and what do they contain?—A. The report varies with the kind of company. Railroad companies, telephone, electricity, gas, heat and light, and power companies are all specifically taxed and have to make a specific report to the secretary of state; he returns that report to the State treasurer, who makes the collections. General companies, such as you might term private companies, have only one report, as to the total amount of the stock issued and outstanding, upon which to base their taxable ratio.

Q. (By Mr. CONGER.) I understand that the minimum capital stock is \$2,000, and that at least \$1,000 must be subscribed?—A. Yes.

Q. Is that percentage required in case of an organization organized for a larger amount, say \$1,000,000?—A. The same percentage applies.

Q. Under your laws it would be entirely proper for these subscriptions to the capital stock to be paid in services, would it not?—A. Yes, at their fair actual value; or property, or leases.

GAINS TO DELAWARE.

Q. (By Mr. FARQUHAR.) What is the immediate or prospective benefit which your State derives from liberalizing its corporation law?—A. There are two benefits that were hoped for: First, to induce capital to come to Delaware and locate its factories there; second, to have a return in money for the issuance of its charters.

Q. Do you think that the industrial prosperity of Delaware is likely to be increased by a law of this kind; or is it not a fact that the liberal law of Delaware has invited foreign corporations to be incorporated there which do business elsewhere and handle their capital elsewhere?—A. I do not know what the effect of that will be. I can only speak of the few things I know of—that is, that I know of several corporations, quite large ones, that have located in Delaware with foreign capital.

Q. Under this law?—A. Under this law.

Q. Induced through this law to settle in Delaware?—A. Induced through this law to settle in Delaware.

Q. In what branches of industry?—A. In the iron industry.

Q. (By Mr. CONGER.) Do you mean, then, that organizations would seek that location and build factories there?—A. Yes. That is the main object of the law. That is the main argument that was used before the legislature—that it would probably induce a larger number of corporations to come to the home of their creation ultimately, because of adverse laws which might be used against them when they held a foreign charter. This has already commenced to operate. Several large corporations with foreign capital have located in our State.

(Testimony closed.)

WASHINGTON, D. C., November 13, 1899.

TESTIMONY OF MR. CHARLES E. EDGERTON,

Ithaca, N. Y.

The commission met at 10.55 a. m., November 13, 1899, Senator Kyle presiding. At 12.50 p. m. Mr. Charles E. Edgerton, of Ithaca, N. Y., was introduced as a witness, and, being duly sworn, testified as follows:

Q. (By Mr. JENKS.) Will you state your name and address?—A. Charles E. Edgerton, Ithaca, N. Y.

OBSERVANCE OF NEW JERSEY LAWS—EXHIBITION OF CORPORATE NAMES.

Q. Have you lately visited different lawyers and different officers in the States of New Jersey and Delaware to see their customs regarding the administration of the New Jersey and Delaware laws?—A. I have.

Q. Will you be kind enough to state in your own way what the result of this examination has been? Of course you may omit all reference to the business of any witnesses who have already appeared here, but in reference to anything you have learned we shall be glad to hear you.—A. My inquiry was particularly as to the enforcement or observance of those New Jersey corporation laws which are meant to secure some degree of publicity; such as the requirement that the name of a corporation be conspicuously posted outside of its principal office in the State, and that the stock and transfer books of a corporation be kept at its principal office in the State. With regard to the posting of the names, that requirement, I believe, is quite generally observed. It is physically impossible to make each name conspicuous when 500 or 600 companies are represented in one office. The names are generally posted in legible form, rarely outside of the building, but generally in the public hallway of the building. There are instances in which the requirement is not observed; cases in which an attorney represents a moderate number of companies—half a dozen or a dozen, perhaps in some cases 35 or 40. One man represents possibly 40 or 50 companies, and has not at any time had their names posted. His name appears as representative in the certificates of incorporation of 40 or 50 companies filed in Trenton this year. The signs are not posted, and he himself told me that they had not been posted at any time.

Q. (By Senator KYLE.) Not any of the signs?—A. Not any of the signs.

Q. (By Mr. JENKS.) You found several instances of that kind?—A. There were several instances in which I did not find any names posted at the time of my visit.

Q. (By Mr. RATCHFORD.) Where did you find them?—A. In Jersey City. In two instances at least it was said to me that the names had been posted, but were temporarily removed for the purpose of having a new sign made.

STOCK AND TRANSFER BOOKS AT NEW JERSEY OFFICE.

With regard to the keeping of the stock and transfer books at the principal office in the State, my belief is that the larger companies, those which have a considerable number of transfers of stock to make, comply in general with that law. Such companies, I think, are generally represented by concerns which make a business of the

local representation of New Jersey companies in that way. My belief is that these concerns which make a business of the representation of companies do undertake to see that the law is closely complied with, and in consequence the larger companies do comply with the law. A considerable number of the smaller companies of the State, however, are represented by individuals, generally attorneys; and the following of these features of the law is a matter which such men, chiefly occupied with other matters, naturally pay less attention to. I find it to be quite a general feeling among the attorneys of the State who do that business that these requirements of the law are of a simply formal character. They are felt to be desirable, no doubt, for those companies which are strictly public companies, in the sense that the number of stockholders is relatively large and the number of transfers of stock somewhat great; but in the case of companies which have only a few stockholders, where there are few transfers, if any, from year to year, it is thought that the keeping of the stock or transfer books within the State would be a purely formal matter. It is considered a matter with which the public has no real concern, and therefore it is not felt to be essential that the letter of the law be complied with. In accordance with that view, I found generally among the attorneys of New Jersey whom I saw that the observance of these features of the law is lax. Of some 15 attorneys that I saw and talked with on this matter only 1 told me, in such a way that I took it to be literally true, that all the companies he represents do, in fact, at all times have their stock and transfer books in his office.

Q. (By Mr. JENKS.) You think, then, in the great majority of cases where one man represents but a few companies, and those are private companies—close corporations—that the stock and transfer books are not kept within the State?—A. I think that is probably true.

Q. You base your opinion upon the direct statements made to you by lawyers themselves who were agents of these corporations?—A. Yes.

Q. And out of these 15 you mentioned probably 10 or 12 told you they did not keep the stock and transfer books of the companies that they represented in their office?—A. Yes. In almost every case the attorneys spoke of the matter with perfect frankness, and sustained their position, I think, substantially as I have explained it. In their judgment, it is not reasonable to require that all the books be kept in a New Jersey office, because the public has no real concern in the matter.

Q. Although they know the law requires it?—A. Yes; although they know the law requires it. One attorney went so far as to say to me that he advised his clients regularly that the law was sufficiently complied with if the books were brought into the State if at any time it was desired or requested. That was not, however, the attitude that I generally found. Sometimes attorneys would say that they advised their clients what the law was, and if the clients did not choose to take the trouble to comply with the law, of course that was a matter of their own and at their own risk. But frequently the position seemed to be that it was not really necessary—that it was a formal matter, and not a matter of real interest and real importance that the letter of the law be observed.

Q. Did any of these men whom you visited say that they would send over to New York to get the transfer books in order to exhibit them to anyone who had the right to know?—A. Yes; that was said.

Q. You would say that was the general feeling among those representatives of smaller companies, that in case a real need should arise they would meet that need by sending for the books?—A. Yes. I asked in a great many cases this specific question: Whether they ever did have inquiries from stockholders for such information. The answer I received was quite uniformly either that they never had or that it was an exceedingly rare thing. One corporation, which is in the business of representing companies in that way, a Jersey City corporation, started, I believe, last March, had, I think, 54 companies on its books. The treasurer of that corporation told me that, so far as he knew, his corporation had never had such an inquiry from a stockholder.

As to the man who told me he had never had posted outside of his office any of the names of the companies which he appeared as the representative of, the fact was that he had simply permitted a certain firm of promoters in New York to make use of his office for the holding of organization meetings of these several companies, and the name of the occupant of the office had been inserted as the New Jersey representative of such companies. The nominal representative had in fact had nothing whatever to do, as he himself informed me, with the organization of these companies, but had merely permitted the use of his office for that purpose.

Q. Do you recall what the charge was for the use of his office and for the use of his name in this way?—A. No; I did not inquire that.

Q. Did he say to you himself that he was in the habit of letting his office out and the use of his name, without taking any active part at all?—A. Yes.

Q. This attorney, as I understand, made no pretense of keeping the stock and transfer books?—A. No; he had had nothing to do with the companies whatever; he had never had any stock or transfer books of these companies in his office.

Q. Have you any further information along that line with reference to the filing of the annual reports and the care that was taken by these attorneys who were simply individual representatives of the small companies? Did you learn whether they were in the habit of securing the annual reports of the corporations they represented, or of paying any attention to it at all?—A. Some of them, when the annual meeting is held in their office, make out the annual report and forward it.

Q. Did you learn from some of them that they have paid no attention to that at all, or did you not ask that question specifically?—A. I do not know that I did learn that from anyone.

Q. Would you say, then, as a result of this investigation, that individuals who represent the smaller private close corporations usually pay little attention to these special features of the law that have been mentioned? First, as regards the posting of names; second, as regards the keeping of the stock and transfer books in their office, and, third, as regards looking after the filing of the annual reports?—A. I think that is true, so far as the keeping of the stock and transfer books and the filing of the reports is concerned. The names, I take it, are generally posted.

Q. Although there are several exceptions to that?—A. There are several exceptions to that.

(Testimony closed.)

WASHINGTON, D. C., November 16, 1899.

TESTIMONY OF MR. W. L. SAWYER,

Secretary of the Corporation Trust Company of Delaware.

The commission met at 11 a. m., Senator Kyle presiding. At 3.40 p. m. Mr. W. L. Sawyer, secretary of the Corporation Trust Company of Delaware, No. 52 Broadway, New York, was introduced as a witness, and, being duly sworn, testified as follows:

Q. (By Senator KYLE.) State your full name, address, and business.—A. W. L. Sawyer, secretary of the Corporation Trust Company of Delaware, No. 52 Broadway, New York, or Dover, Del. We have offices in both places.

BUSINESS OF THE CORPORATION TRUST COMPANY OF DELAWARE.

Q. (By Mr. JENKS.) What is the business of this company?—A. The business of our company is to furnish the means of meeting certain requirements of the Delaware law. Under the Delaware law every company must maintain a principal office within the State, must keep a corporate sign exhibited on its office, and must have a representative there during the usual business hours; and one of the board of directors must be a resident of Delaware. That is what we furnish the various companies which we organize.

Q. You furnish them with a home and facilities for doing that part of the business?—A. Yes.

Q. Is it necessary that the stock and transfer books of a company be kept in the principal office of the company in Delaware?—A. The law is that either the original or a copy be kept there.

Q. What is the usual custom with your company; is it to keep the original books in Delaware?—A. No, sir.

Q. To keep the duplicates there?—A. Yes.

Q. Where are the original books usually kept?—A. Kept in the offices of the various companies.

Q. Wherever they happen to be?—A. Yes; unless we act as transfer agent of the stock, in which event of course as a rule they are always kept in the main office of the company, and as they issue stock they send over for our signature.

Q. In case of some of the larger New York companies that you represent, that have transfer offices in New York City, are you in the habit of making transfers for them daily, substantially, or very frequently?—A. Yes; quite frequently.

Q. In those cases how often do you send a report to your Dover office of the transfers that have been made?—A. We try to keep them up as near to date as possible.

Q. How much does that amount to in the case of a large company that is making transfers, we will say, daily, substantially? Do you send reports to your Dover office as often as once a week?—A. Oh, yes, as nearly as possible.

Q. As often as that, do you think?—A. Yes.

Q. In the case of companies where transfers are made less often, you send monthly reports?—A. Yes.

Q. Or have you any regular time?—A. We have no regular time. There are a number of companies that have not issued any stock. It is our intention as far as possible to have them all comply with the law, and we put ourselves out a good deal to have them do that and keep the duplicate books there. The Delaware law has only been in existence since March 10. We really did not begin to do business until along in May, and there are a number of the companies that have not these reports completed; but they have been coming in more of late than during the summer. I think by the 1st of January the greater portion of them will be in.

Q. Is there any requirement in the law of Delaware that a list of stockholders shall be kept up to date, alphabetically arranged, or is the provision only that a complete list shall be made a short time before the annual meeting?—A. A list of the stockholders must be posted 10 days before the annual meeting.

Q. And there is no requirement that it shall be kept up to date any nearer than that?—A. No.

Q. Is it a part of the business of the Corporation Trust Company to see that different corporations which they represent file annual reports properly?—A. Yes; we take care of it. That will be the second Tuesday of January next.

Q. For the first annual report?—A. For the first annual report. You see we have had no annual report yet.

Q. About how many companies does the Corporation Trust Company represent?—A. We represent from 150 to 175.

Q. Have you any idea as to the amount of nominal capitalization represented by those companies?—A. I have not figured it out. I suppose between \$400,000,000 and \$500,000,000.

Q. How many of these companies are there in the State of Delaware that have been organized for the purpose of facilitating the operation of the law?—A. I know there are one or two.

Q. Besides your own?—A. Yes; one or two. One is the Delaware Trust Company, Wilmington. I believe we have a few competitors in the field, but we were there rather early.

Q. When was your company organized?—A. The 10th of March.

Q. Organized the day the law went into effect?—A. Yes; just after it passed.

Q. From your knowledge of the way in which this law is being carried out, judging from your own experience, do you think the corporations organized under the Delaware law are regularly represented by agents who are careful about the observation of the details of the law? That is, do the agents regularly keep the names of corporations posted before their doors?—A. Yes.

Q. Are they regularly in the habit of keeping the stock and transfer books or copies of them in their office?—A. As far as I have seen them; yes.

Q. That is true with reference to your organization?—A. Yes.

Q. Do you know whether regularly it is true with reference to corporations organized in the State of Delaware?—A. In other words, whether our representative there does his duty?

Q. Not at all. We have had evidence to the effect that very many corporations organized in New Jersey appoint some local lawyer as agent, who frequently is utterly careless with reference to performing the duties which that position implies; who does not put out the name of the corporation which he represents before his door; does not see to the filing of the annual reports; pays practically no attention to the stock and transfer books, and so on.—A. Yes.

Q. Now, what knowledge have you with reference to the proper enforcement of the Delaware law in general, outside of your own corporation?—A. Of course I do not know, where they are represented by other attorneys. I know nothing about those other companies.

Q. You have no information about that?—A. No, sir; all I know is as to our company. I am quite strict about that and have it done at once, because, as I said, I want to be in a position always to say that the corporations organized under the Delaware law comply so far as we can make them.

Q. (By Mr. A. L. HARRIS.) What proportion of the companies that you represent, organized under the laws of Delaware, have located in Delaware to do business?—A. I do not suppose that any we represent do business there to any extent; very few, of course. There are a number of Delaware companies, of course, that have their own offices there, and of course would not need our services.

Q. (By Mr. JENKS.) A trust company like yours is only for foreign corporations generally?—A. Yes.

Q. (By Senator KYLE.) These corporations, 150 to 175, have all been organized since the 10th of last March?—A. Yes.

Q. And all under the Delaware law?—A. Yes.

Q. How many other companies are operating besides yours?—A. I know of the existence of 2 others.

Q. Do they have about an equal amount of business?—A. No, sir. The highest, I believe, is 15 companies, or something of that kind.

Q. Are they within the limit of 200?—A. Of course we have done a good deal in that particular line. I have devoted my life to the work. I want to make a success of the company, and I suppose I got a little ahead of them. That was because it is the only thing I do. I am an attorney by profession, but I do not get much chance to attend to law practice, and I am devoting all of my time to the interest of the company. We have gone into it for the purpose of making it a success. I do not want to be misunderstood about the keeping of these books there. As I said, there are a number of companies that have not issued any stock. As compared with the total number, I suppose I might say comparatively few have done so; but as I did say, by the 1st of January I think it will be done. I keep at them all the time and keep writing them that if they have not filed duplicate books as required by the laws of the State of Delaware, it should be done at once.

(Testimony closed.)

BOSTON, MASS., July 20, 1899.

TESTIMONY OF MR. JAMES J. MYERS,

Member of the legislature of Massachusetts.

At a meeting of the subcommission on manufactures and general business, held at Boston, July 20, 1899, Chairman Smyth presiding, Mr. James J. Myers, member of the Massachusetts State legislature, appeared at 2 p. m., and, being duly sworn, testified concerning the "antistock-watering laws" of Massachusetts.

Q. (By Mr. SMYTH.) What is your address?—A. 53 State street, Boston.

Q. What is your occupation?—A. Lawyer by profession, and chairman of the committee on judiciary in the house of representatives for the last 5 years.

Q. Do you desire to make a statement to the commission?—A. I received a very kind invitation from the commission to come before it, and state some of the facts connected with the passage of the antistock-watering laws of Massachusetts. I regarded that invitation as equivalent to a command, coming from this commission, with its far-reaching and wide scope of duty, and also because of its coming from my friend Mr. Clarke.

Colonel Clarke very kindly called my attention to the topical plan of inquiry of the subcommission, and I saw at once that it was possible to state just what I proposed to, and I conceive that it comes under Nos. 53, 54, and 55. And as a further limitation, I shall, perhaps, confine myself to the formation, consolidation, and capitalization of corporations; and I shall incidentally, perhaps, say a few words at the end about that organization which has grown up—a trust with certificates of shares issued by trustees.

I think I can possibly deal with this question by stating what the law of Massachusetts is, and by saying also that I have taken some pains since your invitation came to see whether or not either our commissioner of corporations, Mr. Endicott, or the chairman of our board of railroad commissioners, Mr. Sanford, had any suggestions to make. I have consulted them both carefully. Mr. Endicott, commissioner of corporations; has to do practically with the organization of all corporations, except railroad and street railway corporations, in this State.

SUPERVISION OF CORPORATIONS IN MASSACHUSETTS.

The laws of Massachusetts provide—and I have here a summary of them—for a careful organization of all manufacturing—we will say of all private business corporations; and they provide also, by what is called the "antistock-watering laws of 1894," more carefully than ever before, for the public-service or quasi-public corporations, which, in this State, include railroads and street railway companies, electric light, telegraph and telephone, water and aqueduct companies. In the West there are one or two others, such as irrigating companies; but with us these are all that can be called quasi public.

NATURAL MONOPOLIES.

And right here I want to make a distinction which was much dilated upon and made the basis of much of the agitation of 1894, which culminated in the antistock-watering laws.

These quasi-public corporations, or public-service corporations, were conceived to be doing a business which was naturally done by a monopoly. They are called by some of the scientific writers the "natural monopoly" lines of business, because they are best done in that way. It is obvious at a glance that it is not for the interest of any community, no matter what our opinion may be regarding manufacturing—it is not for the interest of any community that it should have several gas companies tearing up its streets and competing; likewise with street railways obstructing the streets with their lines; likewise with electric-light companies, telephone companies with their poles, telegraph companies, water companies, and that whole group I named. They belong to the natural monopoly corporations—those which can do the business best, as it seems to us, when there is but one organization—a monopoly.

OVERCAPITALIZATION—HOW DEALT WITH.

Massachusetts found in 1894 that while her private corporations were safeguarded in respect to their issue of capital stock and there was no overcapitalization, there were some cases of overcapitalization, her business men believed, in the case of these quasi-public corporations, and there bid fair to be a great deal more of it. Special charters for certain classes of corporations, street railways and occasionally others, were becoming quite common in the legislature; applications for them, I mean. The business men thought there had been overcapitalization in some cases, and that more of it was threatened; and the agitation of 1894, which culminated in our antistock-watering laws, was aimed particularly at preventing overcapitalization. It did not, as you gentlemen will see, deal at all with this question that is now looming up, of business monopoly and the danger of it, because we were dealing with that class of corporations which were recognized as monopoly corporations. What we were aiming at solely was the prevention of overcapitalization, and it is to that I must address all my testimony, so far as it deals with actual facts in Massachusetts.

Now, what are the laws of Massachusetts? For I think Massachusetts is justly proud of her corporation laws. What are her laws with respect to capitalization? How has she prevented this immense overdevelopment of capitalization, which, at least in many cases, compels the community to pay a dividend upon two or three times the amount actually paid into the enterprise?

I think the fundamental idea is supervision, by some trustworthy government officer, of all issues of stock and bonds, and the payment in of the full par value of each bond and each share of stock.

MASSACHUSETTS CORPORATION LAWS BEFORE 1894.

Now, gentlemen, I believe that in any community, any State, where this is done, overcapitalization can not occur. Massachusetts has for a long time had on her statute books a careful provision as to the organization of her private business corporations, which made it necessary for any gentlemen who proposed to start in any private corporation to take certain steps that were carefully watched by the officers of the State. I have here a set of blanks, such as would be used in the organization of any of our business corporations. They provide, to begin with, just like the incorporation blanks of any State, I suppose, for a statement of the amount of the capital stock and the names of the incorporators. Then when they have made their form of organization complete, they bring that to our commissioner of corporations, and if he finds it all right, he simply certifies that the organization is correct and he approves the organization. Then the gentlemen go to our secretary of state and get their charter, with an authorized capital stock of anything you please, not exceeding \$1,000,000. Prior to this present year, a corporation could not be organized for any of these purposes in Massachusetts with a capital of over \$1,000,000 without a special act. This year a law was passed permitting a larger capitalization of any amount; but on talking with the commissioner of corporations, I find there has been no application to do anything of that kind since the law was passed. On examination I find there has only been a limited number of companies in Massachusetts in which there was a capital stock of over \$1,000,000.

NO DOLLAR OF STOCK WITHOUT A DOLLAR OF CASH OR ITS EQUIVALENT BEHIND IT.

Now when that charter is issued, the thing with us is not ended at all; something still remains to be done, and it is this: The certificate must be filed and sworn to by a majority of the directors, certifying that the whole amount of the capital stock—no matter what—has actually been paid in. If it is in cash, of course that is the end of it; but if they do not wish to pay it in in cash, they must pay it in property

which is satisfactory in value to the commissioner of corporations; and not until they have satisfied him that they have paid in every dollar in cash, or in value in actual property, do they get a further certificate showing the payment in of the capital, which is as follows: "I hereby certify that I am satisfied that the valuation given within is a fair and reasonable valuation for the property described, and I hereby approve the within certificate." When this is filed they are entitled to do business as a corporation; when every dollar is inside the coffers of the treasury of the corporation. They must file that within 30 days of beginning to do business, or there is a personal liability of every stockholder.

So you see that every one of these corporations—and that has been the case for many years—must start with actual value behind every dollar of stock that goes out. There is no escape from it unless they wish to incur personal liability as partners in a firm. Our courts have so held.

NO PREFERRED STOCK.

There is a provision for the issuing of special stock—we have no such thing as preferred stock and common stock. Our court has once intimated that it might be done, but the commissioner of corporations tells me he has never permitted it to be done, because it was a mere suggestion that it might be done. We had a provision for the issue of special stock, and that provision is this: That as long as any special stock is outstanding, the common stockholders are liable for every debt of the corporation; so that practically it is almost never done. It is a provision simply for convenience, or a temporary measure.

AGITATION AGAINST OVERCAPITALIZATION OF QUASI-PUBLIC COMPANIES.

Now in that condition we found the law of Massachusetts in 1894, when the business men's organization said, "We are going to have our great transportation, light, communication-by-electricity corporations heavily overcapitalized unless we do something. That means trying to earn dividends on money never paid in; and since these are natural monopoly corporations, the rates will not be kept down by competition." Then they said, "Something must be done if we are going to put quasi-public corporations on just as safe and sound a basis as private corporations." Gentlemen, the phrase won: "Where competition ceases, supervision should begin."

That agitation began in 1893, when the boards of trade, merchants' associations, and other business men's organizations established a committee to sit during the recess of 1893-94, which made a certain report to the legislature in 1894. Upon that a special committee of the legislature was appointed on that question of capitalization of quasi-public corporations. The business men came before us and said, "Something must be done now to guard against this threatened evil." There was an agitation and there were a great many hearings of that kind, which I will not bother you gentlemen with, but as the outcome of it certain laws were passed. These are called our "antistock-watering laws."

THE ANTISTOCK-WATERING LAWS OF 1894—STOCK AND SCRIP DIVIDENDS.

In cleaning the thing up we tried to begin at the bottom. We were dealing with the monopoly public-service corporations; we found the others substantially safe as they were. We first said this:

"No telegraph, telephone, gaslight, electric light, steam-railroad, street-railway, aqueduct or water company, established under the laws of this Commonwealth, shall declare any stock or scrip dividend, or divide the proceeds of the sale of stock or scrip among its stockholders; nor shall any such company create any additional new stock or issue certificates thereof to any person unless the par value of the shares so issued is first paid in cash to its treasurer."

Then we provided:

"All certificates of stock or scrip issued in violation of the preceding section shall be void; and the directors of the corporation issuing the same shall be liable to a penalty of \$1,000 each, to be recovered by indictment in any county where any of them reside; but if any such director proves that before such issue he filed his dissent therefrom in writing with the clerk, or was absent, and at no time voted therefor, he shall not be so liable."

We passed three acts, exactly alike in their methods, but dealing with different classes of corporations. We passed one act that dealt with gas and electric light companies (Acts of 1894, chap. 450); another that dealt with those companies engaged in transmitting intelligence by electricity (Acts of 1894, chap. 452); and in that bill

we also dealt with aqueduct and water companies. We had another bill that covered railroads and street railways (Acts of 1894, chap. 472).

Now, it is a study of this last that will show just how we undertook to guard against any overcapitalization there; and I asked Mr. Sandford, chairman of the railroad commission, if he had any suggestions of any amendments to that act, and he said he did not think he could suggest any essential change. I think he believes that under the wise and conservative administration of the public officials that have supervised the issue of stock in this State there have been no abuses, no overcapitalization, since the laws were passed. I do not think anybody believes there has been.

ISSUE OF STOCKS AND BONDS OF QUASI-PUBLIC COMPANIES—STATE CONTROL.

Q. (By Mr. FARQUHAR.) What do they provide, briefly?—A. Take chapter 450, which relates to the issue of stock and bonds by gas and electric light companies. It provides that "gas and electric light companies, whether such companies are organized under general laws or special charters, and however authorized to issue capital stock and bonds, shall hereafter issue only such amounts of stocks and bonds as may from time to time, upon investigation by the board of gas and electric light commissioners, be deemed and be voted by them to be reasonably requisite for the purposes for which such issue of stock or bonds has been authorized." That is, the amount of the issue is kept under the eye of the commission. This board announces its decision within a certain time, and "the vote of the board approving such issue shall specify the respective amounts of stock and bonds authorized to be issued for the respective purposes to which the proceeds thereof are to be applied." This decision is to be in writing. "A certificate setting forth the vote of the board shall, within 3 days after said vote, be filed in the office of the secretary of the commonwealth before the certificates of stock or the bonds are issued; and no company included in the terms of this act shall apply the proceeds of such stock or bonds to any purpose not specified in such certificate." There is also a provision for the penalty, that "any member of the board of directors, or any treasurer or other officer or agent of any gas or electric light company, who knowingly votes to authorize the issue of, or knowingly signs, certifies, or issues stock or bonds contrary to the provisions of this act, or who knowingly votes to authorize the application of, or knowingly applies the proceeds of such stock or bonds contrary to the provisions of this act, or who knowingly votes to assume or incur, or knowingly assumes or incurs, in the name or behalf of such corporation, any debt or liability, except for the legitimate purposes of the corporation, shall be punishable by fine not exceeding \$1,000 or by imprisonment not exceeding one year, or by both such fine and imprisonment." This made it absolutely incumbent on the officers of that class of corporations to get the consent of the commissioners. The commissioner certifies the purpose to which the proceeds are to be applied, and any officer of the company who goes out of that track is liable to the penalty. There is a further section, which provides that "Any court having jurisdiction in equity may, on the application of the board of gas and electric light commissioners, or of the attorney-general, or of any stockholder, or of any interested party, enforce all lawful orders of said board made in pursuance of the provisions of this act, and all provisions of law herein contained respecting such companies." Now, we feel that this was very necessary to be done. We know, if the judgment of the commissioners is correct, that it has prevented any overcapitalization in Massachusetts.

The next act, chapter 452, dealt with the telephone and telegraph companies. The provisions were the same, except as to the board. As the supervising state authority, we used the commissioner of corporations, because it was to him that they must eventually turn. It came under his duties, but the provisions were exactly the same.

Then we came to the railroad companies, and chapter 472 deals with the question of the issue of stock and bonds by street-railway companies; but the provisions are exactly the same as chapters 450 and 452. There is the same careful supervision of the issue, however the company may be organized, special charter or otherwise, capital of no matter how much; it shall not issue until the railroad commissioners have heard it and investigated it, and voted it is reasonable and requisite for the purpose for which it is authorized. There, again, is the same provision for the issue, the same steps of filing certificate, and prohibition of the use of the money for any purpose not designated. There is the same penalty on the board of directors if they fail in any particular or misappropriate the money to any other purpose, or issue any stock or bonds for any purpose not distinctly provided, or if they knowingly incur risks and obligations in violation of the spirit of this section; the same provision regarding the court of equity.

FOREIGN CORPORATIONS.

Now you will see that provided for a pretty careful supervision of the issue of all the stock and bonds of these companies, but there were other steps necessary to make it still safer. This is a somewhat incidental matter, but still I think it should be dealt with right here. We feared there might be some abuses through foreign corporations. Suppose some foreign corporation got possession of one of our local corporations and then issued its own obligations on the faith of these underlying obligations; call them debentures or what you will.

Q. (By Mr. CLARKE.) When you speak of foreign corporations you mean any organized outside of the State?—A. Yes; so that we do not have our hand on their organization. You see we did not have to deal with the whole question of monopoly, but with only one or two phases of it. We were guarding against our people having to pay dividends on overcapitalization.

The best we could do is found in chapter 476 of the acts of 1894, and it is in this form. We made it narrow in its application, but so far as we went tried to cover the ground. It was deemed a little drastic at the time.

"If any foreign corporation which owns or controls a majority of the capital stock of a domestic street-railway, gaslight, or electric-light corporation"—we only needed to deal with these three—"shall hereafter issue stock, bonds, or other evidence of indebtedness, based upon or secured by the property, franchise, or stock of such domestic corporation, unless such issue is authorized by the law of this Commonwealth, the supreme judicial court, sitting in equity, may, in its discretion, dissolve such domestic corporation." That was all there was to it. It was a little more drastic than that when it came to us, and I think there was a provision that they should be dissolved. We felt that it might happen that the majority of the stock might get into the hands of speculators, who might want to break it up, and innocent stockholders might suffer; so we said the court may, "in its discretion, dissolve such domestic corporation."

Section 2 said: "It shall be the duty of the attorney-general, whenever he is satisfied that such issue has been made, to institute proceedings in said court for the dissolution of such domestic corporation and the proper distribution of its assets."

Now, I believe that has absolutely protected us against any attempt to do that thing in this State.

THE LAW EVADED BY MEANS OF TRUSTS.

I ought to say right here that it is true, lately, seeing they could not put the majority of the shares of a gaslight or street-railway company or of an electric-light company into a foreign corporation, issuing new stock on the shares, they have resorted to the device of trustees, who take the stock of several street-railway companies or several gas companies, put them in a pot, and issue certificates, giving the organization a certain name. It is of course an evasion, right or wrong I do not undertake to say, but it is an evasion of the law which I was just speaking of. It does accomplish through the medium of trustees what could not be accomplished directly by the foreign corporation, and it does make it possible to issue \$5,000,000 of certificates on \$2,000,000 of securities. That is a method of evasion that will trouble you gentlemen a good deal to deal with when you come to frame legislation. I think it would be possible to frame legislation. I am not sure that it would not be a pretty delicate matter to do it constitutionally, but I think legislation could be framed to meet the difficulty.

PURCHASES, SALES, AND LEASES.

Then we found that there might be overcapitalization, or, what is equivalent to overcapitalization, an overcharge on the public by means of consolidations or leases or purchases and sales, particularly between railroads and street railroads. Accordingly, we found ourselves obliged to pass another act, which provided that no purchase, sale, or lease of the franchises or property of that class of corporations, whether such lease, sale, or purchase was authorized by general laws or special act, should be valid or binding until the consolidation should have been approved by the board of railroad commissioners after a public hearing, of which due notice should have been given. That was to guard against any overcharge; for instance, in the case of a street-railway company making a lease to another street railway, the latter company paying, to illustrate, 10 per cent instead of 6 per cent as a rental, and then, of course, having to collect it. It becomes a fixed charge and has to be collected out of those who are carried, and results in loading 4 per cent upon the public. It is not an overcapitalization exactly, but it is the same thing; it is an overcharge for the benefit

of those holding the securities. Such a purchase and sale is not permitted to go on without the approval of the railroad commissioners.

There was a hearing yesterday before the railroad commission on the consolidation of 5 of our street-railway companies. Everything has to be done in a most painstaking manner. An expert values the property, and each of these 5 companies is permitted, their assets having been shown up and their earnings having been shown up, to go into that consolidation and receive shares in the new company. But the railroad commissioners say, "so many and no more." As a matter of fact, in this case it is share for share or substantially that; but no shares are allowed to issue without the value behind them.

There is one further act that may be spoken of. There was a special act permitting the issue of stock by a street-railway company for the purpose of changing its motive power; but that, again, had to be supervised by the railroad commissioners.

Now, I think, gentlemen, that we have covered everything in the way of our anti-stock-watering legislation, strictly so called, which guards against the issue of a share of stock without a full dollar behind it. It is all we have in Massachusetts. These laws I have referred to will show you, when you come to study them, better than I can do what the work of our business men, our boards of trade, and our railroad commissioners has accomplished after more than a year of agitation. It is all found embodied in these acts to which I have referred you, and it has resulted as I tell you in Massachusetts. I think our law is spoken of everywhere as accomplishing that result.

NEW STOCK ISSUED BY OLD COMPANIES NOT TO BE SOLD FOR LESS THAN MARKET VALUE.

There is one further topic that we legislated on. It was touched on in 1893, and it is coming up now in another form in industrial matters.

Massachusetts has for several years had a policy of insisting upon sales at auction of stock issued by an existing railroad corporation. She said, after a good deal of agitation, that if railroad stock was selling at 170 she would not allow the corporation to issue shares at par, because that is really not giving the community the full benefit. Now, that is somewhat different from anti-stock-watering laws; they have been slightly confused, but it is a very different matter to say that you shall not issue a share of stock for less than 100 when you are starting, and to say that after you have started a company and run it well for years, and by reason of good management and saving have accumulated capital so that the stock is selling, with a value behind it, as high as 150, you shall not issue shares at 100. That is not stock watering. It is capitalizing accumulated earnings not divided. Still, Massachusetts has said in the act, chapter 472, of the year 1894 that in case a corporation "owning or operating a railroad or railway, whether such railroad or railway is operated by steam or other power, or a gaslight, electric-light, aqueduct or water company, or a corporation established for and engaged in the business of transmitting intelligence by electricity, increases its capital stock, the new shares to the number necessary to produce the amount necessary for the purposes for which such increase is authorized shall be offered proportionately to its stockholders at not less than the market value thereof at the time of increase, as shall be determined by the board of railroad commissioners in the case of a steam-railroad or street-railway company, by the board of gas and electric-light commissioners in the case of a gaslight or electric-light company, and by the commissioner of corporations in the case of an aqueduct or water company or a corporation established for and engaged in the business of transmitting intelligence by electricity, taking into account previous sales of stock of the corporation and other pertinent conditions. The directors shall cause written notice of such increase to be given to each stockholder," who has a chance to come in and bid. If an increase of capital stock is to take place in one of these quasi-public corporations, it has to go under the hands of the board, and they see to it that the corporation gets in an amount of money equal to the real fair value of that stock. To illustrate, it may be 140. If so, it will take less shares, and there will be less shares out on which the corporation will be earning dividends by charges for transportation. That is the theory on which it goes. It is a very different thing, as you will see, from overcapitalization at the outset; but we attempted to deal in that way with any attempt to capitalize any actual accumulated profits. Now, of course, if accumulated profits are dealt with in that way, the community must get the benefit by selling the stock at auction. She would be pretty sure to say that opportunities for business and expectation of profits could not be capitalized. She would be pretty sure to say, if the question came up in that way, "The most we will allow to be done is to capitalize these accumulated profits. We will not allow the capitalization of opportunities and expectations." That is what she does say. The railroad commissioners when they are considering

valuations for the consolidation of these street railways do not capitalize opportunities. They do not capitalize expectations. They proceed on the theory that the capital stock should be limited to the value paid in, actually existing.

THE POSSIBILITY OF OVERCAPITALIZATION A CHIEF INCENTIVE TO COMBINATION.

Now, a question comes up which goes a little beyond guarding against overcapitalization, which was the one evil that Massachusetts was dealing with in these anti-stock-watering laws, and that is the alleged evil of excessive combination, amounting to monopoly. What light do our laws throw upon that point? Suppose that every State would do as Massachusetts has done, and suppose that every State could be provided with just as careful and intelligent public officers to supervise the issue.

I want to make this suggestion. I appreciate fully that there is a fundamental advantage in the reduction of cost, and that reduction of cost is secured often by consolidation and combination; but the desire for cheaper production, economy of production, is not the motive power in what is now going on. The motive power, the mainspring, is not the desire for economic production, but it is the desire to get possession of the overcapitalized securities; and if the opportunity to get possession of the overcapitalized securities was taken away, which is the same thing as saying if you supervise the issue of the securities so that there could not be this overcapitalization, you at once take away the real mainspring of much of what is now going on, wisely or unwisely. For if you say to the gentlemen who are making any great trust you please, "You can only issue stock to the extent of the actual values that are paid in," no matter whether in New Jersey or Massachusetts, you at once take away the principal inducement to them to do the business. They say, as a reason for inducing capitalists to aid the enterprise and financiers to finance it, it is going to effect a reduction in cost. That is true, and so far as that is the motive I myself doubt whether it would ever be desirable to interfere with it. But so far as the real motive is overcapitalization, simply using the other as an argument to get people into it, I have a feeling that it is somewhat doubtful. I have a feeling that if a remedy for this great amount of combination that is going on is to be sought, it may be sought, among other things, in doing away with inducements; in other words, by making it impossible for them to get that reward. Then only such combination will grow as is inspired by the desire for cheapness of production, and not that which is inspired largely by the desire to make two shares of stock where you put in one—one of preferred and one of common—unload both on the community, and let the community suffer the consequences; combining more and more, and thus producing some of the alleged evils of this excessive trust development that is going on now.

Of course, the trust, so far as it is an organization made up of certificates issued by trustees, has to be dealt with on a different basis; but so far as the great New Jersey corporations are concerned, it seems to me if New Jersey said to the corporations formed there, "You may issue capital stock, preferred or common, to the amount of the actual values as found by our trusted officers and no more," that very many of the great organizations that are now made would never be made. They would not do it for their own health, and they are not public spirited enough to do it for the sake of economic production. They are doing it to get two shares where they put in \$1; that is the motive. I believe that the tendency can be checked if it is possible to get the States to say that so far as corporations go the State will not give this bonus to promoters by permitting them to issue shares far beyond values. I believe that if that power is taken away from them altogether, including the opportunity to accomplish it by trust, if that can be done, substantially all, or a very great part at least, of the objectionable development would be terminated.

NO LONGER ANY LIMITATION OF CAPITAL STOCK, PROVIDED IT REPRESENTS ACTUAL ASSETS.

- Q. (By Mr. SMYTH.) You say the limitation of capital to one million has been removed, and by general statute the amount can be made larger?—A. Yes.
 Q. Is there any limit to the amount in Massachusetts?—A. None at all.
 Q. It must be a show down of hands that the assets are there?—A. Yes.
 Q. Who appoints the commissioners you speak of?—A. The governor.

RESULTS OF DIFFERENCES BETWEEN THE LAWS OF DIFFERENT STATES—MASSACHUSETTS LOSES SOME TAXES.

Q. Now, have you found that the restricted requirements with reference to charters have tended to drive the formation of corporations away from Massachusetts?—A. Of course, so far as our own quasi-public corporations are concerned, they practically must

be incorporated here under the laws as they stand. It is perfectly true that a great many of our business men, when they wish to form corporations for certain purposes, legitimate enough, but do not wish to pay in their capital stock, go elsewhere. They go to Maine, New Jersey, New Hampshire. It does drive them away when they are going into any enterprise where they do not wish to pay in the full value of the capital stock, and that gives a loss of income to Massachusetts; but if all the States applied the same law it would work equally fair to all.

Q. These other corporations, such as textile corporations, can have a factory in this State with a charter from another State?—A. Oh, yes; we allow corporations from other States to do business here by filing certain papers agreeing to admit service of process here and to appoint an agent.

Q. So these restrictive acts have tended to lessen the income of the State of Massachusetts?—A. I suppose that it has a very little. I do not know how much it has tended to lessen the income. We get a certain small income from foreign corporations doing business here; the property is here to be taxed, and, of course, all the property which they own in this State is taxed, no matter if they are outside. Probably it does lose us something; I have not considered that enough to say.

Q. To make the Massachusetts laws fully successful would require the enactment of similar laws in all the States?—A. To make it entirely equitable, it would be fair that every State should do the same thing.

NEW JERSEY GETS A LARGE INCOME BY MAKING CORPORATIONS.

Q. (By Mr. FARQUHAR.) From the fact that other States do not follow the example of Massachusetts, it may be assumed that they desire Massachusetts capital or restricted capital of other States to come in there under their more liberal laws?—A. I do not know. I have heard it suggested that New Jersey liked the large income that came to her treasury from having the large corporations organized there.

Q. (By Mr. SMYTH.) Has it not resulted in New Jersey in lowering the tax rate?—A. It has resulted in giving them a large income from corporations.

Q. (By Mr. FARQUHAR.) Have they not more revenue than is necessary for their State expenses?—A. I understand so.

THE GENERAL INTEREST BEST SERVED BY STRICT REGULATION.

Q. If this commission was to recommend repressive legislation, such as now obtains in Massachusetts, to the State of Illinois, and the State of Illinois said, "We want all the capital we can get, and do not intend to pass repressive legislation," how could you hope to get the Western people, who desire capital, to make any change in their laws, for the sake of the uniformity you speak of as being so desirable?—A. I think that a sound, healthy view is that in the long run the interests of the State are best served by having the whole corporate business done upon a sound basis, and that if you could once get the business men of Illinois and their organizations well waked up, as the business men and their organizations were in Boston in 1894, they would see that while it was for the interest of a certain limited number to go on in this way, the interest of the whole people would be better served by that satisfactory and juster treatment of the capitalization question.

Q. Now, at the present time your Boston papers are filled with the advertisements of the American Writing Machine Company. It offered to sell over eight millions of stock, if I recollect right. Is it understood that that corporation is to be inside the State of Massachusetts, or where?—A. I do not think there is any application for anything of that kind. Mr. Endicott told me there had been no application since the law was passed for the incorporation of any company with more than \$1,000,000 of stock. I think it is a corporation established under the laws of New Jersey; but possibly not; possibly a trust arrangement, just as was the case with certain railways.

TRUSTS.

Q. Your laws would not permit a trust, of course?—A. We can not prevent putting the stock of companies in the hands of individual trustees and issuing certificates of stock upon these shares. You could not put these shares of a domestic corporation in the hands of a foreign corporation; that would be obnoxious to this act; but when that act was passed this development of the trust, the putting of the stock in the hands of trustees, had not appeared upon the horizon, and we did not guard against having the shares of 6 companies put in the hands of 3 gentlemen as trustees.

Q. Was not this after the decision of the court of appeals of New York in the case of the American Sugar Refining Company, whereby they set aside the whole trust

matter?—A. I am not sure whether that is so or not; but at any rate we did not undertake to go beyond the case of foreign corporations, and not mere trustees, getting control of the stock of our corporations. We did not go beyond the requirements of the case.

INVESTMENT AND SPECULATION.

Q. Wherever this American Writing Machine Company is incorporated, in New Jersey or elsewhere, it is outside of the State of Massachusetts; but they come and advertise inside your State. You are permitting in Massachusetts stock gambling, irrespective of your laws. Can you shut them out?—A. We have never tried it. Whether we can or not, I prefer to hope the other States will take wise action rather than call on us to enact exclusive kinds of legislation. That would be something I should wish to consider very carefully before, as a lawyer, I expressed any opinion as to how far you could interfere with doing business in that way. If 3 gentlemen see fit to buy up the stock of several corporations and own that stock, I do not see a very easy way of dealing with it. If, having bought it up with money of 20 gentlemen, these 3 gentlemen see fit to issue shares of proportionate interest, as we do here in companies that we form, for instance, it is pretty hard to frame any way of dealing with them that would be legal or meet the approval of our business men. I think it would have to be the subject of a regular public crusade, so to speak; a public uprising, as the antistock-watering laws were.

Q. Your statement as to the laws of Massachusetts is instructive and interesting, but if the corporations of every other State can come in and sell, it is no protection to your people?—A. We recognize that our people, as investors, are exposed, but it gives me a chance to say to you, gentlemen, that our laws were framed not so much with a view of protecting our investors, though that was an incidental question, as for the purpose of guarding our great communities against excessive charges for transportation, or for such necessities as light or electric communication. It is to guard them against that subtle overcharge which comes from overcapitalization. The men who were in this were largely people who patronized the great railroads and did not want to pay excessive rates of freight, and who patronized gas companies; and the investor side was not so much in question. We realized it, but we never have sought to protect our people against the consequences of their own folly, if they see fit to go into speculation.

OVERCAPITALIZATION AS LEADING TO OVERCHARGE.

Q. You seem to argue, or it is implied at least, that overcapitalization becomes a burden on the people. The street railway, for instance—that where they attempted to make a dividend of 12 per cent where legitimately they ought to have 8, it is 4 per cent taken out of the people themselves?—A. That was the view which prevailed. That was the expression in the movement. In stating the matter to the commission, I was really trying to be the witness, and state the facts with perfect candor; not desiring to color it at all, until I made two or three suggestions in the last moment or two.

Q. Take a street railway in the city of New York capitalized at two million; that street railway has extended its equipment and track to almost twice what it was when it was capitalized at two million, but still remains at the same old figure. The railway, of course, does now three times the amount of business; its dividends—no one knows what they are, and it did not need to overcapitalize to mulct the public, because it held its original capital and is now probably giving three times the dividends it gave at first. Look at the Chemical Bank of New York to-day; see the enormous rate of their shares; and yet you can not change the capitalization by law or anything else. So a company may hold its capitalization, without extra capitalization, and still draw from the people this patronage and have the heavy dividends. Does that stand as a business proposition on both ends?—A. Our corporations are all required to make sworn returns to the commissioner of corporations. We therefore know just what dividends they pay under all circumstances, and the presumption was that the people, in the case of quasi public corporations, would by public opinion compel, in a way, by their discontent and clamor, a reduction of rates if the rate of dividend became very, very high. When the rate of dividend on any of our public-service corporations—gas companies, for instance—gets up toward high-water mark, immediately the consumers begin to complain, and our laws provide that they may go to the Massachusetts electric light commissioners and file a petition for a reduction of rates; and the commissioners, having the supervising power, would go pretty far in that; and the gas company, if it has made large profits, or the electric light company, may be requested to name lower figures. Our railroad commissioners, while they have

not absolute control, have advisory power, and as a matter of fact I do not know that the advisory power has ever been disregarded. They may advise regarding rates. They even do advise regarding workmen's trains; and their advice is usually equivalent to a command, for if their advice was disregarded the probability is the next year would see a bill in the legislature calling attention to that, and perhaps aimed at the corporation in such a way that it would seek to accomplish as much or more for the community in some other way. I make this reply only by way of explanation and without any intention of arguing the other side, but to state it as the gentlemen stated it to us.

Q. Have you any means of knowing the actual earnings of your street railways in Massachusetts?—A. We have the railroad commissioners' report, which shows the earnings of every street railway in the State and a careful summary of everything.

MUNICIPAL OWNERSHIP OF NATURAL MONOPOLIES—HONEST, INTELLIGENT SUPERVISION SOMETIMES BETTER.

Q. Have you any municipal ownership of your natural monopolies in Massachusetts?—A. Especially of water companies. I think Massachusetts probably leads all the States in her municipal ownership of water plants, and lately we have established not municipal but metropolitan ownership of a great plant that is to cost about \$30,000,000, to supply water from Worcester County (and it is contemplated to run over into Hampshire County) for this great metropolitan district. My own city of Cambridge owns her water plant, has a water board, and collects special water rates. The most of our large cities have municipal ownership of water. There have been a few attempts at municipal ownership of gas and electric light. We have no municipal ownership of transportation or telegraph or telephone that I know of; I think it is limited to water and to some cases of light. We have a general law that provides that municipalities may go into the electric-lighting business.

Q. Do you think in municipal ownership there is an opportunity to counteract overcharging by private or quasi-public companies?—A. A great deal, a very great deal, has been urged upon us. Perhaps I am not one of those who get very enthusiastic. I have been inclined to think that, as a rule, with judicious supervision of rates, with supervision as to all the issues of the capital stock, so that there is not a fictitious dollar to earn interest on, and with careful supervision of the returns, and power to supervise charges and rates, it would be well to go slow in respect to actual ownership. If you are going to hand these over to unrestricted monopoly or ownership, it is another thing; but in the case of the public-service natural-monopoly corporation, I believe that with honest and intelligent supervision by the State, monopoly is not a menace. But that supervision must be intelligent and must be honest; for where this monopoly begins, and it begins at once in the natural-monopoly corporations, here competition ends and supervision should begin. The two should together cover the field.

MUNICIPAL OWNERSHIP GOOD, IF GOOD, HONEST SERVICE CAN BE GOT—SUCH SERVICE IS GOT IN MANY MASSACHUSETTS CITIES.

Q. It is quite evident that these natural monopolies of cities must yield more than almost any other business, because the greatest capital of this country is engaged in them. Now, provided there is more money in that, is it not a probability that there should be municipal regulation and possibly municipal ownership?—A. It has always seemed to me the moment you get good, honest, economic service, then municipal ownership is a very desirable thing in these natural monopolies; but since you are not able to get honest and intelligent public service, but are obliged to have a good deal of log rolling and political pulling in order to handle things, it has seemed to me there is strong argument for supervision instead of absolute ownership. I should come to absolute ownership, perhaps, just as soon as I got honest and intelligent public service in the administration of these monopolies; but if you are going to have a great monopoly of that kind, with its vast amount of money and large number of employees, used for political ends, it would be a menace to the people and not a help.

Q. You say it would be a danger, then, to have the public service a subject of political control?—A. No; to my mind there is that danger always attending public ownership unless you get the thing well cleared up beforehand. I do not mean to say there are not many of our communities where it could be done satisfactorily; it is certainly done with absolute safety in my own city; it is done safely with the great metropolitan system of Boston. I do not think there is a commission more free from political influence than the water commission. I do not think the water board of my own city is in the least to be charged with anything political. I think public ownership should come slowly and in a way not to demoralize.

Q. (By Mr. SMYTH.) Do you know of any instances outside of those you have mentioned where they have been safely and economically administered?—A. The city of Boston has had its own water supply for a long time and I have never heard of any scandals. And there was the Mystic Water Company, which supplied water to several of these cities on the north of Boston.

Q. Your experience is altogether with water supply?—A. Entirely.

Q. No street railways, or anything of that kind?—A. No.

Q. The other field would become much more hazardous?—A. I mean to speak only of water and the very few cases of light that I know of in this State; but there is a constant tendency to take more and more of the water companies. Within a few years there was the case of Newburyport and Gloucester, and, I think, Wakefield.

Q. The larger the number of employees the greater the doubt of the propriety of public administration?—A. It would seem so.

Q. In other words, the city may run the waterworks department economically, but it is different in respect to running the street railway department with its thousands of employees?—A. There may be some danger, but that is one of the things that each man approaches with a little of his own natural bias. I think when one is inclined to favor public ownership of these instrumentalities it is easier for him to believe there will not be trouble; if he is pretty skeptical about it he is apprehensive of trouble.

PROTECTION OF INVESTORS; IF MEN WILL BUY, THEY WILL.

Q. (By Mr. FARQUHAR.) A few minutes ago we called your attention to the fact that with your restrictive laws you could not safeguard your citizens from being taken in by these overcapitalized corporations of other States; what protection could you offer, do you think?—A. I have found it pretty hard to prevent people from being foolish enough to buy what they want to buy. If every State in the Union will see to it that these mischievous and misleading influences are not created, well and good; and if they create them, I do not see any way of preventing a careless man from buying shares in some fake copper mine organized in some far-away State, or in some fake manufacturing scheme that will go all to pieces for lack of sound management, or for lack of market, or for lack of capital enough paid in. As a lawyer, I do not see how you are going to prevent a man's spending a hundred dollars of his money for a pretty piece of engraving, unless it is an absolute, palpable fraud, if he is so foolish as to do it.

Q. It may be your view that the only way to save the public from great harm in that is to have several of these trusts go to pieces and discredit the whole system before the people. Is that your idea?—A. It may be that will be the only way to teach the lesson.

Q. (By Mr. SMYTH.) You think experience will be the best teacher?—A. So far as the investing public is concerned I confess I do not see anything to prevent them from buying. I see ways of guarding the public generally against the indirect consequences of overcapitalization, as I have said, so far as overcharges are concerned, and, incidentally, so far as undesirable combination is concerned; but when it comes to guarding them against buying and selling, I do not see any way of doing it.

THE TENDENCY TO COMBINATION IS NATURAL, BUT IS UNDULY STIMULATED WHEN A PROFIT CAN BE MADE BY OVERCAPITALIZATION.

Q. Do you think for the last 15 or 20 years it has been the trend of matters, with the exception, of course, of 1892 to 1895, to run into this combination?—A. Very much.

Q. Men do it as a natural tendency in business rather than something artificial?—A. I think it is both. I think it is a natural tendency of business, and I think that natural tendency is unduly stimulated by the opportunities of the corporate or trust organization. As far as it would naturally go, in the interests of business and cheap production, one would hardly care to object to it. It is only when its speed is greatly accelerated by men anxious to secure overcapitalization and profits that it is a bad thing.

INVESTORS CAN NOT WELL BE PROTECTED IF STOCK IS PERMITTED TO BE WATERED.

Q. (By Mr. CLARKE.) Since the public have so largely become investors in the stock or securities of private business corporations, do you not think the time has come when some way ought to be contrived to protect investors as well as purchasers of the things produced by these corporations?—A. I always welcome every move-

ment toward protecting the community against oppression and fraud in the purchase of valueless things, yet I do not easily see the way to do it.

Q. You think it is a consummation devoutly to be wished?—A. I do; but I think if the stuff is once permitted to be created it is going to be more difficult to find a way to forbid anybody who wishes to spend his money in that way to buy it. Prevent it from being issued in the start and turn on the light, but leave the free American citizen to buy if he will. If he wants to be gulled, I do not think it is going to be easy for the legislature to prevent him.

DIFFICULTIES OF STATE REGULATION.—INTERSTATE COMMERCE.

Q. I suppose you recognize the great difficulty of bringing all of the 45 States of this Union up to the high standard of preventing overcapitalization?—A. I do not see how it is going to be possible to do it short of a miracle in the way of public opinion.

Q. I presume you recognize that it will be extremely difficult for the authorities of any one State to efficiently supervise the issues of stock in corporations whose business is in some remote part of the Union. For example, if Florida in the southeastern part of the Union should undertake to grant a charter and supervise the issues of stock to a company like the Federal Steel Company, whose property is in Illinois, Ohio, and Minnesota, do you think the State officers in Florida, however efficient, able, and honest, would be able to grapple with the problem?—A. I very much fear they would not always. Of course some of the far Western States would be in even a worse predicament, because they are not as well equipped perhaps with men competent to deal with it in some of these States as Florida.

Q. Since the business of these great combinations of business is so largely concerned with interstate commerce (I have in mind companies which own railroads as a mere incident to their manufacturing, but these railroads extend over more than one State) has your attention been given to the idea that the very extent of the business of these private corporations might make them amenable to Federal legislation under the interstate-commerce law or something of that sort?—A. I have never undertaken to get at the bottom of the present constitutional power. I do not believe the matter will ever be dealt with satisfactorily by 45 or more different States. If it is to be dealt with in any wholesome or healthy way, I do not believe it can be done by getting the different States to do what Massachusetts has done, because when several have done it the temptation will be so great to some small State to stand out and get all the reward.

Q. (By Mr. FARQUHAR.) Just as New Jersey did?—A. Suppose all except Delaware and Idaho had done it and the efforts of all the combinations were brought to bear on Delaware and Idaho; we should never get such legislation through, in my opinion. (Testimony closed.)

LEGISLATION—PUBLIC CONTROL.

WASHINGTON, D. C., December 12, 1899.

TESTIMONY OF MR. JOHN R. DOS PASSOS,

Attorney at law, No. 20 Broad street, New York.

The commission met at 10.35 a. m., Vice-Chairman Phillips presiding. John R. Dos Passos, esq., was introduced as a witness, and, having duly affirmed, testified as follows:

MR. PHILLIPS. Governor Harris, of Ohio, has kindly consented to be in the chair to-day. I shall be pleased if Governor Harris will take the chair.

Q. (By Mr. JENKS.) Will you kindly give your full name and address?—A. John R. Dos Passos, New York, No. 20 Broad street.

Q. What is your profession?—A. I am a lawyer.

Q. I understand that you have already prepared some general statement that you would like to make to the commission with reference to legislation?—A. An oral statement; yes.

Q. We shall be glad if you will give that in your own way.—A. Thank you.

LAWS SHOULD BE PREPARED BY COMMISSIONERS—TOO MANY LAWS.

MR. CHAIRMAN AND GENTLEMEN OF THE COMMISSION: I appear before you this morning to make some observations upon the legal and historical aspect of the question of the aggregation of capital, whether that capital be represented in money, in goods, or in labor. Because of its immaturity, I am here to endeavor to rescue this subject from the domain of law, where it does not belong, and place it in the field of speculation and thought and political economy, where it does belong.

I appear here as the representative of no corporation, of no aggregated interest, or of no individual, and the opinions and views which I shall have the honor to express are entirely my own; I alone am responsible for them. They are made without consultation with anybody, and whatever criticism may arise from the observations which I shall address to you must therefore fall upon me alone.

I congratulate the country that this great and interesting, not to say absorbing, question has fallen at last into a legitimate place of discussion, and that this commission, composed of individuals chosen from all the walks of life, is to sit here and to hear everything that anybody wishes to say, and to report their conclusions upon the facts in shape for definite action. I regard it as of the greatest importance to this country that questions of this kind should primarily pass through the ordeal of a commission. If they are left in the hands exclusively of politicians very much is said of an extravagant, emotional and sensational character, and the results which accrue from such a method of inquiry and examination are, in a general way, unsatisfactory to the reasonable, thinking people and the important business interests of the country. Whatever is filtered through this commission, I believe, after its exhaustive and laborious study of the questions involved, will be of service to the whole country. And permit me to remark at the outset that, in my opinion, it would have been very much better for the interests of this country if, instead of passing the interstate-commerce law, the Congress of the United States had, in the first instance, appointed a commission to inquire into the needs and necessities of the transportation and railroad interests before they rushed to pass a bill, which is the most remarkable piece of legislation that has ever emanated from any parliamentary or congressional body, and from which the corporate interests involved in that field have only been saved from destruction by the exceedingly conservative management which has characterized the actions of the gentlemen who have had charge of the Interstate Commerce Commission.

It is a lasting reproach to this country that during the passage of that bill many gentlemen in the United States Senate arose in their seats and practically said: "We know nothing about the bill, but we believe the country wants it, and therefore we shall vote for it."

Now, I assert that that law should never have been passed; the matter should have been submitted to a commission such as is here, and then if the commission felt that the necessities of this country required a law, they would have prepared one which would have been consistent with the public interests and which would have done justice to all persons interested in the great problem of railroad transportation.

Another observation in respect to this commission, to which, it seems to me, I should be ungrateful and remiss if I did not allude. It is not often that I am in the position to commend legislation, but I can commend this statute not only in its substance but in the language used therein. Certainly the language of the act under which you are appointed and are working is most admirable. It is brief and charges you with the two great propositions that arise out of this great subject, namely:

"Sec. 2. It shall be the duty of this commission to investigate questions pertaining to immigration, to labor, to agriculture, to manufacturing, to business, and to report to Congress and to suggest such legislation as it may deem best upon these subjects.

"It shall furnish such information and suggest such laws as may be made a basis for uniform legislation by the various States of the Union in order to harmonize conflicting interests, and to be equitable to the laborer, the employer, the producer, and the consumer."

Yet is not this act an extraordinary commentary upon the way laws are made in this great country, which we in our moments of admiration and enthusiasm are prone to-day to call the leading nation of the world in its civilization, in its progress, and in all the elements which make up a great nation? Is it not a remarkable comment upon that civilization that 9 or 10 years after a law has been passed by the Congress of the United States a commission is created for the purpose of inquiring whether any and what laws are necessary upon the subject? Making the laws first and inquiring into the subject and necessity afterwards. Plutarch states that a Lorian stood up in the temple with a rope around his neck, prepared to be strangled if his proposed law was not adopted.

I say to you to-day, not in any spirit of sensationalism, but from a sincere belief and conviction, that if the laws of this country could be piled together in some place capable of holding them—the laws which have been enacted since 1848, when, under the guise of law reform, ill-considered codification was introduced into this country and a weed planted into our judicial and legal system which has overgrown and hidden from view the real and simple purposes of justice and law—I say that the man who could put a match to this accumulation of verbiage, duplication, and multiplicity of laws would be entitled to a monument at the hands of the American people for ridding them of statutes and useless books (not excluding two that I have written myself) and bringing them back to a condition where they could look upon the question of making laws in the serious aspect in which it should be considered when legislation is contemplated.

Let me make one more observation before going into the questions which I shall discuss. The great question, or the great cry, rather, when public matters are discussed in this country, is "legislation," "legislation," "we want laws;" and the inquiry is pushed in that line until each political party is in a race to outdo the other in making statutes—and this is called legislation; and these statutory enactments are made in order to appease what they consider to be the predominating sentiment of the hour. In this aspect one party is no worse than the other. They are both the same, and standing here as an independent critic, as I do, careless of all political consequences to myself, I say that one party is as bad as the other in the general method of treating public questions and in their superficial mode of legislation.

THE SOCIAL COMPACT—NATURE OF LIBERTY AND OF LAWS.

Now, it is necessary for me to suggest what legislation is. Legislation requires that one who undertakes to draw a statute and have it passed through a legislative body should thoroughly understand the subject-matter involved. We must, in order to have complete and thorough legislation, go back to the basis of social organization, and no legislation can be satisfactory unless it is examined in that aspect. You must understand the relation that a citizen occupies to the government before you can legislate, and you must be perfectly convinced that legislation is necessary.

These views are didactic, but it is necessary to treat questions of this description in that way in order that we may arrive at a proper result, and I call to your atten-

tion this morning—I call to your minds the contemplation of the original creation of society, which is the basis of all law, the structural social conditions that exist.

No one can trace back to its origin human society, but we all have defined views upon the subject, which are deduced by writers like Montesquieu and Burlamaqui and others who have paid attention to questions of the spirit and nature of laws.

A man is born into the world and it is assumed that he bargains with some government for citizenship; that is the accepted origin of society. He says to the government, "I will give you my allegiance, I will give you my fealty in return for protection," which organized society, a necessary condition of human existence, accepts and affords him and his property protection. This is a crude description of the social compact.

Now, what does this compact mean? It is called political or civil liberty, which a celebrated authority defines to be "the natural liberty of mankind so far restrained by human laws as is necessary for the good of society." Here is a distinct and clear contract on the part of the government not to intrude upon or molest the natural liberty of man except in cases of plain and paramount necessity.

Now, mark you. Every law that you make is, as it were, a nail in the coffin of natural liberty. The object of government is not to make laws; the object of government is to avoid making laws—the very reverse to-day of a legislator's habits. And no law should be or can be made which looks to the combined interests of the citizen and the government unless these primary principles are adhered to. First, you must be convinced that a real necessity requires a law to be made. You must examine into the causes; you must know the mischief that you seek to avoid and prevent before your hand takes the pen to write a law which takes away the natural liberty of mankind.

If these principles were only thought of, and all questions which were to be the subjects of law should be impartially and thoroughly considered, much unnecessary legislation would be avoided, and the condition of this country, so far as its legal affairs are concerned, would be very much better.

Gentlemen, but one more word preliminarily to the main subject, which I shall now touch.

MEANING OF "TRUST."

Before we discuss any subject it is necessary that we should understand each other as to terms—we should agree as to the issue involved—the primary matter which we are brought together to consider, and hence there is a necessity to have a definition. A definition is an absolute prelude, a *sine qua non*, to a discussion understanding of any subject, whether it is legal, moral, religious, or otherwise, because without definitions men could never get together. They would not understand each other.

Now, there is the word "trusts," used in the discussion of the question of aggregated capital, and that word is used so frequently in this country that it has become a synonym for aggregated capital—has become a phrase representing all of the forms of combined capital.¹

We must exclude from this discussion words and phrases that are useless and meaningless or we can make no intelligent progress. A trust, according to Judge Story, an authority on equity jurisprudence, is an equitable interest which a man has in personal or real property; and the history of trusts, if anybody is disposed to go back to study the origin of them, will be found to have arisen out of an evasion of some of the principles of the feudal law. But in the sense in which a trust has been used, so far as it has been technically and legally used for the last two hundred years, it means, as Judge Story has said, an equitable right in personal or real property. That is, it assumes that the trustee, who is the person controlling or the physical custodian of the corpus of the real or personal property, is the legal owner and the real owner, while the person really interested is called the *cestui que trust*, or the beneficiary. He, the latter, is the actual owner. The trustee is the one given the legal title, but he has no duty except to carry out the terms of the trust, whereas the actual owner is the beneficiary; and although the title is not in him, he can call upon the trustee at any time, according to the terms of the trust instrument, to account for and fulfill the mission of the trust.

In applying that word "trust" to the question of aggregated capital, about which I shall speak, it means this: Assume that six persons desire to become the owners of six companies; they get together and they make what is called a trust deed or a trust agreement. That trust agreement recites the terms under which the securities are held; that is, the stock, the shares of these six constituent companies, are taken and placed in the hands of a trustee, who has no actual or real ownership, except that he is the custodian—the shares belong, accordingly, to the trustee, to administer the trust. That was the object of a trust, so far as it applied to corporate transactions. Let me

¹ See Mr. Allen, p. 1178.

try to make this perfectly clear. All of the stock of the six corporations is deposited with, say, one person, and that person issues a receipt, called a trust certificate, by which the person receiving the trust certificate is entitled to a defined interest, as therein stated, in the properties of those six companies, whose shares have been lodged with the trustee.

A trust was not a novel proposition when it was introduced into dealings in corporation shares. It was the application of an old principle of law to new conditions. The object of it was this: To keep people who had no business to know from knowing the secrets of that trust. That is the object of a trust (a perfectly innocent and a perfectly laudable object, in my estimation).¹ If they had formed one corporation and put the six constituent companies into one corporate body, it would have been heralded to the world, and the world would have had the right to go into the county clerk's office, or the office of some officer entitled and authorized to receive those papers, and to look at them. The object of the creation of the trust was to avoid that publicity, and therefore they had a trust agreement, which was deposited in the safe of the trustee, and nobody knew anything about it, except the beneficiaries—that is, the persons holding the trust certificates.

Now, if the learned chairman here had had an interest in one of these companies, he would have received a stock or a trust certificate, and that trust certificate would have entitled him to receive, at the proper time, dividends, and ultimately to receive his proportion of the principal. That would have been the right of the holder.

The beneficiary, or the *cestui que trust*, or holder of the trust certificate, had at all times the right to walk into a court of equity and demand that all of the business conducted by the trust should be opened to his eyes and should be accessible to his inquiries.

The only two large industrial corporations which resorted to that system, which I will call ancient procedure and ancient law, were the Standard Oil and the Sugar Trust.² Through the enforced decrees of courts, which declared such trusts monopolies and against public policy, they gave up the form of trusts and they assumed the form of corporations, and when the Sugar Trust divested itself of this exterior garment, and when the Standard Oil Company divested itself of its exterior garment known as a trust, it did not affect the vital body, it did not affect the corpus; it did not affect the real, substantial objects involved in the trust, but they simply put on other suits of clothes, and appeared in the community in the new garments.

The word "trust" must therefore be discarded in the discussion of these questions, now and forever; because the courts have set their seal of condemnation upon it, and they require that people who have in view the aggregation of capital shall now consummate it through the instrumentality of a corporation; and in discussing these questions we must dismiss this word "trust" as meaningless and useless.³

HOW GREAT A CAPITAL IS PERNICIOUS?—IN WHAT HANDS?—PUT TO WHAT USE?

We then arrive at the question as to what was the meaning and intent of Congress in the appointment of the commission, and what is the meaning and intent of the public discussion, which has gone on from one end of this country to the other, upon the question of aggregated capital. It means, so far as I comprehend the question—and I want to state it as broadly as possible, so that not even the most dilettante critic can find fault with the definition—that certain organizations, or certain people, or certain writers, contend that the aggregation of capital is pernicious or detrimental to the public welfare and the public good, and they therefore ask this commission, as they have asked the courts, under the legislation which is already existing, to come forward and help to forever stifle this evil.

Now, gentlemen, I want you to observe that the advocates of legislation against aggregated capital have not put their views into definite form, and there is the difficulty in discussing the question. Let me try to give to their vague theories a "local habitation and a name." Let me strive to make a postulate for the people who oppose aggregated capital that will form a basis of discussion—historic, moral, legal, or religious, if you please. Let me create an issue.

Aggregated capital is wrong, is pernicious. What is meant by that? There are three things that must be looked into in approaching this question; namely, (1) the amount of capital intended, (2) the person in whose hands the capital is vested, and (3) the use to which the capital may be put.

Now, let us follow this arrangement and see whether there is any intelligent basis made by these advocates, and I will put them all in one class—newspapers, political organizations, writers, and everybody else; is there any intelligent or sufficient information vouchsafed which covers these three important points?

¹ See Mr. Allen, p. 1173.

² See the plan of organization of the Whisky Trust, p. 136. As to the National Lead Trust, see p. 136. As to reorganization of the American Cotton Oil Trust, see Von Halle, Trusts or Industrial Combinations in the United States, p. 249.

³ See Mr. Allen, p. 1173.

First, the amount of the capital; second, the person who is to use the same; and third, the use to which the capital is to be put.

Now, let us see as to the amount of the capital. How much capital is pernicious? Is a million dollars capital, aggregated in the hands of a corporation, pernicious; or is 2 millions; or is 5 millions; or is 10 millions; or is 50 millions; or is 100 millions?

You can not discuss questions of proposed legislation unless you have fixed principles, and information to go by. You, sitting here as intelligent inquirers into the truth, going to the bottom of things, must have facts. You can not predicate legislation upon doubt and uncertainty. You must be able to say that a million dollars is pernicious, or 5 million dollars, or 20 millions, or 50 millions, or 100 millions. Which is it?

Those who oppose aggregated capital have never yet, so far as my observations are concerned, or so far as my research has gone, answered that question intelligently, or answered it at all. In fact, that is a problem which this body is left to solve upon mere hypothesis.

Then the second one; the person in whom the capital is vested. Is 100 millions of dollars more pernicious in the hands of a corporation than in the hands of a partnership; is 50 millions of dollars more pernicious in the hands of a partnership than in the hands of an individual? Will the opponents of aggregated capital answer these questions to this commission? They need not trouble themselves with answering them to me. Will they answer them to this commission?

Are you prepared to say, gentlemen, that you will allow an individual in this community to have 100 million dollars, but will deny the same right to a corporation? Now, let us see where that will lead you to. Let us follow this question down to a legitimate business result, and that is all I ask. Don't let us get into the realm of speculative discussion because I am here to "talk facts." Are you prepared to say that you will give an individual the right to hold 100 million dollars in his one pair of hands and you will deny that right to a corporation? Now, let us see where that would lead, if you have reached such a conclusion, which I do not believe that you have. The capital of a corporation is divided into many parts—shares and bonds, or one or both. The corporation capital would not be owned by 1 person; it would not be owned by 10 persons; it would not be owned by fewer than 1,000 persons; in many cases it would be owned by 10,000 persons—10,000 shareholders or bondholders of small capital and small means, who put their money into that concern for the purpose of reaping a reasonable rate of interest through the instrumentality of dividends, and in their belief that the aggregation should result in something profitable. Now, suppose you deny 10,000 people the right to participate in aggregated capital, and you afford that right to 1 individual who can congregate in his hands that vast and enormous sum of money. Would that be just or logical? I am giving no expression of my own humble opinion about these questions; I am simply opening up this subject, and showing you how difficult your mission is—to propose laws in the absence of such vital knowledge.

Very well; now, let us go another step: Third, what is the use to which the money can be put? Is it pernicious that 100 million dollars should be invested in railroads? Is it pernicious that 100 million dollars should be invested in transportation, canal companies, insurance companies, banks, and real estate; is that what they say? We have no light on this question. Has anybody appeared before this honorable commission who advocated laws which were calculated, as they say, to choke to death this modern monster called "aggregated capital" without giving some information upon this point? Has anybody come before this commission and given it data which will enable the reasonable mind to come to an honest conclusion in respect to the use to which capital should be limited? Will you say that a corporation can not put 100 million dollars in the organization of a manufacturing business? Will you say that it shall not put 100 million dollars in real estate? Will you say that a corporation formed in New York with 100 million dollars for the purpose of irrigating the lands in Texas or in Arizona is illegal, and at the same time allow 100 million dollars to go into the banking business or into the insurance business? Where is the line of demarcation to be drawn; where will you begin with the chalk, as Mr. Burke says, and mark the line that separates the pernicious from the commendable or proper employment of capital?

These vital points are not answered, so far as I have been able to see, and they must be answered before you can make any intelligent law; and the reason—and I shall approach that hereafter—why similar laws have not been executed is that they never were comprehensively studied by the legislators and the subjects profoundly discussed; but the legislators madly dashed to the work, threw ink upon paper, and called it a statute and legislation, and they asked the courts to enforce it—enforce a statute based upon doubt and guess and speculation and against the natural laws of trade and business.

I wish to impress upon this commission that I am searching for truth, as they are. I have no other motive; I will not allude to that again; but I have no other motive in addressing this commission except to get at the exact truth. Personally, it is immaterial whether you legislate against aggregated capital or whether you do not; it is utterly immaterial, so far as my personal interests are concerned. But I am here before you to-day as a citizen of the United States, proud of the country, desirous of doing everything to preserve its institutions intact, in their original spirit, to advance it in the estimation of the world, and in our own estimation.

AGGREGATED CAPITAL NOT PERNICIOUS UNLESS ACCOMPANIED BY MONOPOLY.

Now, let me again try to formulate some postulate for these people. They say that aggregated capital held by a corporation for the purpose of manufacturing or business or commerce is pernicious and detrimental to public interests. I can not undertake to give the language which has been used by some of the orators in portraying the dreadful future which is in store for this country if aggregated capital is permitted to exist. Adopting this formula: "Is aggregated capital in the hands of corporations detrimental to the interests of society?" On what grounds?¹

Q. (By Mr. JENKS.) Can you give us any authority in writing or any book, or cite us to any law of any State, that will uphold that proposition you have just laid down?—A. Which proposition?

Q. That aggregated capital in corporate form for manufacturing purposes or commercial uses is detrimental to society?—A. I can only say they do not put that in the statute, but if you will go back to the speeches anterior to the Sherman Act you will find that was the aim.

Q. The question was this, Whether in any statute passed by any of the States, or the United States, this proposition seems to be upheld? There may have been some speeches beforehand in which it was, but in all these statutes was not the proposition laid down that this aggregated capital must in itself become a monopoly?—A. I am going into that.

Q. (By Mr. FARQUHAR.) Is that not covered in the Texas case?—A. Yes, the Texas case; but let me answer. The legislation is drawn in general terms, but the theory of the authors of the legislation does not appear. Heaven forbid! Because there would not be room enough in the law libraries to put it in; but if you will go to the language of the courts which construe the statutes, and if you will go to the language of the legislators when they passed them, then you will find an answer to that question; and if you will go to the platforms of the various political parties, and if you will go to the speeches of the various political orators, you will find a perfect answer to that question.

Q. (By Mr. JENKS.) Can you cite us to any decision of any court that attacks aggregated capital in corporate form used for manufacturing or commercial purposes, unless the court goes further and finds that this capital is employed for the purpose of securing a monopoly?—A. No, I do not recall; but I do recall this, that one of the objects of your deliberation is to furnish the means by which the aggregated capital shall be forever squelched. That is what I am arguing about. Never mind the past. I will show you that the present laws do not amount to very much; not that I am speaking contemptuously of them, but I mean that these very laws, which I shall show you, are aimed against the laws of nature. When you legislate against the moon, you are getting a pretty difficult proposition to carry out—when you ask an injunction to compel it to rise a little earlier or to go down a little later. No, sir; I do not find any cases which hold that aggregated capital is pernicious to society, unless it carries in its train a monopoly, and that is just where I am going now.

Q. (By Mr. STIMSON.) The corporation statutes of a great many States do limit the amount of capital of corporations under the theory that the large amount is not taxed?—A. Yes, that is true; that is exactly true.

MEANINGS OF "MONOPOLY."

It is said that aggregated capital is pernicious because it creates a monopoly, and therefore we must advance one step further in the discussion, and try to discover what a monopoly is.¹ Definitions are the thing that you gentlemen want; they are like the landmarks on a dark night when you see the white stones along the road as you are driving your horses through perilous paths difficult to discover without some mark to go by. But if you allow yourselves to be overwhelmed in a sea of speculation, without any chart, without any definite notion of where you are going, simply drifting around, you will accomplish nothing. Therefore, arguing this matter as a lawyer, I am looking upon questions of definition as of primary importance.

¹ See Mr. Allen, p. 1179.

Now, "monopoly" has a legal, it has a grammatical, and it has a historical meaning. The legal and grammatical meaning of the word monopoly is the same; it must be. A monopoly, according to the dictionary, is the exclusive privilege of traffic—"the exclusive possession of anything as a commodity or a market." It is an exclusive privilege, resting in the hands of one person or corporation, to the exclusion of everybody else; and to comprehend a monopoly, you must be able to understand that there can exist no monopoly unless it is exclusive. That is the whole basis of it. This word monopoly received a significance, and a great emphasis, in the time of Elizabeth. She gave out, as Hume will tell you—and I am not going into that part of history, except to refer to it, so that if anybody wishes to pursue the subject he can do so—Hume tells us that Queen Elizabeth gave out these exclusive monopolies to various courtiers in return for favors. She did not incorporate companies; they were not heard of, not thought of, not dreamed of in her time; but she took John Smith and John Jones, and she said, "Hereafter, you are to have the exclusive privilege of manufacturing or selling tobacco in the Kingdom of England, and nobody else can do it;" and every dictionary will tell you that that is the present meaning of monopoly.

We lawyers, brought up on the milk of Blackstone, absorbed a prejudice against monopolies to such an extent that when you mention monopoly to a lawyer it is precisely like waving a red flag before a bull. It is a fundamental basis of a lawyer's education to oppose monopolies. But there have existed in this country, with but few exceptions, to which I shall refer, no monopolies since its organization, and therefore the use of the word monopoly, in the legal and in the grammatical sense, must be discarded from this discussion; it has no business here; it has no technical meaning when applied to aggregated capital.¹

But there are two monopolies which may still exist. There is a monopoly in patents. The people of the United States have seen fit to say that when a man invents a process, which goes through the ordeal of the Patent Office, and is regarded as being a practical invention, he shall have the privilege for 17 years of using it for his own sole and exclusive benefit.

In all their furious denunciations, in all the extreme criticisms to which the opponents of aggregated capital have gone, I have not seen any suggestion that we should repeal the patent laws. So that if someone were to discover a process by which he could make a loaf of bread out of a stone for 1 cent, and he would ruin every baker in the world and ruin every miller in the world, there is not one voice which would be raised against the granting of such a patent. And yet the patentee would, Jove-like, armed with thunder, have in his hands all that tremendous power, directly from the Government of the United States itself; before which power the monopolies granted by Queen Elizabeth to her favored courtiers would sink into absolute insignificance.

That is the kind of monopoly that exists; and in your deliberations, gentlemen, you must very carefully weigh this question—as to how far you can restrict the use of capital in the aggregated form on the one side; and at the same time allow these extraordinary patents, becoming more and more extensive as science advances, to be issued by the Government on the other.

There is another species of monopoly, and that is a monopoly in the form of a special charter granted by a legislature or by the National Government. That is a monopoly in a certain sense. But it is of no great importance in this discussion, because, by force of constitutional provisions, every special charter which has been granted within the last, I should say, 25 or 30 years—I do not want to be put down as if I were actually accurate, but within the last 25 or 30 years—I think every constitution has given the legislature absolute authority to peremptorily revoke charters, so that no great detriment can occur to the community through their instrumentality.² And, as a matter of fact, almost every State, if not all, has laws which enable people to become incorporated companies through their general laws; and it is unnecessary to apply to the legislatures for special charters, except in extraordinary cases and when a special application seems to disclose a peculiar merit in the enterprise. So there is nothing to call for special remark about special charters.

We come, therefore, to the consideration of another kind of monopoly—one growing out of existing conditions, and the meaning of which one can not find in his dictionary; and we must discard legal, grammatical, and historical monopolies from this part of the discussion. Driven out of the position that aggregated capital is a technical monopoly, its opponents have assumed another one, and there has been created what I shall call a resulting monopoly, a monopoly in fact, and that I would define to be this—that while aggregated capital or individual wealth or partnership wealth

¹ See Mr. Allen, p. 1180.

² As to the power of the legislature of Delaware, see Mr. Smith, p. 1120.

was not seeking, through the instrumentality of a license or a special prerogative from the Government, to exercise certain privileges, to the exclusion of all other people, yet that the influence of their wealth was so great that it amounted to a virtual monopoly. This is a monopoly in fact—a monopoly which results from a condition of things existing. Now, that is the monopoly with which we have to deal, and which you have to discuss, and about which you have to undertake to legislate. That is a monopoly in fact, a new monopoly not alluded to by any legal writers so far as I remember, or so far as I have been able to find, but a new meaning to the word "monopoly" which has grown out of this modern cry against corporate capital, and it is claimed that if the aggregation of corporate capital is accomplishing the same thing as a technical monopoly, it ought to be suppressed.

HISTORY OF PARTNERSHIPS, LIMITED PARTNERSHIPS, CORPORATIONS.

This brings me to another proposition, and that proposition is this. That the aggregated capital of which I have just spoken is the natural result of commercial conditions; not only the natural result, but the necessary result of existing conditions. And when you undertake in your deliberations to legislate about this monopoly in fact, remember that I claim here—I may be wrong, my individual judgment may be wrong—but I am going to give you the reasons for it, and you will see whether they appeal to your judgment or not. I claim that aggregated capital is the necessary and natural handmaid of advancing commerce; that we should never have reached the colossal developed condition in which we find ourselves unless the instrumentalities of aggregated wealth had aided it.

Now, that is my argument, and I am going to prove it in this way. I am going to show you the history of general and limited partnership; I am going to show you the history of corporations. I am not talking at random; I am talking by the book. I am talking by the card of history. If history misjudges; if we can not consult history with any degree of safety, then all of my argument must fall to the ground, and the fabric which I am endeavoring to raise here must crumble into dust.

The question of partnership is the one which I will first discuss. The communion of goods among two or three or more men can be found clearly and satisfactorily so far back as Grecian history. You will find that in Greece they had what was called a communion of goods. Two men figured that their individual efforts would be made more satisfactory by the combination of putting their goods together, and they formed what was called the communion of goods; that is the equivalent of the Greek word in English, "communion." Partnerships existed and held their way down through the various gradations of universal history and society until we reach our English history, from whence we draw all our laws and our customs and institutions, and, in fact, almost everything else of value in our national life. These partnerships answered their purpose as long as partnerships were found to be fit and proper instrumentalities; and when they did not why something else was discovered. A partnership was all very well so long as it could furnish nutriment for advancing mercantile and commercial affairs; but you can see at once, when I explain the disadvantages of partnerships, that when we began to develop and unfold this colossal country (and this development is alone answerable for all the alleged sins of aggregated capital), when we got to large affairs the partnerships would not answer.

There were three distinct characteristics in every general partnership. In the first place, each partner was liable for the debts; that fact circumscribed its operations and utility. John Jones and John Smith entered into a partnership, and John Smith was answerable for all the debts, so that John Smith might have put \$100,000 into the partnership and John Jones would bring the firm in debt to the amount of \$500,000, and John Smith was liable; that was one of the disadvantages of partnership.

Another disadvantage was this, that when one of the partners died the business was at an end. Death dissolved the partnership, just as it does marriage, and although the firm might have been in the midst of a flourishing business, the death of one of the partners immediately canceled it and stopped it, and prostrated the business.

Of course, I remember that lawyers have undertaken to provide for the continuation of a partnership after the death of one or more of the partners, but about this attempt at continuation the average man argues in this wise: "Well, I don't want to continue after my death; I have a widow and children," and all that; and there were innumerable difficulties that you gentlemen understand yourselves from practical experience. Of course, when you undertook to grapple the problems of advancing American commerce with the instrumentalities of a partnership capital it would not answer at all.

Then there was another element against the partnership, and that is that you could not bring a suit against the partnership without suing each of the parties, which was very disadvantageous. You could not sue one partner only for a partnership debt; you had to join them all, and serve them all, if you wanted an individual judgment. These disadvantages and the increasing demands of commerce required us to advance a step farther, which we did.

In Pennsylvania, I think, the first step was taken toward the introduction of a new and expanded system of capital, and it was called a "limited partnership." These were originally drawn from the customs and laws of Italy, and then transplanted into France, where they were known under the name of *en commandite*, and they were subsequently introduced into the United States.

Let me explain what a limited partnership was. I do not mean that you do not know, but I want to explain it as a part of this discussion. A limited partnership was a method by which a man entering into a commercial or manufacturing business could limit his liability. If two gentlemen wished to enter into a partnership, and one did not want to engage in active business, he could advance, say, \$100,000 to his associate, who was the general partner, and escape liability, by filing a certificate in the proper clerk's office that he was a special partner, and making a publication in the newspapers and having it put on the sign that he was a special partner. The result of which was that he was enabled to engage in a business without individual liability beyond the sum that he advanced in the inception of the enterprise, and the whole responsibility was thrown on the general partner.

Now, in France, and in Pennsylvania also, to a certain extent, I believe, they allowed shares—certificates of stock—to be issued against the interest of the partners, so that this partnership became a species of quasi corporation. The limited partnership only existed for the time mentioned in the articles of copartnership, but the interest of each partner might be segregated into shares and negotiated in the form of a certificate of stock. They allowed them to be issued very largely in France, and there were some very extensive litigations there, which you will find recorded in *Troubat* (Law of Limited Partnership), if anybody has a desire to investigate the subject. Yet you can see that the system of limited copartnership furnished but a very meager contribution to the advancing wants of commerce.

The ingenuity of the Americans was great enough for the occasion, and out of those necessities there came the commercial corporation. The commercial corporation as it exists to-day was never developed in any substantial form previous to the year 1850.

You will find that the first book on corporations was published in 1793 by Kyd. But it was altogether limited to questions of municipal corporations; and if you take the books of Watkins and Grant on corporations, and all the other literature on corporations, you will find that up to and even in the first American book of Angel & Ames, which was published in 1831, there is hardly an allusion to our commercial corporations; and it was not until about 1850, when commercial corporations came in vogue, that one discovers any legal literature upon this subject. The first manufacturing act in the State of New York was passed in 1848; it was known as the "Manufacturing act." I think that in Pennsylvania there was an act passed a few years later, and in Massachusetts there was also a general manufacturing act. I do not know the date, but about that time.

When the railroad system of the country was introduced and began to be used we discovered that the commercial and manufacturing corporations gradually came into vogue, the one following closely in the wake of the other; and, through the instrumentality of general laws, 3 or 4, or 10 or 12, or any number of persons, might get together and file a certificate and become a corporation. The tendency of corporations, or the tendency of legislation, was at first to narrow the limits of a corporation; that is, the amount of capital which they were allowed to have; and you will find, if you consult the law, that in almost every instance previous to 1860, when the war broke out, the several States placed limitations upon the amount of corporate capital. That restriction gradually disappeared until to-day, in most of the States, in almost all of what we call the commercial States, there is an unlimited amount of capital allowed, so that several individuals may now get together and form a corporation and do business with an unlimited capital.

Now, one of the most important elements in the discussion of this question is to understand what a corporation is, and therefore I come to another, the third definition, I think, which I have used this morning, and I will take Blackstone's: "A corporation is an artificial person created for the preserving in perpetual succession certain rights, which being conferred on natural persons only, would fail in the process of time."

ADVANTAGES OF A CORPORATION.

Let us see what the essence of a corporation is and how capital and business shifted from a general partnership, at first into a limited partnership, and from a limited partnership into a corporation. Take the legal history of partnerships, limited partnerships and corporations, on the one side; take the history of commercial expansion; take the history of territorial expansion; take the history of railroad expansion, on the other, and you will see what necessary aids they were to each other, and how, as handmaids, they marched together toward the goal of commercial, territorial, literary, moral, and religious development which the Almighty has destined us to reach in this country.

A corporation has certain functions, and let me show you what they are:

First. It has perpetual succession; that is, its existence is unbroken and uninterrupted down to the time when it is to expire by limitation. You can now incorporate a company for 1,000 years, if you wish, or 50, which is the period generally followed. A corporation may consist of 1,000 individuals; many of them do. To-day the New York Central and the Pennsylvania have each many thousands of stockholders. They die; their descendants die, but the corporation is unifying. This result of copartnership could not accomplish, neither a general nor a limited one.

What is the second? The second quality of a corporation is that a stockholder is not liable for the debts of the corporation. This was, therefore, as you gentlemen can see, one of the most attractive forms of carrying on business. It enables you, Mr. Chairman, it enables Mr. Phillips, and enables every gentleman in this room to agree to go into a business and to put in five or ten or fifteen, a hundred thousand dollars, or any other sum, and you know the limit of your liability. This was the feature that appealed to business men. They knew that when they went into a corporate enterprise their responsibilities were limited, which could not be in the case of partnership.

And another thing, which was of the highest importance, was the transmutability of their interests. They could sell or transfer their interests in the corporation to others. Every contributor to the capital stock of a corporation received a certificate of stock; that certificate of stock he put in his pocket; it was personal property, and he sold it in the markets or he gave it to his children, but it was there in a tangible, neat, and easy form, for him to use as an admission that at all times he had an interest there, and that his liability was fixed by that certificate of stock. This could not be done in a copartnership. A sale could not be made, because it was predicated upon personal and peculiar reasons. In the development of large enterprises certainly nothing could be happier than the conception of a corporation; certainly nothing could be better. The men who originally went into them, who were the pioneers in the formation of our commercial and our manufacturing corporations, and our railroad corporations, and our insurance corporations, who have all long since passed away, were shrewd, bright and skillful merchants. In adopting this system of business it enabled each man to sleep easily; it enabled each man to limit his liability; it enabled him to have his certificate of ownership in his pocket, and enabled the corporation itself, which was an entity, a legal entity, to carry on a great enterprise, without any regard to who the stockholders were, or whether they were dead or alive, except as they contributed to its success through the instrumentality of choosing proper boards of directors and officers to manage its concerns.

Now, in regard to the capitalization. They raised their capital by the issuing of shares of stock and bonds.

In this connection I have to speak about something that is of the utmost importance in this discussion and its effect upon your labors—something that I regard as one of the greatest and cleverest devices ever created by man to collect and aggregate capital. I allude to railroad and corporation mortgages, by which thousands of persons poured their money, small or large, through various channels, into one common treasury of the company; all the vast capital necessary to run these great enterprises being the aggregated contributions of many small and large amounts.

If you will reflect, there is no individual who is capable of loaning a very great amount of money on mortgage, to one or more persons, or to a corporation; or, in a word, to make one large individual loan. If it were possible for him to do it, it would not be good policy, and the largest mortgage, I think, that has ever been created—the highest individual mortgage in the United States—was not greater than \$3,000,000, and that money was loaned on real estate, I think, in New York, by one of the large insurance companies. A man with \$4,000,000 or \$5,000,000, or with \$20,000,000 or \$30,000,000, does not care to put that amount of money as a loan in one place on one piece of property; as they say, it is putting too many eggs in one basket. He would go to a million—probably he would go to two millions—but when you get up to four or five millions it is not a practical thing.

Now, see what the ingenuity of man has accomplished, and an American, too, because I believe that the first railroad mortgage secured by bonds as collateral emanated from Philadelphia. It is necessary to know what a railroad or corporation mortgage is, and how it is arranged. A company makes a mortgage, say, for \$50,000,000 on its property to a trustee. Who would, or could, advance \$50,000,000 in one transaction? Why, the wealth of the Astors, the Vanderbilts, the Rockefellers, and Pierpont Morgan, and all those families, and men whose wealth has now become common talk, and is spoken of every day as being so colossal, even the combined wealth of all of these families would be but a drop in the bucket, as it were, if they should undertake to carry out without other aid the gigantic corporation enterprises developed in this country. Hence they create a corporation mortgage, which secures bonds: one mortgage of, say, \$100,000,000; you will find plenty of them now; bonds are made, sold, and distributed all over; 500 in your hands, 500 in his, 10,000 here and 10,000 there, and through that instrumentality—of a railroad bond or a corporation bond—all this colossal capital is raised, which enables us to carry on these extraordinary railroad, industrial, and commercial enterprises, using the money of the many and not of the few.

OVERCAPITALIZATION—WHAT IS IT?

And in this connection I wish to speak on the subject of overcapitalization. In reading a book, which is supposed to contain the proceedings of the Chicago Trust Conference (a conference held in Chicago this autumn), I find that a great deal has been said about the subject of overcapitalization. Capitalization is of two kinds; there is a capitalization based upon the actual value of the property and a capitalization based upon the earning power; these are the two methods. You will find two classes of people in this country—one in favor of the former method and one in favor of the latter. They both have their adherents. I confess that my mind is somewhat of a blank about the matter, because arguments can be made in individual cases that prevent the adoption of any uniform rule, and with the experience that I have had in creating corporations and in putting them in legal shape I have no opinion defined, certain, and fixed of the question as to how the capitalization should be based; because I say that each case presents peculiar circumstances, which absolutely make it impossible to adopt an unvarying rule. If you capitalize a property for what it is worth, a manufacturing business or a railroad business, the appraisers whom you will appoint enable you to fix the value of that property at, say, \$50,000,000. Now, on the other hand, you have a property that is worth only \$5,000,000, but by what is called good will and trade-marks, or individual skill, etc., it earns more money than the property of \$50,000,000. You gentlemen have seen that illustrated in your daily business lives.

Now, how shall these two interests be capitalized? You have been asked to lay down an arbitrary principle and rule by which capitalization is to be predicated upon the actual value and there is to be no water. Well, it is so easy for men to get up and make statements on a political platform; they are under no obligations to anybody but their consciences, and they can cut themselves loose from history and experience; they can sail off into the clouds and lay down any proposition, no matter how difficult, vague, and impracticable.

INFLATED CAPITALIZATION SOMETIMES NECESSARY.

Much complaint has been made against overcapitalization of railroads. Let me give you a little bit of history in regard to railroad building in this country. Some of these railroads were partially subsidized by the Government—the Pacific roads, for example—but all of these vast transcontinental lines, which made it possible for us to reach California and the far West in a very short period, were built by English capital; and when I say English capital, I mean the financing was done through the English houses, with their German and other foreign connections; but it was not American capital; we did not have the money, and we could not build the railroads.

Now, sirs, as you sit in your chairs in judgment fixing a basis of capitalization, you must remember the contemporaneous history which surrounded these large operations. Now that the roads are built, now that the country is developed, now that you have these flourishing cities all over the continent growing larger every day, it is very easy to forget the past; but when you speak of the enormous capital of the railroads, the enormous capital of these transcontinental lines, remember how they were built, and tell me if there was any other method of building these roads than the plan adopted by the railroad builders or contractors of this country, situated as they were at these times? And what was their situation? Here was, say, a contemplated line from New York to Chicago, 25 or 50 years ago, or from New York or

Chicago to San Francisco, or to New Orleans, or wherever your imagination will lead you; how were you to raise the money? Not from the Government. It was not the policy of this Government to give the money. The savings banks would not lend you the money; besides, at those times they did not have it. It was raised by private subscription. And how could you get the money? What did you do? You had to go around with the engineer's maps and with the estimated earnings that were to be produced from the operations of your road. And how did you approach capital? Would I come to you, sir, as a capitalist and say, "Will you take 10,000 of these bonds at par," on an incomplete road, when you did not know whether it would earn one dollar of interest or not? No, sir. Put yourself in the position of the railroad contractors of this country when you are talking about inflated capital, and see how it could have been avoided. What did they do? Why, they offered a hundred shares of common stock as a bonus, or some other bonus, and they sold the bonds at 50, and 60, and 40, or whatever they could get for them. And there was no other way of doing the business. And unless they had sold the bonds your country would not have been developed.

Now, before you dissolve, call before your commission the men who talk about overcapitalization, and examine them; get at the facts; go to the bottom of things, and then tell the people of this country how this overcapitalization came to be made, and the exact facts and circumstances that existed and surrounded the creation of our railroads, and don't forget to tell them what these railroads have done for the development and advancement of this country and the American nation.

I am not defending inflation. I am speaking of the facts. I am giving you the facts, and I am showing you that there was no possibility of money being raised except through the instrumentality of these large bonuses. Well, many of these railroads that were given away almost have now reached a success far beyond the dreams of the original founders. They have been recapitalized, and recapitalized again, and are paying handsome profits on each investment. The development of the country has been so great, the business has been so enormous, that people who invested in these securities in early times have amassed colossal fortunes. If you take engineers, and go over the track of the New York Central and the Pennsylvania Railroad, why, they may perhaps tell you they can build the roads for less money than they are capitalized at. Perhaps they can. They may build either line for one-half, but they could not have done it at the time the roads were built, nor could they build a railroad to-day upon an actual hard cash basis. You can draw a projected railroad line; you can project a railroad from one point of this country to another, but you can not get people to invest money in it when it is new and undeveloped unless there are extraordinary temptations to them. You will not put your money into a railroad that has not been built and pay par for the bonds, even if they carry 6 per cent interest. Now, be practical in your deliberations; don't be less human than your fellow human creatures, and you will get at the right results.

I think that that is an answer, that is an explanation, which shows the origin, the accretion, and the development of capital. I have given you the history of it from its beginning down to the present time.

THE LAWS OF NATURE ARE ENOUGH TO PREVENT A LASTING MONOPOLY.

I come, then, to the gist of the subject, and that is the question as to whether these corporations for manufacturing purposes, or for commercial or industrial purposes, whichever you may prefer, are monopolies. I have shown you their development. And I claim, as a matter of fact, that they are not monopolies. I say, in the first place, that unless you license and give superior privileges to a corporation, that corporation is not a monopoly or enabled to be a monopoly. You may put your hand, perhaps, upon one or two corporations—large, gigantic corporations—in this country that to-day are monopolies in fact. Are they given superior facilities to accomplish that result? Have they received accommodations which are denied to other people? Are they thriving upon any national or State law which protects them as against others in the same business class? Are they the possessors of franchises through the instrumentality of contracts with railroad companies which are denied to others? If they are, a law which would put everybody on an equality—and that is what people want—would not in my judgment be wrong. If any corporation in this country occupies a superior position, stands on a higher eminence, than any other corporation or any other body of men, the privileges which belong to it should be taken away from it, if it does not involve the right of contract, which is a sacred right. I do not know what has transpired before this commission. You may have evidence in your possession which shows that discriminations have been made, that discriminations exist. If they do, why, I think it is within your province to suggest some remedy.

I have two or three more propositions upon this question of monopoly in fact, or resulting monopoly. They are not theories of political economy, but are facts—because I do not intend to enter into the sphere of political economy in this discussion; it is not my province. The province of a lawyer is to keep to the facts as far as it is possible, and that is what I am trying to do.

First. The natural laws of trade, the natural laws of commerce, form a sufficient and perfect barrier to prevent or break up most monopolies. That, I say, is not a proposition of political economy; it is a proposition of fact, which I shall prove, otherwise it is entitled to no weight. Every effort—and I know of several within my own knowledge—that has been made to "corner" an article of commerce, has failed. You remember the pools in wheat and corn. Two colossal attempts to corner the breadstuffs of the world were made in very recent years; and you know the result. Men can choke the arteries of commerce for the time being, but the natural stream of trade will soon overflow their plans, and even when they think they are in possession of the supreme power, the laws of trade are taking it away from them.

Before you undertake, therefore, to legislate against monopolies, be sure that you have defined what a monopoly is, and be sure that you do not overlook the historical facts, which show that every attempt ever made to corner or monopolize breadstuffs or any other article of commerce, of this, or any other country, has failed, and reacted upon its authors, and they have been ruined. Leave the natural laws of trade alone, and they will take care of themselves. You may be in the hands of a monopolistic power for a little while, but the revulsion will come, and when you make general laws, aimed to strike at a single and isolated case, you do more harm to the community than a temporary monopoly works, formed by bad men with the evil design to throttle the commerce of the country. "Hard cases make bad laws."

Second. There is another principle to which I invite your attention in regard to monopolies—that wherever business is conducted in such a way as to cease to be conservative it becomes a mark for other capitalists, and the legislator can leave it alone to the outside world to take care of.

Do I make myself plain? Here is a vast corporation, with a capital of \$50,000,000, and it owns every business of that kind in the world, or in this part of the world. If the managers undertake, with all that power in their hands, to depart from conservative principles—if they undertake to raise prices, the outside capital which is at hand will respond. That capital is invited into the field, and you have the competition which the opponents of aggregated capital regard as essential to just business conditions. Take one—perhaps the most remarkable instance of this view—the so-called "sugar trust." It owned pretty much everything when it started, and what was the result? First one refinery and then another sprang up, until you find a bitter and deadly fight and competition going on which must satisfy the bitterest opponents of aggregated capital. Is there not the most murderous warfare going on in that industry? Are there not new refineries springing up, and isn't it impossible to keep them from springing up? Do you want laws to effect results which nature brings about so well? While you are thinking of making statutes, the natural laws of trade are silently working and pulling things to pieces. I am constantly reminded of the compactness and strength of the Standard Oil Company. I admit that good management, brains, and skill have kept it compact and strong; but it has not yet run its full course. If it is a monster of oppression, wipe it out. But remember that you are legislating, not against its leaders, who can take care of themselves, but against the thousand innocent people who constitute its stockholders.

Again, industrial aggregations need no legislation to-day.

Their creation is temporarily stopped by natural conditions. Can you raise money to-day for these industrials? No. Why? Because the market is overcharged.

Legislate! Why, you may as well undertake to regulate the tide of the Potomac River as to fix by principles of law the rules of supply and demand, which operate in regard to monopoly. Keep the money market as it is to-day, and you will have no more industrials built on old lines. You will become *functus officio* by virtue of natural conditions. Your commission will cease to be necessary by virtue of the very laws of trade which you are asked to guide and control.

Not that I wish to see you go out of existence; I would continue you and your successors forever. A commission of inquiry is the instrumentality that stands between extravagant and demagogic demands and good, sensible, business judgment, and the true interests of the people. It is the tribunal through which every question of currency or interstate commerce, and other great public subjects, should pass. Conclusions filtered through a commission must be based upon facts and not speculation; and when this period arrives, the people will not see any Sherman antitrust acts, or multitudes of other laws which exist unexecuted, upon the statute books, and make the law a byword and a reproach. The inability of courts to carry them out and

give them effect is because they are not based on any reasonable or sensible principle of legislation.

Again, nor do you, gentlemen, want to interfere with combinations of capital, made successful by ability, skill, and good business judgment. If a combination, through good management of its directors, without violating any law, either moral, religious, or civil, is able to reach success in business, you don't want to be urged on by feelings of envy or prejudice to cut it down or to uproot it. If you find, in considering this question, that the combination of skill and good judgment in business has brought about a successful result, I say all things prompt you to encourage it, rather than to discourage it, and if you can do nothing better, you should let it alone.

THE NATURAL LAWS OF COMMERCIAL RELATIONS DEFY HUMAN LEGISLATION.

There is another proposition which I wish to suggest to you, that it is neither within the power nor is it the policy of the Government at this stage of development to seek to put down or impede aggregated capital. As to its power, I shall say a few words later on. As to its interest and policy, I contend that the Government should encourage every organization, every combination, and every individual whose efforts are used toward the benefit of commerce or business, or which directly or indirectly ameliorate the burdens of life. It is not true business judgment to pull down industrial structures at the bidding of a few—shall I call them speculative politicians?—who have no actual business experience, who have no accurate knowledge of the laws of finance, economy, or commerce, but whose whole stock in trade consists of a pack of vituperative epithets and a string of generalities, which they use to encourage demagogism among the masses of the people.

And this brings me to another point, viz, the futility of legislation made against the natural laws of trade or business.

I maintain that the history, the legal and judicial history, not only of this country, but of England, shows that all laws that have been made to prevent combinations of labor, to prevent combinations of manufactures, to prevent combinations of produce or breadstuffs, or to prevent what I may in a word call the free and unlimited exercise of commercial relations, or to prevent speculation in cereals or stocks, have been ineffectual and abortive, every one of them, and I defy anybody to point me out in English or American history any statutes, which have been passed to prevent these combinations, that have proved effective. And the simple reason is that the laws of trade, the natural laws of commercial relations, defy human legislation; and that is all there is in it. Wherever the two clash the statute law must go down before the operations of those natural laws. I could begin back as far as the reign of the Edwards in English history, and trace the statutes that have been passed against combinations of labor, against the combinations of the owners of produce, combinations of the purchasers of or dealers in breadstuffs, and I can show you that in every instance these laws have been abortive. Whoever has the desire can find plenty of these instances in history. I will select a few examples of the truth and foundation of my remarks.

First. The laws against forestalling, regrating, engrossing:

The offense of forestalling was described by statute passed in the reign of Edward VI to be the buying or contracting for any merchandise or victual coming in the way to market, or dissuading persons from bringing their goods or provisions there, or persuading them to enhance the price when there, any of which practices makes the market dearer to the fair trader.

Regrating was described by the same statute to be the buying of corn or other dead victual in any market and selling it again in the same market or within 5 miles of the place. This was supposed to enhance the price of provisions, as every successive seller must have a successive profit.

Engrossing was the getting into one's possession or buying up large quantities of corn or other dead victuals with intent to sell them again. These offenses are all described in Blackstone's Commentaries, and are thoroughly familiar to the legal profession. In respect to the offense of engrossing that author says: "This must of course be injurious to the public by putting it in the power of one or two rich men to raise the price of provisions at their own discretion."

All the statutes of Edward VI in regard to regrators, forestallers, and engrossers, as well as many other similar statutes which infringed upon the freedom of commerce, were repealed in 1772 as detrimental to trade by a statute of George III, the preamble and substance of which is shown in the following extract:

"Whereas it hath been found by experience that the restraints laid by several statutes upon the dealing in corn, meal, flour, cattle, and sundry other sorts of victuals by preventing a free trade in said commodities have a tendency to discourage the

growth and to enhance the price of the same, which statutes, if put into execution, would bring great distress upon the inhabitants of many parts of this Kingdom, * * * be it therefore enacted that an act made in the third and fourth year of King Edward the Sixth, entitled an act for the buying and selling of butter and cheese; and also an act made in the fifth and sixth year of King Edward the Sixth, entitled an act against regrators, forestallers, and engrossers; and also an act made in the third year of Philip and Mary, entitled an act for keeping milch kine, and for breeding and rearing of calves; and also an act made in the fifth year of Queen Elizabeth, entitled an act touching badgers of corn and drovers of cattle to be licensed; and also an act made in the fifteenth year of King Charles the Second, entitled an act to prevent the selling of live, fat cattle by butchers, and so much of an act made in the fifth year of Queen Anne, entitled an act for continuing the laws therein mentioned relating to the poor, and to the buying and selling of cattle in Smithfield, and for suppressing of piracy, as relates to butchers selling cattle alive or dead within the cities of London and Westminster or within 10 miles thereof, and all the acts made for the better enforcement of the same, being detrimental to the supply of the laboring and manufacturing poor of this Kingdom, shall be, and the same are hereby declared to be, repealed."

And in this connection, I beg to call your attention to what was known as the "Bubble act," which was passed in the reign of George I.¹ The "Bubble act" grew out of the South Sea speculation, and in some aspects it was one of the most remarkable instances of speculation in the world, almost outrivaling Law's famous French scheme. The "Bubble act" was passed about 1718, and it undertook to prevent a recurrence of the losses to the English nation sustained through the instrumentality of the South Sea bubble. I won't stop to explain what the South Sea bubble was. You gentlemen know, or if you do not, it is easy to find a history of it in any ordinary library. But the statute, the bubble act, was passed to prevent prospectuses being issued of a kind which would seduce capital into speculation. It was supposed that so many people had lost money through the instrumentality of these prospectuses, which were gotten up in the most glaring form, that it was necessary to have a law; and they passed that law of George I, in which they made it a crime for anybody to print and publish or circulate any descriptions of enterprises for the purpose of alluring capital to subscribe. That statute remained in existence more than a hundred years. I think it was repealed in 1837.

There was but one application made to the court under it, and that was made to Lord Ellenborough in 1808. I have brought the law report here because it illustrates the first trust, what they call a trust, a common-law trust, which was the method followed in that instance. The attorney-general, at the solicitation of a private person, asked the court for an information, which is a criminal process in the nature of an indictment, issuing at the instance of the attorney-general. It seemed in that case that the "promoters" of the enterprise were endeavoring to raise money to float the "London Paper Manufacturing Company," a concern that would answer to what they now call the "Paper trust," and also the "London Distillery Company for making and rectifying genuine British spirits," which would answer to the present combination popularly called the "Whisky trust." These were perfectly legal occupations and perfectly legitimate industrial enterprises; but the prospectuses were contrary to the "Bubble act," and some person, prompted by feelings of malice or envy or what not, some illegitimate influence operating upon him, applied to the court to put in existence that statute 87 years after it had been passed. It had never once been heard of before, had become a dead-letter statute, and Lord Ellenborough said substantially, "Well, the people of this country have forgotten all about the existence of that statute, and the complainant comes into court in such a peculiar position that I will not grant him any relief;" and that was the last that was ever heard of that statute, which was the culmination of the South Sea bubble.

The crime that these men were charged with, or attempted to be charged with, was this: that they claimed in the prospectus that every person who subscribed to the capital would get a share which was transferable, and relieve him from all liability beyond the amount of his subscription; and as there was no corporation act in England at that time, the representation was false, because they were all partners, and that was the basis on which an application was made to the court.

This case in 1808 illustrates that the stage of commercial progress had not been reached which justified the creation of corporations, and, being in advance of commercial necessity, it was stamped as illegal, although the businesses involved were perfectly legitimate. It was sought to be carried out through the form of a trust, but neither the courts nor the statute condemned that form; they merely condemned

¹ 19 East's Reports, p. 517

the transaction because the age had not yet sanctioned stock certificates. The age had not yet learned to look upon the importance of transferring interests in industrial enterprises, one of the most important and necessary elements of commercial affairs, without which to-day the wheels of finance would be stopped. Mark the importance and interest of that case. The "trust" was not attacked—now the sole cause of discontent—but the transferability of shares—now universally acquiesced in.

Second. Combinations among victualers or artificers to raise the price of provisions, or any commodities, or the rate of labor, were also in many cases severely punished by particular statutes. (See 2 and 3 Edw. VI, c. 15.) All of these statutes were repealed as futile and contrary to the true commercial progress of England.

Third. Monopolies were also attacked. Queen Elizabeth granted them, but in the beginning of the reign of James I Sir Edward Coke boldly and justly assailed them, and in consequence a statute was passed in the same reign declaring monopolies to be contrary to law and void. The Queen granteth and the Parliament taketh away; and blessed is the name of that Parliament.

Fourth. I now call your attention to "Sir John Barnard's act," which grew out of an enormous speculation in stocks. After the East India Company had gotten under way and the Bank of England was established there was an enormous speculation in stocks, and Sir John Barnard's act was passed for the purpose of preventing these speculations. Well, that act was to forever rid the English nation of the curse of speculation. A lovely and commendable purpose. But, what was the result? Speculation increased. There was not a solitary conviction ever had under it, so far as I can ascertain, and it remained on the statute books down to the early part of the reign of the present Queen, when it was repealed, and I quote the preamble to the repealing clause to show what a confession the British Parliament was forced to make as to the inefficacy of such legislation:

"Whereas an act was passed in the seventh year of the reign of King George the Second, chapter 8, to prevent the practice of stockjobbing, and by another act, passed in the tenth year of the said King's reign, chapter 8, the said first-mentioned act was made perpetual; and whereas the said acts impose unnecessary restrictions on the making of contracts for the sale and transfer of public stocks and securities, and it is therefore expedient to repeal the same: Be it enacted * * * the same are hereby repealed."

Statutes prohibiting stock speculation were also adopted in New York and Pennsylvania, but have long since been repealed, after lingering ineffectually upon the statute books. The law in New York, which was in existence from 1812 to 1858 without any deterrent effect upon the supposed evils it was passed to prevent, was not only repealed in the last-named year, but the repealing law, recognizing the necessity to commerce of stock trading, went further and absolutely legalized "short sales."

Fifth. The most notable example, however, of this species of legislation is to be found in this country, and it grew out of speculations in gold which caused an enormous agitation and excitement in Wall street, as you gentlemen can remember from history, perhaps some of you personally. This speculation in gold finally collapsed on what we know over in Wall street as "Black Friday." The effect and influence of the speculation in gold, it was thought, was so detrimental to the interests of this country that Congress was invoked to pass a statute to prevent it, and they promptly did it; they passed a statute in 1864, in June of that year, which you will find in the United States Statutes, by which it was made a crime for any person to sell and deal in gold unless he was the owner of the coin.

Now, what was the effect of that statute? So absolutely ineffectual, futile, and absurd was the legislation that gold went up 30 points the next day, and 15 days afterwards, by the same Congress, the act was repealed because it was regarded as being absolutely detrimental to the interests of the country. Some enthusiasts, if you will call them by that mild name, saturated Congress with the idea that there must be legislation. "Give us legislation" was the cry, and Congress succumbed into the arms of her new love, with the effect that gold advanced, and they repealed the law in 15 days. A legitimate effect of legislation against the comet.

QUITE STATUTES ENOUGH—THE COMMON LAW SUFFICES.

Sixth. Now, I bring you down to our own immediate legislation—what I call our own legislation—against aggregated capital, and I draw your attention again to the antitrust act of 1890.

That act was passed in 1890. Now, I am not going to analyze or discuss it. Why are you here? Why are you gentlemen sitting here and deliberating if you have

already on the statute books an act, drawn by an astute statesman, which illegalizes all combinations, making it a misdemeanor to have combinations in restraint of trade? Why do you want more legislation? Isn't that statute enough? Will you vary the language of that statute? If yes, how will you vary it, and what amendments will you make to that legislation which will conform to the principles of Federal jurisprudence and the principles which appertain to this Government in its relation to the different States?

Again, you have the State statutes against "trusts." I won't cite them; I put them on the record before you. Examine them and you will see their inconsistencies; you will see how one State murders one industry and encourages another, how one undertakes to separate labor from capital, pats agriculture on the back, and kicks industrials and manufactures.

These vast aggregations of labor, and aggregations of money, and aggregations of goods are in principle the same. You must not shrink from the responsibility that is upon you. If you determine that we must have more legislation, you must also legislate against, or at least in respect to, labor. Labor is at least as important as capital, and the man who undertakes to separate the two will involve and perplex this important economic subject. If it be wrong to combine industrials or aggregate capital, it is equally heinous to combine labor.

And I also call your attention to this fact: There have been seven judicial decisions, at least, of the courts on questions of industrial combinations. We have had a decision in the courts of New York which condemned the "sugar trust;" we have had one in Ohio which condemned the Standard Oil. The biscuit trust has been declared illegal and the whisky trust has been declared illegal, and three others. Every time that these questions have come up before the courts they, on principles of common law, or by virtue of statute, or both, have declared the combinations illegal. The courts are clothed with ample power under the common-law rules of public policy and the doctrine of restraint of trade to guard the interests of the public against combinations dangerous or hurtful to public interests.

And, therefore, I say no legislation is required to meet the new and as yet unknown quantity of industrial combinations.

In fact, permeated by the influences of a prevailing public sentiment, to which all human nature is susceptible—and judges are human—the courts have already pushed the rules of the common law to the verge of reason.

Are you here to fight against mere form? If you are, I have wasted my time in appearing before you and you have wasted yours in sitting here as a commission. Do you care what form aggregated capital assumes—whether it is in the form of the old common-law trust, or whether it is in the form of a consolidation or a partnership or corporation? What is to be the object of this commission if you are to legislate that corporations may not form a partnership between themselves; what effect does that have on the question? If you legislate that all trusts, common-law trusts, are illegal, that goes to the form. The substance of the transaction, be it remembered here, means the extirpation of the carefully evolved commercial system of this country, and it means nothing less. I say the fight against aggregated capital has so far been a vain fight against mere form, and when it assumes a serious position, when it gets to a point that it means to earnestly attack the substance, then the contest will be to wipe out the commercial system of this country; and I ask if there is any man in this room, or any man in this country, who is ready to go to that extent? That is the proposition; I do not care whether you allow aggregated capital to exist in the form of a trust; I do not care whether you allow it to be in the form of a partnership or corporation—if it is bad, it is equally as bad in the last form as it is in the two others. And you are confronted with the question, if you mean to legislate, if you must legislate, of wiping out and extirpating a system under which this country has grown and developed and become as prosperous as it is, because without the corporations, without the instrumentalities of such aggregations of capital, you never would have reached the remarkable condition of commercial and physical prosperity which you now enjoy, to the envy of the balance of the world. Of course it is easy to remedy the supposed evils of aggregated capital. You can, if you are prepared to take such a step, wipe corporations from the statute books of this country, or so cripple them, by curtailing their inherent powers, as to make them impotent. But he is a bold man who will advocate such revolutionary measures.

If corporations were bad, if aggregated capital were pernicious, if it distilled poison into the veins of the commerce and labor of this country, the time to have acted was to have throttled the corporation in its cradle 40 years ago; but now, when it is twined around every branch of your commercial development, your industrial prosperity, and your financial body, you are not apt to listen to a demand to destroy it, to cut it down. The destruction of corporations means the end of your present commercial system.

Q. (By Mr. PHILLIPS.) Do we understand you to state that this commission is asked to cut this down?—A. I say that if your legislation results in your saying this, that you believe that aggregated capital can exist in a corporation, but you would not allow it to exist in a trust, then you are accomplishing nothing. That is what I mean.

WHAT ARE THE MISCHIEFS TO BE REMEDIED?

I was about to make two more suggestions. We are taught by men who have made a study of those natural laws, which furnish the foundation for human legislation, that there are three things to be considered when you are about to make a new statute.

The first is that you must consider the old law. What is the old law?

Second, what is the mischief that the old law does not prevent?

And third, what is the remedy proposed?

First. You know that courts of equity, under the principle of the doctrine of public policy, possess the right to stop these commercial organizations or aggregations of capital when they are considered pernicious. You have the Sherman statute; you know its history; you have the statutes of the various States, and you know their histories.

Then what is the mischief which is to be supplied or is to be remedied? That is the question that this commission must address itself to. What is the mischief which you wish to remedy? Are you to-day satisfied that since the inauguration of these industrialists they have been pernicious and detrimental to the people of this country? Can each member of this commission put his hand upon his heart and say, as a good citizen, that the records of this commission are full of evidence which show that these industrial enterprises are evil? Can you, in face of the extraordinary commercial development of this country, in face of existing favorable financial and industrial conditions, say that you are convinced that there are evils which spring from these industrialists? If so, you must stop them. I say to-day that there has not been a specific statement which an intelligent man could answer, pointing out in a concrete manner the supposed evils which have flowed from the inauguration of these enterprises. You say overcapitalization; well, that is a question of detail, that is a question about which men may possibly disagree. If you think that corporations should be capitalized upon the basis of the actual value, why you will find a great many people who will agree with you. If you find, on the contrary, that they should be capitalized on the basis of the profits, you will find many more people who will agree with you. If you think this question should remain untouched, to be left with the parties themselves who are making the organizations, because you believe that this question of capitalization, one way or the other, is not a fundamental question, but is influenced and controlled by the operation of natural laws and of particular conditions, then leave it alone. But these are questions of detail that do not go to the substance or root of this matter.

Perhaps it will be said that individuals have appeared before you who have suffered from aggregated capital. That may be. The individual cases may be serious, they may be grievous, they may appeal to our sympathies, but in the great progress of commercial development some must go under, some must suffer, some must be crushed, and that has been an inevitable rule from the beginning of the world. If you had sat as a commission years ago, when the sewing machine was introduced, you would have had hundreds of supplicants coming before you asking legislation against it. Individuals do suffer and must suffer from the consequences of the general march of commercial and manufacturing development. In that war, the batteries of science and skill and commercial development wound and kill their own countrymen and allies.

A great philosopher, Jeremy Bentham, was the author of the phrase and the expounder of the great principle of "the greatest good for the greatest number"—the only way by which you can successfully carry on government. Society is so constituted that some must suffer. It is the sacrifice that the few are forced to make for the good of the whole. Take the police and the school relation, in which you are interested. A man lives in a village, and has his own governors to teach his children, and also has his own man in the house, and he says to the authorities of the village: "You impose a tax on me for public schools; I don't need them; nor do I want your police; I have a man who does that very well for me, and I don't need the police and I won't pay the tax." Well, where does such a man stand? He must go under, because the general needs of the country require common schools, and they require a police force; and there is no principle of legislation that can be formulated without your stepping upon the toes of some innocent people, who must suffer for the good of the whole. Undoubtedly some individuals—perhaps a great many—must suffer

from the establishment of industrial combinations. The little grocer, the small haberdasher, the middleman, the salesman, the traveler, may have just cause of complaint; but the Government is not made to adjust these things or to remedy such evils. We are not living in the millennium. We are not governed by abstractions, nor is the State influenced by sympathy.

CHICAGO TRUST CONFERENCE—CONCLUSIONS OF ITS CHAIRMAN.

There was a conference in Chicago some time ago called the Chicago Trust Conference. It was supposed to have assembled before it all the leading thinkers on these subjects. They had before them two of the most eminent of our oratorical speakers, and they each gave their views. And what was the result? It is contained in a red-colored little pamphlet which I have before me. I have read that book industriously to find light on this great subject.

As chairman of that conference there was an able lawyer, Mr. Howe, whom I have the pleasure of knowing, a lawyer from New Orleans, a clean-cut, tried, careful, prudent man; and let us see how the results of those deliberations were filtered through his brain. As chairman he stated what the results of that conference were, and see what he has announced.

He says: "It seems to me—simply as an individual, of course—that almost every paper or address we have heard has made some admissions or concessions which may form a basis for some conclusions, and if you will allow me I will formulate some of them, as follows:

"1. That combinations and conspiracies in the form of trusts or otherwise in restraint of trade or manufacture, which by the consensus of judicial opinion are unlawful"—see how carefully that is stated—"which by the consensus of judicial opinion are unlawful, should be so declared by legislation."

Why, the sugar trust was an illegal creation in New York and was judicially declared so. With what result? It walked over to New Jersey, put on a new suit of clothes, came back to New York as a foreigner, and there it is flourishing, and in face of your antitrust act of 1890 and a tremendous antitrust statute in New York. With the New York statute staring it in the face and the awful hand of the Sherman Act pointing at it, why, we see the sugar trust calmly attending to its usual business as if nothing had happened.

Now, the chairman of that trust conference declared that the consensus of opinion was that all combinations contrary to public policy are unlawful, and that it should be put in statutory form. I have no objection to that; I don't think any man has, because that is simply doing what they call codification; that is what I call intelligent codification.

But I go on. "—which by consensus of judicial opinion are unlawful, should be declared so by legislation with suitable sanctions, and if possible by a statute uniform in all jurisdictions, and that such a statute should be thoroughly enforced, so that those who respect it shall not be at a disadvantage with those who disregard it."

I say amen to that.

Mr. Howe, the learned chairman, then proceeds:

"2. That the organization of trading and industrial corporations, whether under general or special laws, be permitted only under a system of careful Government control, also uniform, if possible, in all jurisdictions, whereby we think that many of the evils of which complaint is now made will be avoided."

I shall endeavor to show you hereafter that the Government, National or State, has already full control of corporations, but I will postpone criticizing that. But here is a lawyer making a clear postulate that presents a basis for fair argument. Men may differ; he may be right and I may be wrong in my opinions on that subject, which I will submit to you in a few minutes.

Then he says, in the third place: "The objects of the corporations should be confined within limits definite and certain. The issue of stock and bonds, which has been a matter of so much just criticism and complaint, should be guarded with great strictness. If mortgage bonds seem to be required, they should be allowed only for a moderate fraction of the true cash value of the property that secures them."

I dissent from that because it will throttle the operations of corporations without a resulting benefit to the public. As a rule of protection for investors and creditors I think it is superfluous. But I may be wrong in this view.

"As for issue of stock, they should be safeguarded in every possible way. They should only be allowed either for money or for property, actually received by the company, and dollar for dollar." (That, I say, is all right. This principle is already well established.) "And when the property is so conveyed it should be on an honest appraisal of actual value, so that there may be no watering of stock."

"4. And finally there should be a thorough system of reports and Government inspection, especially as to issues of bonds and stock and the status and value of property. Yet at the same time, in the matter of trading, business, and industrial companies, there are many legitimate secrets which must be respected by the general public.

"In short, we need frankly to recognize the fact that trading and industrial corporations are needed to organize the activities of our country, and they are not to be scolded or be belied, but controlled, as we control steam and electricity, which are also dangerous if not carefully managed, but of wonderful usefulness if rightly harnessed to the car of progress."

Now, here is an intelligent formulation, the results of the Chicago Trust Conference, expressly called together for the purpose of giving an expression of views upon this grave subject of aggregated capital.

The mischief, gentlemen, which results from combined corporate capital is pointed out and defined in these four statements, and one can argue on the basis of them. They are clear and conservative statements and present ground for fair argument and discussion. They are not so radical in their terms and consequences that if adopted in toto any material or substantial impediment would result to commercial expansion or development.

HASTY LEGISLATION MISSES ITS MARK.

I have two more views to suggest, one in regard to the jurisdiction and one in regard to the remedies that already exist.

No man who is a student of the history of this country and who is a lover of the form of government which prevails here can look without great solicitude upon the remarkable development of capital which has appeared to us so vividly in the last 10 or 15 years. I do not mean to assert to you, gentlemen, that aggregated capital is an unmitigated virtue, without accompanying vices. What I have been endeavoring to impress upon you is the necessity of going slowly in your acts. I have been endeavoring, by invoking historical analogies, to show you how easy it is to make hasty legislation, and that the fruits of hasty legislation not only bring the courts of justice and the administration of the law into reproach, not to say contempt, but fail to accomplish the purpose at which the legislation is aimed.

Now, what can more forcibly illustrate the strength of that remark than the anti-trust law of the United States? I do not suppose that the author of that law ever conceived the idea or intention of affecting by that piece of legislation the railroad interests of the country. And yet we have this remarkable result, that the industrial and manufacturing corporations, as contradistinguished from the railroad corporations, have escaped the law, as we see in the case of Knight,¹ the sugar refining case from Philadelphia, where the court held that, although the effect of combining sugar-refining businesses was to create a monopoly in the manufacture of a necessary of life, yet it could not be suppressed under the Sherman Act of 1890, because it was not a restraint of interstate trade or commerce.

But, strange to say, the railroad corporations, which, I think, were not intended to be embraced in the law, were made the sufferers by that legislation. And in the two decisions in the Missouri case, and in the freight cases about which you know, and to the reports of which I need not refer, the Supreme Court held that the language of the act of 1890 applied to railroads, and contracts which were generally conceded to be fair and beneficial to the public were set aside as illegal. I have no criticism to make on these decisions. But see the paradoxical result! A scheme of legislation which aimed at manufacturing and industrial corporations is declared not applicable to them, and railroad corporations, which were not intended to be covered, are held to be within the language and spirit of the statute. This shows what results accrue from hasty, ill-considered legislation.

I do not claim here that there are not great and grave questions surrounding the aggregation of capital, in any form it may assume, whether it is held by an individual, a partnership, or a corporation. It is a matter of profound solicitude to every citizen of this country, a matter of profound importance in the development of this country, in all its operations; but I say that the subject has not approached a ripe and mature condition. I say that if you take the vague, indefinite, and crude thoughts which up to this time characterize the discussion of this question, and put them in the crucible of legislation, nothing tangible, practical, and beneficial to the people will come from the experiment. That is all. You must keep your eyes upon this modern octopus, whether it is in individual or corporate form; but until aggregated capital commits some indisputable blow against the liberties of the people, until it strikes at

¹158 U. S. Reports, 1.

the foundation of our institutions, or until it interferes with the administration of justice or legislation in some positive way, I say that it is futile and unnecessary to enact any laws, because you have no defined, fixed, intelligent purpose in view, and without such purposes you are absolutely at sea, and the very laws that you make will strike at people whom you never contemplated they would reach, and probably, if not certainly, permit the aggregations of capital, intended to be reached, to entirely escape.

LEGISLATIVE AND JUDICIAL CORRUPTION.

It may be that the effects of combinations, or the effects of the aggregation of wealth or capital, may affect and corrupt the legislative and judicial powers of the Government. There is the great danger, in my opinion. But no law that you can frame can reach this supposed evil by anticipation, because you do not know what form it may take. For direct corruption, the existing penal laws of the nation and the States are amply sufficient, and need nothing in the form of newer laws.

Judicial or legislative corruption, however, is often provoked by demagogism, which presses corporations to seek for their just rights by illegitimate means. It is a public saying, unfortunately, in this country, that no corporation can get proper and necessary privileges without a lobby. I wish you, gentlemen, to ponder deeply over that aspect of the question. A corporation goes to a municipal legislative body and wishes a certain privilege, which, if granted, will benefit the public, yet the railroad men and the men who control corporations will tell you that it can not be obtained by legitimate methods. Now, there is no use disguising the fact that occult influences are used sometimes by large corporations, of necessity, to obtain things which are of the greatest importance to the public; and if you can stop that end of it, you remove one great temptation to judicial or legislative corruption.

If demagogism is eliminated from the discussion of these questions of aggregated capital, there is no doubt that a solution will be found entirely satisfactory to the true progress and interests of the country.

In concluding this branch permit me to repeat, that it appears to me that all we have to-day to found legislation upon is the opinions of men who are not qualified to speak with any intelligent authority; we have the vague and indefinite criticisms of people who have not studied these questions from the standpoint of actual experience or the honest conviction resulting from deep research. Whenever these critics appear before this commission, if they will hazard that step, if they undertake to make statements, you are likely to insist upon proof, upon statistics, upon real arguments and facts, and that is the way you can build the foundation for a law which will be satisfactory all around.

IF NEW LAWS ARE NEEDED, WHAT JURISDICTION SHALL THEY COME FROM?

Assuming that you gentlemen should come to the conclusion that some further law was necessary, you are confronted with a question as to the jurisdiction—as to whether it should be a national or a State law. This involves some study as to the nature of our Government and the true relation of the States to it. This Government is not a national government. It is a federative government. Whatever powers this federative government has are given to it by the Constitution. The Constitution of the United States may be divided under two great heads, namely, that part which we carried almost bodily from the English law and that part which resulted from the purpose of a federation.

If you will take occasion to study this great instrument you will find that the expressions of individual rights in Magna Charta are almost copied in the Constitution of the United States. And if you examine the three foundations of the English Government to-day—the Magna Charta, the Petition of Right and the Bill of Rights—you will discover that all of our rules of liberty, justice, and right have been drawn from these sources. Whatever is new in our Constitution is the result of the association of the 13 States, by which they agreed, for the purpose of mutual and perpetual union, to delegate to the General Government certain specified powers.

The idea of the Constitution of the United States was that the General Government should never interfere with any of the internal affairs of the States. The Government wanted just power enough to protect itself from exterior influences and to hold the States together, and it did not propose to interfere with the rights of the States to govern themselves as to their internal affairs any more than the respective States undertook to interfere in the domestic relations or private affairs of any of its citizens. If you keep that idea in mind you can intelligently approach the question whether the Federal Government has the right to interfere in the general questions of aggregated capital.

The necessity for some such provision as the present "commerce clause" in the Constitution was the real cause for calling the convention which led to the adoption of our present Constitution. When we separated from England the great difficulty was the want of uniformity in the commerce and navigation laws.

In the Articles of Confederation, which preceded the Constitution of the United States, there was nothing which made commerce free, open, and uniform between the States; and when they received their independence the question of an untrammelled commercial intercourse between the States of the Union was one of the principal subjects which confronted the people. That clause of the Constitution of the United States by which Congress was given the power to regulate commerce—I say this with great confidence—was never intended as an absolute authority for the General Government to interfere or meddle with the internal affairs of the States.

The phrase "regulate commerce" does not mean to restrain commerce, and never was intended to have such meaning. There was no thought of interfering with the development of the country in placing this language in the Constitution. The framers only undertook to say this: That the States should not deprive each other of that free and absolute intercourse between themselves which must necessarily exist for the purpose of accomplishing the purposes of the Union. That was the intention. They said all of the navigable waters must be open to all the States—no impediments placed in the great highways and roads, and no restrictions made upon trade and commerce as between them. The citizens of South Carolina, so far as the navigable waters and roads and everything that appertained to commerce were concerned, should enjoy the same equalities and privileges that a citizen of New York possessed.

In the first case which arose in the Supreme Court of the United States—*Gibbons v. Ogden*¹—under this commerce clause of the Constitution, the question was this: Livingstone and Fulton, who were then applying steam to water navigation, had received from the legislature of New York a grant for the exclusive use of steam in the navigable waters of New York State for a term of years. Well, that was a privilege that nobody envied, because Livingstone and Fulton were applying a new and great discovery to the propulsion of boats, and the State gave them the sole privilege of enjoying this valuable invention. But they had no sooner obtained this grant from the State of New York than another individual started a line of steamboats from New Jersey and ran over to New York, and he was seized. He was under a license of the United States Government regulating the coasting trade, and the question arose in the Supreme Court of the United States whether the State of New York had the power to grant such an exclusive privilege to the exclusion of citizens of other States navigating under coasting licenses. The opinion of Chief Justice Marshall delivered in this case has been universally read and studied, and he held that it was one of the objects of the commerce clause of the Constitution to open the navigable waters to all citizens of other States, and that the grant to Livingstone and Fulton was inoperative. "The genius and character of the whole Government seem to be that its action is to be applied to all the external concerns of the nation and to those internal concerns which affect the States generally, but not to those which are completely within a particular State, which do not affect other States, and with which it is not necessary to interfere for the purpose of executing some of the general powers of the Government. The completely internal commerce of a State, then, may be considered as reserved for the State itself." This language of Chief Justice Marshall furnishes the keynote to this much-discussed clause of the Constitution.

Of course, the Supreme Court of the United States—I say it with great regret—has been remarkably harassed and annoyed in its decisions upon this clause. I do not think any man can sit down and study the decisions of that court upon the interstate-commerce clause without rising from the reading with a feeling that they are very inconsistent in some respects; and Judge Bradley, in one of his decisions²—and certainly Judge Bradley was a very able lawyer—expressed a regret that the court had strayed so far away from the principles of *Gibbons v. Ogden*, from which I have just quoted.

The judges of the Supreme Court of the United States are human, and they are more or less susceptible to the influence of outside opinion and discussion, as others are. Law, after all, is nothing but the expression of custom. Despite the fact that legislatures undertake to put in statutory form laws for the government of the people, that which is the great law and that which is the universal law is the law of custom; and the Supreme Court judges, like all other human beings, are susceptible to the influences that prevail at the time they write their decisions—honest, high-toned, intelligent, proud of their position in every way, but still human, as you can see if you take the legal-tender cases, where they made two decisions, one in favor of

¹ 19 Wheaton's Rep., 1.

² *Lecloup v. Mobile*, 127 U. S. Rep., 643.

legal tenders and one against them, and if you take the income-tax cases and other instances—few, I am glad to say—you will see that that court is influenced very largely by the prevailing popular opinion. They breathe the same air, they sleep in the same air, they live under the same influences as other people do; and when a question of law is presented there they are susceptible, more or less, to the atmosphere which prevails, and everybody must recognize that.

I say, therefore, that Congress should not put upon that court unnecessary burdens, as they have done by the Sherman Act. It was a crude piece of legislation at best, and that court has endeavored, in an honorable and conscientious way, to extricate itself from it, as much as it can; but it would have been much better, in my judgment, if that law had never been enacted, because it unnecessarily attempts to deprive the State of power which they alone should exercise; it is another innovation of the General Government—it is another unnecessary step toward centralization.

Gentlemen, the strict States' rights doctrine has been largely obscured since the war of 1860, because many issues which were involved in it disappeared, when that unhappy epoch in our history closed.

But the subject of the relation of the Federal Government to the States is one of the profoundest importance, and it should always be kept alive and green before us, when legislation of the kind involved in this discussion is contemplated.

I do not assert these views as the result of political and partisan bias, but they are influenced by independent thought and conviction. As Mr. Gladstone says, the fabric of our Constitution is one of the greatest that has ever been devised by human minds. If we can preserve it, as it has been handed down to us, there is not "the slightest doubt about our political equality and our progress and development."

States' rights is not a party question. It has disappeared from the realm of partisan politics, and when you are inquiring into the legality of business carried on by manufacturing corporations incorporated under State laws, and the question of restricting or limiting them, you must be warned not to encroach upon the authority of the various States; and it is very important that conscientious study should be bestowed upon this important subject before Federal legislation is granted. It is unfortunately true that lately we are tending to nationalization. It is true that in great emergencies people are turning to the National Government for help, for assistance and support; but it is equally true, in my humble judgment, that such appeals should be disregarded, and that the fabric of this Government never can be sustained, in its pristine vigor and glory, unless we keep the identity of the State governments perfectly established as against the Federal power. And now that that great bone of contention, slavery, has disappeared, we have a chance to look at the question from an independent and unbiased standpoint, uninfluenced by sectional or partisan politics.

The question of States' rights involves the whole theory of our Government, and the perpetuation of our republican institutions. It is essential, in considering the subject of making laws, to endeavor at all times to maintain the individual autonomy of citizenship. We begin with the household, family and domestic affairs, and we say to the village, or town, or city, or State, whichever undertakes to invade the privacy of these relations, "You must keep your hands off." As citizen members of villages, towns, cities, or municipalities, we claim the general right to legislate for ourselves, with only so much interference from the State as is necessary for the general good of the whole people; and when we come to State citizenship we claim that the Federal Government has no power over us except that which has been delegated to it by the Constitution. In any legislation inaugurated by the Federal Government it is therefore essential that there should be no encroachment upon the rights of the States as they are preserved in the Constitution. In State legislation, as against municipalities, cities, towns, and villages, it is equally important that the rights of these smaller communities should not be invaded, and the same reasoning applies to the invasion of individual, domestic, family, or business affairs by the National or State Government, or any of the minor municipalities.

Looking at the subject, therefore, in the light of every fact which I have been able to discover, I see no reason why there should be any national legislation in respect to this question of aggregated capital.

In regard to State legislation, you are charged with suggesting a basis for homogeneity of laws upon this subject. Nothing appeals to me so strongly as that proposition. The draftsman of the act which created your commission had in view the possibility of your reaching a conclusion upon which you could not conscientiously recommend national legislation, and he has carefully given you the power to make recommendations by which homogeneity on this subject between all the States could be established—similar laws framed on the same line—the States to take up this great question and legislate in a uniform way. A recommendation emanating from this

commission ought to have the profoundest weight in all the States, especially if it is accompanied by reasoning which appeals to intelligent men.

Therefore I submit that if you recommend legislation at all, it can only be in the shape of proposals to the different States. And if it is true that any corporation in this country—I do not care which corporation it is—is in possession of franchises, or is in possession of rights, or is the holder of privileges which are not shared by other corporations or individuals, then I say if you are satisfied of that fact, level your legislation against it specifically, and do it clearly, and the people will applaud you and the courts can intelligently sustain you.

As I see the subject, without having the whole light before me as you have, sitting here patiently, as you have been, for months, and gathering in all the statistics, facts, and opinions, it seems to me that the legal remedies in the various States are ample to-day to redress all grievances which may exist, and about which I now wish to talk.

THREE INTERESTS, THE PUBLIC, THE STATE, THE STOCKHOLDER.

There are three classes of persons who are interested in the remedies appertaining to aggregations of capital: First, there is the public; second, the State; and thirdly, the stockholders, and creditors who may be classified with the stockholders, because their rights are somewhat similar.

Now, let me first take up the question of the public. There has been much talk, and it has received sanction from the very respectable authority of Judge Howe, in his formulation of the results of the Chicago Trust Conference; there is a strong demand in favor of more publicity in respect to these industrial corporations.

Well, let us inquire what interest the public has, in what I shall now term corporate wealth and corporate interests. The public—and I mean by the public those persons who have no pecuniary or contractual interest in the corporation—is that class of persons who are interested in corporations, and solely and because corporations are created by public statutes, and whose interests can not extend beyond knowing that the corporation is faithful to its charter—to its obligations to the State.

I take issue with the advocates of publicity here, and I deny that it is necessary in the broad sense in which it is demanded. I say that no man who is not interested in a corporation has a right to know anything about it. It is none of his business. I put that proposition very boldly. I may be wrong, but my views are definite—subject to change, but at this time well fixed. I repeat, that if you guard the rights of stockholders and persons who have contractual relations with corporations, and the State continues its paramount authority over the corporations—as I shall show you it possesses—and that the corporation keeps its contract with the State by strictly following its charter, then, and in such events, the public has no more business in its private concerns than it has in the private affairs of your household, Mr. Phillips; or your fortune, or your own business.

Q. (By Mr. JENKS.) Are you using the word "right" there in its legal sense?—A. Or contractual.

Q. When you said that they had no more right than a private individual, you meant right in the strictly legal sense?—A. I use "right" as distinguished from authority. I mean, as a question of morals and as a question of ethics, they have no right, any more than you have to inquire into my private business.¹

Q. You are not using it, then, in the strictly legal sense?—A. No, no; I am not. I see what is on your mind.

Q. (By Mr. PHILLIPS.) Will you allow me a question now? Then would a corporation have a right to offer its stock to the public?—A. (Interrupting.) I will come to that; I will take care of that. I do not have any apprehension. I will take care of that part of it, and I am glad you asked the question.

Q. I am asking for information, you understand.—A. I will come to it; I will give it.

The line between the exercise of governmental rights—now I am speaking as if the State were offering to make a law controlling corporations—I say that the questions as to where and when the State should legislate, and where and when it should not; as to when private rights intervene and the State should withdraw; where the State's right to intervene is paramount and the private rights must yield, are questions of the greatest delicacy. And I do not know that I can do better than to quote to you from Mr. Burke, who, in my opinion, is an authority on any subject which he has touched, at any time and in any place. But it is clear that when you come to the question as to whether the State shall legislate about what concerns your domestic or business relations, I say, unless the necessity is overwhelming, it ought to keep its

¹ See pp. 1167, 1168, 1171, 1177; Mr. Allen, p. 1189.

hands off. You ought to allow the autonomy of household affairs and the autonomy of business to be run in accordance with the wishes of the individuals concerned, and the Government has no more right to interfere with your business than it has to go into your house and ask you what you are eating or to dictate what you shall eat. The line between where the Government comes in and where the State—the citizen goes out is clearly put by Mr. Burke¹ [reading]: "It is one of the finest problems in legislation," says Mr. Burke, "and what has often engaged my thoughts whilst I followed that profession, 'what the State ought to take upon itself to direct by the public wisdom and what it ought to leave, with as little interference as possible, to individual discretion.' Nothing, certainly, can be laid down on the subject that will not admit of exceptions, many permanent, some occasional. But the clearest line of distinction which I could draw, whilst I had my chalk to draw any line, was this: That the State ought to confine itself to what regards the State or the creatures of the State, namely, the exterior establishment of its religion; its magistracy; its revenue; its military force by sea and land; the corporations that owe their existence to its fiat (this phrase undoubtedly means public corporations, as private corporations were not, at the time this was written, in existence); in a word, to everything that is truly and properly public, to the public peace, to the public safety, to the public order, to the public prosperity. In its preventive police it ought to be sparing of its efforts and to employ means, rather few, frequent and strong, than many, and frequent and, of course, as they multiply their puny politic race, and dwindle, small and feeble. * * * They ought to know the different departments of things; what belongs to laws, and what manners alone can regulate. To these, great politicians may give a leaning, but they can not give a law."

Now there are a great many things that the State has no right to regulate. There are a great many things that the State has no right to go into at all; about which it has no right to dictate. It has no right to dictate to me what religion I shall follow, what I shall eat, what I shall wear, or what business I shall engage in. Mark you, I do not lay down this as an absolute proposition, an unqualified one. What I mean is this, that unless there is some overwhelming necessity, some apparent and powerful moving cause and mischief at hand, the State should keep its hands off; that is what I mean. But if the mischief is plain, if you feel that overwhelming cause forcing itself upon you, then you are justified in legislation, and you will find plenty of authority for it under the police power and under every other power.

I come back, then, to the question of publicity, and I assert that the public is amply protected by existing laws. So far as the general public is concerned, if it is influenced or damaged or defrauded by any act of a corporation, or its directors, or its promoters, or anybody associated with the enterprise, there is a criminal and a civil legal remedy, full, complete, and absolute. Let me illustrate: If a corporation were to issue a circular, a prospectus, which is now becoming the method of introducing new organizations to the public and getting subscriptions, if there is put in that prospectus any statement which is false and fraudulent, it is a foundation for a criminal indictment. Here is a perfect remedy existing under the laws of every State in the Union. You do not have to guard the public in that respect. No excuse can be found in this respect for the intervention of the State. If a man puts his money into a corporation through the representations contained in the prospectus, he has a civil remedy for damages in addition to his criminal remedy. So that there is no possibility of anybody being defrauded or cajoled or influenced out of his rights or property by anything that the corporation, or any of its surrounding associates, or persons interested in it, can do, without an appropriate, full, and perfect remedy.

Q. (By Mr. PHILLIPS.) Would that follow the dividends and the management of the business through a series of years, offering to the public—A. Yes.

Q. Without their privilege of examining to know whether those statements were correct or not?—A. Yes. So far as dividends are concerned, if they declare a dividend which has not been earned, it is a misdemeanor in our State. It is a crime; and if they do that they are civilly liable to anybody who buys on the faith of the declaration of the dividend.

Q. Can you conveniently ascertain that fact unless the public has access to the books?—A. What do you mean, the stockholder or the creditor?

Q. A stockholder.—A. A stockholder has the right. I will come to that in a minute. I am taking it up now in a regular way. I am dealing now with the outside public before they get into the corporation, and I affirm that it is utterly impossible for you to conceive of a case where the public is swindled or where the public loses money by corporate action unless there are adequate civil and criminal remedies.

¹ Burke on the Thoughts and Details of Soeretty, at p. 416, Rivington edition of 1808.

Whether they are enforced or not is another question. Now, so much for the public. If the solicitude of those opponents of aggregated capital is based on the fact that they wish to protect the public, then I say to them that the public is amply protected; they can wish no further protection.

Now, let us go a step further. Take the stockholder: What are his rights? The stockholder of a corporation has the absolute right to open the books. You need no law on that subject. The directors of a corporation are trustees for the stockholders, and the books of the corporation can be opened to them, through the instrumentality of a court of equity, under the powers that a court of equity inherently possesses, or a court of common law, or under statutory power, at any reasonable time after any reasonable demand. Their rights are fully protected, and while there may be isolated cases where stockholders have failed to get at the books, if you will examine the cases you will discover the grounds of the failure. Persons sometimes buy stock for the purpose of finding out what is going on in a certain corporation, and for no other object. Lord Ellenborough said to a man who was in court in this case which I cited from East's Reports: "You have not clean hands; you came into this suit speculatively; you have bought into this corporation for the purpose of making this examination;" and in such instances as these the courts refuse to allow examinations of corporate books to be made. But every bona fide holder of stock has the right to open the books of the corporation, and every court in this country will aid him to do it, and if they do not, if there is anything incomplete in the remedy in that respect, I say make it so, make it so; it ought to be so; but if you study the question I say that you will be satisfied that a complete remedy already exists. If you want homogeneity in the rules of the different States, make it.

Therefore, so far as the stockholder is concerned, his rights are amply protected at law or in equity.

Now, let us come to the State. Here is where the principal question arises, and I will not differ with the most radical exponent of the doctrines of antiaggregation of capital upon this question. The State is the creator of the corporation. The State dictates the terms upon which the corporate charter is granted. The charter makes the corporation a quasi-public body. The State has the absolute right not only to make examinations, but it has the right to extinguish the charter, as you would extinguish the flame of a candle. It can destroy the life of a corporation at any moment, because the condition in the constitution of all the States now is that the States reserve the right to revoke all charters. Not only that, but the State has what we call in equity a visitatorial power. It has the power through its attorney-general of visiting a corporation, inquiring into its methods of doing business, and making a thorough examination of its books and of its accounts and its business, if sufficient justification exists to warrant such a course. So that the States are not deficient in power, and the cry of publicity, in my estimation, is entirely unwarranted by the law and facts. But if you were to make a law by which the whole public could pass through the office of a corporation and look at its affairs as you would pass through a street and look through the windows into an office to discover what was going on there—I say that such a license to the general public would be infringing the rights of the corporation—it would be infringing individual rights; you would be guilty of transcending the power of government, unless you had, as I say, some overwhelming, powerful, good, substantial motive to do it. With the law as it is to-day, giving the State transcendental powers over corporations, protecting stockholders and creditors and the public as well, I believe that the cry of publicity has no foundation to rest upon.¹

THE GREAT CORPORATIONS ARE OWNED BY THE MEN OF SMALL MEANS.

Now, one more thought. Some persons, I think, have an idea that these aggregations of capital should be extinguished—wiped out. They make a warfare against capital, and their idea is apparently to exterminate it as being something not only offensive to the smell, but to the eye and to the touch, something repulsive to the senses, something which should be blotted out of existence, as unholy and pernicious, and vile and evil. Where will such legislation lead to, gentlemen? Have they thought? Certainly they have not, or they would not for one moment dream of legislation of that kind. Why, who constitutes the corporations, and where would such legislation lead? Legislating against corporations! You are legislating against yourselves. To-day every large corporation in this country has thousands of stockholders, and every substantial blow aimed against corporations is a blow aimed against the middlemen, the men of small means, the conservative men, the thousands and thousands of stockholders who have invested their money in these corporations, the

¹ See p. 1168.

young and old, the widow and the infant, the trustee and the executor. Do these people imagine for one instant that they strike a blow at the millionaire, in battering down corporations? Do they imagine that they are stripping these great millionaires of their wealth when they legislate against corporations? Never! The millionaires can take care of themselves, and do it. They do not hold their millions and millions of dollars in these large corporations.¹ And when you hear of this banking house, or that banking house, taking 10 or 15 or 20 millions of bonds or stocks, why, it only means that that is the source through which the things reach the public.

The great banking interests, the great promoters of these commercial enterprises, retain but comparatively small interests in these colossal industrial corporations, and when legislation is made against them, remember that you are striking at your fellow-citizens whom you are meeting every day; the man of conservative wealth, or the man who has put his little savings into corporations to enable him to support his family and children. It is a cruel mistake, not to say blunder, to discuss these questions upon the lines of wiping out capital and exterminating it. This is as senseless as impossible.

One more thought and I shall close. In connection with this crusade against aggregated capital, it is fashionable to cry out against individual wealth. There is not in the political history of this country any appeal so demagogic, unnatural, unfounded, and unsustainable, as that which is made against wealth. The instinct of envy, or the worst passions of prejudice, or demagogism and ignorance, lie at the base of such appeals. Because you and I have not been fortunate enough to accumulate wealth is no reason why we should undertake to criticise and find fault with those who have gotten it legitimately, much less seek to deprive them of it.

Respect for the goods and property of others is the basis of human society. It is demanded by social duty; it is inspired by good manners; it is inculcated by divine rule, and should be rigidly enforced by civil law and authority. The professional politicians of this country should understand that the free and unlimited opportunities, inducements, and openings of businesses and wealth to its individual citizens constitute one of the strongest arguments in favor of a republic, and is at the same time one of its main foundations. The incentive to wealth is an honorable and useful ambition for the citizens of any government to possess, because acquisition of wealth requires intelligence, shrewdness, conservatism, and the exercise of all those human qualities and functions which are beneficial to society. It is a primary object of every well-founded government to encourage the acquisition of individual fortunes, as it is one of its most sacred duties to guard them for its possessors when they have been lawfully and honestly earned. To encourage man to toil and labor, in all the fields of human industry, means the development and prosperity of the nation; it means the opening of new fields of occupation to the poor, needy, and unemployed; it encourages men to tremendous and sometimes superhuman efforts of skill and energy. The consciousness that the rewards they reap as the result of their own exertions, whether in money or in any other kind of property, will be carefully guarded by the State for their own benefit and the benefit of their posterity, is the great motive which impels men to strive mightily in the different fields of business activity. Nor should wealth be driven from an active participation in the political life of the nation. As a matter of right and justice and policy, it should have its proper place in the councils of the Government.

As Mr. Lecky² says: "The indissoluble connection of the enjoyment and dignity of property with the discharge of public duties was the preeminent merit of feudalism, and it is one of the special excellencies of English institutions that they have in a great measure preserved this connection, notwithstanding the necessary dissolution of the feudal system."

It constitutes one of the greatest elements of stability, conservatism, and intelligence, and while I have the contempt that is shared by most of my fellow-citizens for the ostentatious display of fortunes, the flaunting of wealth before the public with brutal vulgarity, I do contend that most of the individuals who have acquired wealth in this country are entitled to be respected, and it is not only their right but it is their duty to insist upon exercising a fair and proper share in the government of the country. The road to fortune is open to us all, and if we have not individually been fortunate enough to acquire a great amount of property we should not seek to belittle the men who have been more fortunate, or seek in any way to deprive them of it or diminish its importance or enjoyment. The lives and achievements of the men who have acquired wealth in this country form one of the most interesting chapters of history. Who are the men who occupy the elegant residences on Fifth Avenue and on other avenues of the great cities of the country? Not men who were born

¹ See p. 906, and footnote.

² Lecky's History, England in the Eighteenth Century.

into the world with large means, but men who from their infancy were thrown out upon their own resources, and by hard work, skill, and luck have acquired fortunes. It should be a matter of pride to point out these men as types of American citizenship and as proper incentives to young people of the present age. Any onslaught, premeditated or otherwise, made upon the property of such a class of people is not only senseless and ridiculous, but it aims at the whole root of the social organization.

The American nation is neither in its decline nor in its dotage. Men may climb into prominence on the steps of temporary argument and unfounded appeals to passion and prejudice; demagogism may temporarily capture the multitude; but the American people can not always be deceived. Those who seek to allure the laboring and agricultural classes, or others, into the approval of schemes which have not the sanction of good sense, history, judgment, and constitutional law will sooner or later come to grief.

Now, gentlemen, I think I have trespassed enough on your time, and I will now close, with my sincere thanks for the patient manner in which you have listened to me.

SPECULATIVE ORGANIZATION—OVERCAPITALIZATION.

Q. (By Mr. JENKS.) You have been speaking particularly of the corporations that you think have been organized for the carrying on of legitimate business for the benefit of the public at large, as well as of the stockholders and managers?—A. Yes.

Q. In your judgment, are there corporations that are organized primarily for speculative purposes instead of for legitimate purposes?—A. Not any of the large ones.

Q. It is your opinion that there are some that are organized for that purpose?—A. I think there are a great many men who have gotten together these various manufacturing interests and have made large sums of money by doing it—if that answers your question—and who have had no interest in the business previous to bringing them together.

Q. And who cease to have any interest in the management of the business if it is continued?—A. I could not say positively as to that. I should not suppose it would be good business to keep them.

Q. There is, then, you think, a class of men who have made it their chief business to promote the organization of those larger combinations simply for the sake of the profit they can make in getting them together?—A. Yes; I think that is so.

Q. Do you think that in the organization of these larger combinations there has been enough of this speculative activity on the part of the promoters to form anything like a serious menace to the financial stability of these corporations?—A. I do not want to reflect, of course, upon any corporations—

Q. (Interrupting.) Certainly not.—A. Which have been formed.

Q. And not upon any individual?—A. No. I think this, that the aggregations of corporations are like partnerships. If they are not formed on a conservative basis, they will go down, and you will have failures on the part of many of these corporations which have already been formed, because of overcapitalization.

Q. You think, then, that within the last 2 years there has been so much overcapitalization that it is likely to result in the near future in something like a speculative Wall street crisis?—A. I think this: Of course, there can not be a failure of a corporation which is organized on a basis of preferred and common stock, because preferred and common stock give the stockholder no right as a creditor, and as long as the corporation can go on and pay its debts it is all right. But while there may be no failures in the sense of bankruptcy—technical, legal bankruptcy—there would be a failure on the part of the owners of the preferred and common stock to receive dividends.

PUBLIC STATEMENTS OF WHAT IS RECEIVED FOR STOCK WILL NOT DIMINISH SPECULATIVE PROMOTING, BUT WOULD GIVE INVESTORS SOME PROTECTION.

Q. You stated that, in your judgment, it was fair and proper that stock should be issued for cash, as I understood it?—A. Yes.

Q. And also for property, and also for patents, for trade-marks, brands, and for good will. Do you see any harm in having the articles of incorporation state how much is issued for each of these things?—A. In most cases, no; in some cases, yes. In England they require that everything should be stated in the prospectus under the companies act. For instance, the man who promotes the company must state how much he makes; it must be stated how much the owner received in shares, in stock. And I do not know of any reason why that should not be done here.

Q. Do you think that if that were done here it would tend to diminish the formation of speculative companies?—A. Not in the slightest. They form 10 over there where we form 1; and if you will go into a London solicitor's office, where I have been many times, you will find a class of men there who will draw up a prospectus in a way that will simply make you dizzy, as the boys say; and they find means to beat that devil around the bush. So that by one subterfuge or another, pardonable, legal, they arrange everything just as they want it. But, as a matter of fact, as you know, the prospectus under the companies act must state everything, so that the public knows just as much about the interior as the men who are putting it out; and I frankly say, I see no reason why it should not be done here.

Q. You think, however, that the making clear to the public just what the nature of the organization is will not protect the honest, legitimate, well-meaning investor?—A. It will not protect him when the enterprise itself is not good. Of course, you can not devise any plan by which the State can guarantee every man that goes into a stock speculation that he is going to make money. If you can, I should get at that, because I have been caught myself so often that I should like to be reimbursed. But I mean that so far as keeping the public out is concerned, if you have methods which prevent fraud, which we have here, and enable you to punish the authors criminally and civilly, you have gone about as far as you can go. For instance, you may get out a prospectus to-morrow for a gold mine. You and I look at it, and then I say, that is going to be a great thing; you say, it is not. I will go in and you stay out. I may make money, or I may not, and you do not make the gamble. After they have gone 100 feet down, they strike nothing but mud, or they may strike a great bonanza.

Q. With reference to a manufacturing business, which is quite different from the mining business in many ways, the statement of the valuation that is placed upon the plants, which are running plants, and which anybody can inspect, the amount that has been paid for patents, for trade-marks, and so on—if these were stated in the prospectus, would, it enable an investor who wished to put in considerable money to form a better judgment, in many cases, than he can now as to the probable future of the stock?—A. Yes; I think it would.

Q. In that way you think it would be something of a protection?—A. I think it would; I do not see any objection at all to that.

PROTECTION OF STOCKHOLDERS.

Q. Is it a fact, as is so frequently stated, that a large proportion of the corporations as they are now organized can be so managed, and are so managed, that the majority stockholders are really at the mercy of the minority, because the minority of the stock is concentrated in a few hands, and the majority is largely scattered, and the directors are able to prevent the majority stockholders from getting together?—A. That is often the case.

Q. You think that condition an evil?—A. No; because of the indifference. If there are 100,000 shares of stock, and 25,000 of it are in the hands of the clique, and the balance of it scattered, they start in the field with 25,000 shares settled in their hands. If they have got the management, and the management is fairly good, the stockholders as a rule do not take enough interest in the corporation to interfere with them. I had, in my experience, a man, a very prominent man—you knew of him—who had possession of one of the largest railroads in the United States and only had 100 shares of stock. I was very much surprised when he put his stock upon the table, and I found out that he had only 100 shares out of the \$40,000,000.

Q. Supposing that the management of the company has been fairly bad. Is it possible for it to be made difficult for the majority of the stockholders to get together and to control that body?—A. No; not at all. It is the easiest thing in the world.

Q. Is it true, as has been stated here at different times, that in the case of a large proportion of the corporations that are organized there is no office to which the stockholders can go to get information with reference to their fellow-stockholders and their holdings?—A. That is absolutely unfounded. In fact, under the laws of New Jersey, or New York, and under the laws of most of the States where I have knowledge, the stock books, ledger, and all books of the corporation are open to the inspection of every stockholder.

Q. That is the law?—A. That is the law.

Q. Do you know whether the law is lived up to with strictness by most of the corporations in the State of New Jersey?—A. That you can only tell by applications to the court which have been made. I know that wherever an application has been

made to the court by a bona fide stockholder, not brought in for speculative purposes, the court has opened the books to him at once.

Q. The statement is frequently made that in the case of some of the larger corporations it is for the interest of the directors at times that the books should not be opened to the stockholders, and that, in consequence, a man who holds but a few shares of stock, and who has but little means, will not be able in all probability to get the books opened to him, even though he is a bona fide stockholder, because of the legal obstacles put in his way by the directors, who have much more money at their disposition than he has. Is that legitimate?—A. That happens not by legitimate litigation. It is not more fair to them than anybody else. If you have a claim against a man, a very rich man, and you want to pursue him in law, he can resort to all methods in law, all methods of delay, to prevent you from getting it. That is true. If a man with a small amount of money faces a large body of capitalists, if they wish to thwart him and postpone his rights, they can do it; but if he is persevering and indefatigable he will succeed; there is no doubt about it.

FULL REPORTS TO STOCKHOLDERS—TO THE PUBLIC.

Q. Do you think that hardship would be prevented at all by this degree of publicity in regard to organization, which you have already approved, added to some greater publicity in regard to reports to stockholders, if annual reports or semiannual reports were required?—A. I believe myself that every company should have an auditor, and I believe that that auditor should make monthly statements. I think that is an admirable thing and ought to be done.

Q. And that those statements should be sent to every stockholder?—A. Yes; and published if necessary.¹

Q. Would you be kind enough to go a little more into detail as to the facts that you think should go into the auditor's statement?—A. Yes. I think that the auditor's report—of course, I say monthly; probably for some large businesses that would not be possible; say quarterly report—should show the amount of business that has been done, the amount of money on hand, the amount of liabilities, without stating to whom, and the nature of the liabilities. Of course it would not do to publish the names of individuals that owe a business concern, because it would affect their credit, but you can have an auditor's report which will give everybody the fullest information.

Q. You do believe, then, in a degree of publicity that would require the publication of a fairly detailed balance sheet quarterly?—A. Such as is followed in England, I think, would be of very much benefit to our corporations. To that question of publicity—what I mean by publicity—I do not mean that every Tom, Dick, and Harry who had no interest in the corporation could go in there and say, "Open your books," any more than I could go into your banking house or office and say, "I want to know how your business is going on."

Q. (By Mr. PHILLIPS.) Do you think it is proper and right for the Government and the State to have examinations of the national banks, State banks, and private banks?—A. Yes. Every bank that receives deposits of money should be subject to rigid examination. That I believe.

Q. Do you make a wide distinction, then, between them and these large corporations serving the public in a great capacity?—A. Yes. I do not see what publication you need in the case of a private corporation.

Q. Would you object, instead of having the auditor do this, to having the auditor make a statement to the public official for the public, as bank examiners do?—A. Yes, I do; because of the obvious difference. In the one place you have a stockholder who can get all the information he pleases. On the other hand, you have a person holding himself out as a banker to the public, and you have as depositors workmen, women, and children going past, who see it as a banking house and go in and put in their money. It has been the policy everywhere, it has been the theory of all well-regulated laws, to compel absolute statements, detailed statements. A man deposits his money in a bank and he wants to know something about it, because he has positively an interest there; he has credit. That is the distinction.

Q. Would you not have a sworn officer of the Government make the examination?—A. I do not think that is necessary. If you had an auditor, who was a sworn officer, if he made a statement you could rely upon it, precisely as you do on a statement made by the Comptroller of the Currency for a national bank.

Q. Should that be by one of the employees themselves?—A. Certainly; that is

¹ See pp. 1162, 1177.

what is done in England and what is done here. You get an auditor and very rarely do you discover an attempt to defraud anybody. It is the rarest thing in the world.

Q. (By Mr. JENKS.) Unless you were strongly of the opinion that the auditor could be trusted, even though he were appointed by the directors, I think you would agree to Mr. Phillips's suggestion that the auditor appointed be some person who is not interested.—A. Yes, sir.

Q. So that one could be absolutely sure of the trustworthiness of the report?—A. Yes. But you must observe the distinction, which you will find between the banking business and manufacturing business, because the bank is held out to the public as a responsible place. You go in and deposit your money; you have got no interest except to draw it out.

Q. Would you think that in the case of a very large corporation, whose stocks are listed on the stock exchanges for investment by the general public, that fact that they are going to the general public for investment would put them in a somewhat similar category?—A. No, I do not think so, because no man need buy stock if he doesn't want to.

Q. Need he deposit his money in the bank?—A. Yes, he has to do it; prudence would dictate to him to do it; because it would not be prudent for him to carry around his money. The first thing he thinks of is to go and deposit it. But people who have money enough to invest in securities on exchange can go and see the annual reports, for I think there is enough information there.

POWER OF GREAT COMBINATIONS TO RAISE PRICES—NATURAL LAWS.

Q. There has been some testimony here to the effect that some of these larger corporations, by mere virtue of their size and the extent of their capital, have enough monopolistic power to keep the prices of their products above ordinary competitive prices. Would you consider that the public had an interest in that which might justify legislation, provided any wise legislation could be found?—A. I should suppose that if you could find that the operations of a corporation were absolutely detrimental to the public, that the operations were so conducted that people were injured, and that they had no legal remedy, you might take a step in that direction, but it is hazardous, because, as I say, you can leave these things to the operation of natural laws, which would overtake them.

Q. It has been asserted that these large corporations do as a matter of fact keep prices somewhat above competitive rates. It is stated further that if their businesses were made somewhat more public than it now is, that publicity would be merely aiding natural laws by encouraging competition. What would you say to that?—A. I think you can find people here that are better qualified to give you an answer. You take some merchant in that business and he will give you an answer; some manufacturer; some man who knows his business. My answers are necessarily hypothetical. I would not be sure. I want to give you, if I can, views that will really aid you. I do not think that would. I would not ask you to pass any measure on any opinion of my own.

Q. You lay down the general proposition that there ought not to be legislation against natural laws?—A. Yes.

Q. You would, however, assent to the assertion that if the natural laws seem to be hampered by the action of aggregated capital, any legislation that would tend to lead back toward natural laws and aid natural laws would be useful and wise?—A. I think that is so.

Q. Do you consider that the principle of competition is a natural law of trade?—A. That is a speculative proposition. You know that better than I do. I will take your answer on that.

Q. I had understood you to attempt to lay down for us some of these natural laws,¹ and so I am asking you for natural laws.—A. No, I was simply saying that there were certain facts, natural facts. I tried to keep away from your temptation because I knew I should get caught.

Mr. JENKS. Possibly I might venture to say that as far as my information goes most economists object to the expression "natural law," and deny that there is any such thing as "natural law;" and I was struck by your use of the phrase.

The WITNESS. I do not believe I could give you any more light than I have given already.

¹ See pp. 1151, 1252, and p. 1169, above.

OVERCAPITALIZATION—POWER TO RAISE PRICES (RESUMED).

Q. I understood you to say a moment ago that you believed there was a great evil growing from overcapitalization?¹—A. No.

Q. In some of those more speculative enterprises?—A. No.

Q. Did I misunderstand you?—A. Yes; you misunderstood that argument. I did not mean to say that. Do you mean in response to a question?

Q. It was in response to a question of my own.—A. Oh, in response to a question of your own?

Q. Yes.—A. Yes; the evil of overcapitalization will result in adversity to the corporation, I think.

Q. May I ask just what you mean by overcapitalization? That is the reason I suggested it.—A. I mean capitalization based upon water. For instance, how would you raise money to-day? Now, assuming that you had a magnificent manufacturing property, a number of plants, and they earned 10 per cent on a capitalization of \$50,000,000; that would be \$5,000,000 you could show they earned. You go to Wall street, and you say, "I want to put up these plants; I want \$50,000,000." The Wall street man would say this: "I will give you that money if you give me, with each 100 shares of preferred, 100 shares of common as a bonus." The 100 shares of common stock which you would give as a bonus would be water; but it is necessary to create water to get money, and wherever you see bonuses given, or common stock, for the subscription of preferred stock at par, you may make up your mind that there must be a bonus. The bonus is predicated upon what will be the results of the combination. For instance, a man says, "I am making \$5,000,000, I am making 10 per cent, but if I combine, the effect of the combination will enable me to make \$5,000,000 more." The great secret of all manufacturing combinations is the economies they effect.

Q. In your judgment is it true—it is often asserted—that in addition to the saving that comes from the economies there is also an additional source of profit in their added power over prices—the power to raise prices?—A. Well, I think the very minute they go to raising their prices they invite competition. You have that assurance. If you will look at it and study it you will find that is the case.

Q. The sugar combination has been at work 12 years and more. Do you know during how many of those years there has been active competition?—A. I think within the last 4 or 5 years there has been active competition of some kind. There have been two or three competitors. That is a matter of public history, though, and easily gotten at.

Q. The reason I asked the question is this: You spoke as if you thought this competition would come in so readily and so promptly that the people would not be likely to be injured. If we can judge from the testimony given here, during something like 3 or 4 years out of 12 there has been active competition, but more than half of the time the competition has been very slight. I use this illustration because you have used it.—A. Yes.

Q. In the light of these facts, do you think we could rely upon competition alone as a sufficient regulative for too high prices?—A. I think that with conservative management, with the fact before every man that if he put prices up he would invite it, that would be sufficient to control the management.

PATENT MONOPOLIES.

Q. You have spoken also of the fact that there is a monopoly wherever a patent has been issued, and as if in a good many cases that monopoly might demand very high prices. Would you suggest any amendment to the patent laws to prevent that kind of monopoly?—A. No, I would not; because I do not see the value. I know this, that the poor, unfortunate man who invents a patent rarely reaps the benefit of it.

Q. Should you be inclined to think, then, that a law which should not permit any monopoly in a patented article, but should give to the patentee simply a royalty on every article manufactured under that patent, no matter by whom, would be wise or proper?—A. No; I do not. I do not see any reason why you should take away the incentive which the patent law gives by dividing the amount which the man is to receive by placing before him that royalty. My idea is never to tear down an old house unless you feel pretty sure that you are going to put up a better one.

Q. Do I understand you to say that it is ordinarily true that the man who patents an article does not himself reap the reward?—A. Sometimes, I think. My experience has been that before the patent has become developed the profits have disap-

¹ See p. 1166.

peared. All the large machines that have taken so long to develop. A man gets a patent, you know; the machine is really for the first time given birth; they begin to mount it, begin to get it in practical working order, and by the time the thing runs, well, he disappears. You could have bought the old Bell telephone, if you had been in the market, for \$10,000 or \$15,000, right in the city of Washington here, a number of years ago.

Q. Those who advocate the measure I suggested are of the opinion that a certain royalty to the person that takes out the patent, which must be paid by anyone, no matter who the manufacturer is, would be likely in the long run to give larger returns to the man who took the patent out than this present system.—A. I never heard that before; my present opinion is that it is best to leave it alone.

THE INTEREST OF THE LABORING MEN.

Q. If the evidence should show that these larger corporations had much greater power over their workmen than the smaller corporations or individuals had, do you think that fact would justify any special legislation in the interest of the workman, to protect him as against corporations?—A. I think if the workmen convince you that they are suffering they will get the law changed; but I do not know enough about it. My opinion is hardly worth anything on that.

Q. The matter would be summed up, then, as I understand you, substantially in this way: That the burden of proof rests upon the man who asks a change in the law?—A. Yes.

Q. But that if he can show a fairly clear case in favor of any modification of a conservative nature it would be sufficient justification of the change?—A. I believe that would be so.

Q. (By Mr. PHILLIPS.) Would not the large aggregations of capital—say of \$25,000,000, \$50,000,000, and \$100,000,000—tend to make a capitalistic class? Would they not, in fact, destroy individualism a very great deal so far as labor is concerned?—A. That is a question that I say is not developed sufficiently for us to form a judgment about. I can not say—I honestly can not say.

Q. Do you think that the opportunity of the laboring class to accumulate wealth would be as great under this system as it would be under one of smaller capitalization, such as we used to have?—A. I think if you consult the savings banks and life-insurance companies you will find that the laboring men to-day have the controlling wealth in this country—you will find that they hold it.¹

NATURAL RIGHTS OF ARTIFICIAL PERSONS—RIGHTS OF THE STATE.

Q. (By Mr. STIMSON.) I want to ask a few questions, not by way of criticism or necessarily of disagreement, but because your answers have been very suggestive to me, and I want to follow out one or two points a little further. It is mainly in the interest of your fundamental principle, which I agree with, that the burden of proof is always upon the advocate of lawmaking—that all law is necessarily, at least, in partial restraint upon individual liberty. I want to call your attention in the first instance to this, which seems to me to be a fact, that the corporation, which, as you say, we are now discussing—because the technical trust is extinct; and we are considering large corporations—that the corporation itself is the creature of law; it is not a natural thing; it is not the result of natural law, and it rests entirely on the statute law. And as you said, a corporation is an artificial person, to which I cordially agree; I add that an artificial person has no natural rights, and therefore it seems to me that that part of your argument which says that the large trusts, these corporations, have a kind of natural right not to be interfered with like that which an individual has, is not quite correct at the start; because a corporation itself is artificially created, and the same power which creates the corporation, which gives it being with all its powers, has the right to destroy it. Therefore, there are 3 or 4 questions I want to ask. I want to bear in mind, if you agree with me, that we start with the position as to these great corporations being creatures of the State; that the State can not recall their being, possibly, but can regulate them even to destruction if it chooses?—A. That is absolute; they differ from persons. That is, a father would have no right to kill his child. He had at one period in Roman history. He ought to have the right now in some cases, when he is worthless.

Q. Now, you speak of three great advantages that corporations have as distinguished even from partnerships, and still more that they have over individuals; three greater facilities for doing business. I will mention only one; that is what we call perpetual succession—a better word would be immortality. A corporation is, or may be, an immortal being, which is certainly an extraordinary thing. Now, I want

¹ Compare Mr. Stetson's statement that "nine-tenths of the corporations are controlled by boards of directors which either own or absolutely represent a large majority of the stock;" p. 972.

to ask you whether you thought it was quite true, therefore, that the corporation had no advantages in aggregation of wealth or capital that an individual has not? Take, for instance, this particular one; all individuals are mortal. When they die their assets are divided up. They pass to their executors. They depend upon new hands to manage. But a corporation is really an immortal being. That does give them some advantage over the individual, does it not?—A. In that sense it undoubtedly does; that is one of the main purposes of the aggregation. Yes, you are right.

Q. Then, I understand that you do not disagree with those who hold that in view of these things, the immortality, the freedom from individual liability, in view of the fact that the State has created this extraordinary power, you don't look askance upon the State's accepting the responsibility of regulating and controlling that extraordinary thing which it has so created and clothed with these extraordinary powers?—A. No; on the contrary, I think the State should hold its grip on corporations, just as it does. I would not relax the grip in any way.

SPECIAL TAXATION OF LARGE CORPORATIONS.

Q. I want to be quite clear on the point of aggregated capital. You said the later tendency has undoubtedly been in the direction of allowing almost unrestricted capital to corporations. The older laws, as we have them, favored the limitation of the amount of capital allowed. The later laws usually have no such limitation. You approve of this?—A. I think as long as they are continued in the present form; yes.

Q. Now, some people have suggested to me that the advantages which accrue to companies from very large aggregations of capital—which is one of the points of your argument—that this is a special advantage in these large aggregations; and in view of the gift of these extraordinary powers, the immortality of existence and the freedom from liability, which the State has given them, that corporations might well be taxed on their capital in a greater pro rata proportion than the ordinary individual. Suppose 100 individuals, with \$1,000,000 each, went into business and could earn 50 millions a year, and suppose one corporation with 100 millions of capital, adding to its profit the advantages which you have pointed out and which arise from that very aggregation, is able to produce 75 millions a year, or 50 per cent more than the individuals. People I have talked with have advised that the State should put something like a graduated tax on that very large capitalization; basing its propriety on the ground that there does arise increased productiveness from the aggregation of capital alone.—A. If I were ambitious I would begin the study of the question of taxation. It is the one question about which there is a great deficiency of real learning. The question of corporate taxation is one of the most involved, and one of the most delicate, and yet it is one which ought to be studied. Now, I would encourage that in a reform. You there run across a few of these points. You take a corporation like the Pennsylvania Railroad; when you tax the Pennsylvania Railroad you are taxing thousands and thousands of people. You see the Pennsylvania is a political entity. It has those corporate rights which make it an entity. And it ought to be taxed in the same proportion as taxes are levied on anybody else. But the difficulty with that is that we have the Constitution of the United States, which requires uniformity, and you have to run across the question how far you are to tax individuals who own the stock of the corporation.

Q. It does not require uniformity in the case of an excise tax?—A. An excise tax?

Q. That would be an excise tax, would it not, a tax on the capital of the corporation?—A. No. I do not think that would be covered by an excise tax.

Q. I have heard it argued that it would be an excise tax.—A. No; we have never regarded it so. We got our principles of corporate law on the question of excise from England, and that appertained to different things altogether.

Q. The charging of the license fee, for instance, on the formation of corporations in the first instance; that is virtually regarded as an excise tax, is it not, and not a tax upon property?—A. Oh, in that sense, yes; it was originally; yes, you are right there.

Q. Now, those individuals of the Pennsylvania Railroad are individuals, I agree with you; but suppose they are enabled by that aggregation or entity, known as the Pennsylvania Railroad Company, to earn more proportionately than they could as individuals, ought they not to be taxed on those increased earnings?—A. Well, if you can show that; you will have some difficulty in proving it, I should imagine.

PROPRIETY OF STATE REGULATION.

Q. The next is a little out of the order of your remarks; but Burke himself, in your quotation, says: "It is one of the finest problems of legislation, and what has often engaged my thoughts whilst I followed that profession, what the State ought to take

upon itself to direct by the public wisdom, and what it ought to leave, with as little interference as possible, to individual discretion.' Nothing, certainly, can be laid down on the subject that will not admit of exceptions, many permanent, some occasional. But the clearest line of distinction which I could draw, whilst I had my chalk to draw any line, was this: that the State ought to confine itself to what regards the State, or the creatures of the State, namely, the exterior establishment of its religion, its magistracy, its revenue." Now, if we levy a large tax on corporations in one form or another, either property or excise tax, is not the State entitled, and ought it not, to inquire pretty closely into their affairs, even to the point of publicity, in order to see that the tax is fairly levied? Is not that a reason for the State's exacting publicity?—A. Why, they do that now.

Q. They do that now?—A. They do that now in all States. You can not escape the tax collector. In a corporation he has the right to open your books, and he levies a tax and you are compelled to pay; there is no way of escaping him.

Q. Well, I should fancy it is not quite as burdensome in all States as it is in some. I do not suppose any uniform law can yet be recommended by Congress or by this commission that would establish any new principles, but rather one to bring all States up to the highest standard?—A. Yes.

Q. And then Burke also says in that quotation: "Its military force by sea and land; the corporations that owe their existence to its fiat; in a word, to everything that is truly and properly public, to the public peace, to the public safety, to the public order, to the public prosperity." It is the very point I would make. Corporations are a fair subject for the State to meddle with.—A. Undoubtedly..

PARTIAL RESTRAINT OF TRADE IS AGAINST THE COMMON LAW.

Q. You then mention at another point—I want to go into the law of restraint of trade. What you said, if I am right, was that there is no such thing as monopoly now in the world in a strictly common-law sense, and then you said that even in a practical sense there is no monopoly. There are some, however, that are in incomplete restraint of trade. The courts do not only concern themselves with a complete restraint of trade; and this is the thing I want to ask, if the common law did not put down combinations that were only partially in restraint of trade.—A. Yes; on the ground of public policy. In the Addyston Case, which has just been decided, the acts would have been held illegal under the common law, and it did not need that statute at all. Anybody interested in the Addyston Case could see that, because that was the most absurd—I may say to the gentleman who drew the agreement that it was a flagrant violation of public policy—that agreement.

Q. That case was exactly what I had in mind. I had it noted down here. Now, in both the common law and by our Supreme Court, recently, the principle has been reaffirmed that a combination which is only partially in restraint of trade is nevertheless obnoxious to the common law?—A. Yes.

Q. But that being so, it is urged by the opponents of trusts, if it is true that there is a practical—I do not say complete monopoly, but a practical partial monopoly, practical partial restraint of trade, resulting from some of these large combinations, it is not only the duty of the legislatures to pass laws to prevent it, but is it not already the right of the courts to apply these principles as of common law?—A. Well, they do.

Q. Exactly; they do that. You did not say, I believe, that there was not one of these large combinations now in existence which did secure even a partial restraint of trade?—A. I do not think they do; they are in corporate form now.

Q. (By Mr. JENKS.) I understood you to say in regard to the decisions that had been against these combinations that they were all under the common law?—A. Yes.

Q. This Addyston pipe case, I believe, was under the Sherman antitrust act technically?—A. Yes.

Q. The case in Ohio against the Standard Oil Company, the case in Illinois against the whisky company, and the late case against the Glucose Sugar Refining Company were all under statutes, were they not?—A. Some of those were. I can not answer that; I looked them over, but it has escaped my mind.

Q. Your opinion was that the common law was sufficient in any case?—A. Yes, where there is no actual corporation; I think the common law is perfect.

Q. That is the point, as to whether the common law was perfectly sufficient even though the decision may have been under statutes in these States.

CONSTITUTIONAL POWERS OF CONGRESS.

Q. (By Mr. STIMMON.) I would like to take up there several questions on the Sherman Act. I noted down what you said of the Sherman Act, that it "makes illegal all

acts in restraint of trade." Those are your words; and then you asked how would the opponents of trusts propose to amend it.—A. Yes.

Q. You did not add the words, however, which made illegal "all actions in restraint of trade between the several States." Those words you left out.—A. Not intentionally. Of course there can not be any legislation unless they were there.

Q. Now, I suppose that if you say that the Sherman Act has not been effectual, has not, in fact, gone beyond the common law, and ask how it can be amended to do more than that, to bring about increased effect, to become a drastic act instead of a very mild one, the extremists would say, Why, you could very easily leave out those words "between the States," leave out the interstate part of the Sherman Act, and let it read simply as you did read it, so as to make illegal all acts in restraint of trade. What would you ask the gentlemen of the commission to say if anyone came here proposing that amendment?—A. I would say unconstitutional, exactly. Will you let me interpolate there something I omitted, and right on that line? If you wish to limit or nullify the power of corporations, it is very easy to do it. If you take away from them perpetual succession, if you take away from them the nonliability, if you compel them to be partners, in other words, you can accomplish the business. There is no difficulty in destroying. You can cut their heads off with a single blow; but I have not seen the man who is brave enough to advocate that step yet.

Q. I am afraid you will say that I have no right to ask you conundrums, which I very much need an answer to. I want to close by asking two or three questions which arise under the Sherman Act, to see how they strike your mind.—A. All right.

Q. I should like to ask whether you think that a single interstate contract made by parties within two States, parties of different States, comes under the constitutional provision of the interstate-commerce clause. You know what I mean by that, of course?—A. Yes.

Q. Can not Congress legislate upon a contract because it is a contract made between a man in Massachusetts and a man in New York? Does the interstate act clause go as far as that?—A. It has no connection with such a contract as that.

Q. Can you as to individual persons?—A. No.

Q. Now, take it as to corporations in different States, which of course may be excluded arbitrarily from doing business in any one State. Corporations from another State may be excluded arbitrarily. Now, does that make any difference in the law? Is it any more possible under the Constitution than it was in the case of two individuals?—A. No. The Supreme Court of the United States, the Federal courts, held that as to corporations. You will find all these decisions.

Q. Have they not done it under the fourteenth amendment?—A. Yes.

Q. Have they done it under the clause which says that the citizens of each State shall be entitled to all the privileges of the citizens of the other State?—A. No; I do not recall that that has been done under that section. No; I do not recall any decisions under that section.

Q. I have tried very hard to find that.—A. No; I do not recall it. If you wish, here is a little brochure I have on the commercial branch of it, and I do not think anything of that kind is here.

Q. It has been proposed, I know, to the commission, or to members of it, that the Federal Government might create corporations, trading corporations, manufacturing corporations, primarily on the ground that they were supposed to do either entirely or in part interstate business. Do you know that such a law would be constitutional?—A. No, sir; I thought that the Government went as far as it could when it incorporated the Nicaragua Canal. I was in Europe at the time, and I was retained for the interests. Associate counsel acting with me went before President Cleveland and made an argument in opposition to that on the ground that it was not within the power of Congress to make it; but Mr. Cleveland signed the bill. It is a very good measure, but the Constitution is strained sometimes to support these things. The Nicaragua Canal measure is perhaps the limit it could go to.

Q. Do you think that if there is a doubt about the constitutionality of a bill a commission like this, which approved it otherwise, ought to consider the doubt at once before considering the measure?—A. Yes, absolutely.

"CORPORATION STOCK TRUSTS."

Q. There is another kind of trust that is rather rare, but is very strong when it happens, and that is what for the sake of a better word I will call the corporate trust or the corporation stock trust. Suppose three or four large holders got together and induced the holders of half the stock in a corporation, plus one share, to put that slight majority of that stock of this railroad, we may say, in a trust with three trus-

Then these three trustees issued trust certificates representing only the beneficiary right of income of that stock and no right of control of the management, until the trust is terminated, which may be 5 years or which may be perpetual. Those trust certificates, which have no power of control, are passed from one hand to another, and are regarded by the general public very much as if they were stock in the corporation. Then go a step farther. Suppose you have the Maryland Railroad, which is a real railroad, and you get up the Maryland Company and you put into the treasury of that company half the shares of the Maryland Railroad, and the control goes to the directors of the Maryland Company. It is not a railroad, but a company, and of course controls the Maryland Railroad. Then you go a step further and you put half the shares of the Maryland Company again into the trust of three individual trustees. Those three individual trustees have half of that, plus one share. Will they not control the real property which represents the value, that is, actually, the Maryland Railroad?—A. Yes; that has been done in two instances recently, one of which is fast going out and the other is just being considered. I know of two corporations and I think it a very good thing, for the reason that it makes the management permanent and leads them to have a permanent policy.

Q. But that is a question of merely 2 and 2 make 4; and they could go on and make new companies after new companies, just like Chinese boxes, one inside of the other, until you got at first one-half, then one-fourth, one-eighth, one-sixteenth, finally one thirty-second of the stock of the real corporation to control it. That could be done?—A. Yes; and if the stockholders show as little interest in properties as they do now, it will continue to be done, and if you go to a stockholders' meeting you will find that it is so.

Q. You do not think there is any reason for any law attempting to regulate it?—A. On the contrary, it is very beneficial to have permanent uniform management.

Q. For instance, it is possible, of course, to pass a statute that you can not give irrevocable proxies—that is, you can not separate the voting power of stock from the real ownership.—A. That exists already in some States.

Q. That does in the simple case of proxies; and so that rule in regard to the transfer of stock under trust. You would not be in favor of any such restriction?—A. I would not.

FREIGHT DISCRIMINATIONS—POOLING IS THE REMEDY.

Q. (By Mr. KENNEDY.) Many witnesses who have come before this commission have spoken about freight discrimination. Railroad presidents have admitted the evil. Some of the witnesses claim that these trusts have been built up through the benefits they receive from these railroads in the way of rebates, freight discriminations, etc. I should like to hear from you as to a legal remedy?—A. I think so far as discrimination is concerned it ought to be abolished, and I think if you will grant to these railroads what they want—the right to pool—and give them the right to operate their roads in a reasonable way, that those things will disappear. That seems to me to be a practical way of remedying that evil, and I believe railroad men are in favor of that view.

Q. You concur with the railroad people, then?—A. Yes.

Q. (By Mr. A. L. HARRIS.) Under what restrictions would you grant that privilege?—A. Well, I have not thought exactly about that. I should have to study that over. It depends on the form of the contract largely.

ADDYSTON PIPE CASE.

Q. (By Mr. CLARKE.) In your opinion has the decision of the Supreme Court in the Addyston pipe case turned upon the illegality of corporation partnerships, or aggregations of capital, or does it turn upon the abuses of the powers of that particular corporation?—A. It was not a corporation. It turns upon an agreement; that was the question there. If you will read the decision—I have not had time to read it entirely; I have it in my hands—you will find that the decision of the court rests upon the construction of that agreement. There was no partnership; simply an agreement to share business in certain territories, and do it in a way offensive to the common law. That I understand to be the agreement.

Q. Well then, in your opinion, the decision is against their undertaking to do things which were unlawful at common law?—A. Yes.

Q. Rather than upon the fact that they combined?—A. Yes; and under the fact that they combined to do it, because the court held it was clearly within the Sherman Act; that was a proceeding instituted by the United States under the Sherman Act.

Q. You see nothing unlawful in combining to do a legitimate business?—A. No, I do not. I do not distinguish between combining to do business and capitalizing themselves and combining into one corporation. It would be a question of form.

EXISTING LAW GIVES REMEDIES ENOUGH FOR SPECULATIVE PROMOTING.

Q. (By Mr. FARQUHAR.) Do you believe that there is an industrial stock on the New York Stock Exchange that does not carry water with it to-day?—A. Well, I do not know; I suppose some do.

Q. What do you think of a corporation with 100 millions of capital that gave away 10 millions to the promoter, and in making the corporation took 15 to 17 concerns that had not paid 2 per cent before they were taken in (that was the statement of the prospectus, supposed to be truthful, before that promotion was made)—do you think anybody would invest in it?—A. That is a hypothetical question; I could not tell; I do not think I should myself.

Q. Do you think it is possible, in a practical business view, that any aggregation of capital of 100 millions could afford to pay 10 millions for simply getting together 15 or 25 concerns, when none of them was paying before they went in?—A. I think the economies and benefits of combination would have to be very great to justify it.

Q. And the profits?—A. And the profits.

Q. Who is going to pay for this 10 millions in the long run? The poor, innocent person that buys this stock, by the wiping out of all common stock at last?—A. It depends upon its history, as I say. If it is not capitalized on a rational business basis, it is bound to go.

Q. Do you think there is any remedy in common law for abuses of the public in this way or stock gambling of this character?—A. Certainly, there are remedies at common law and statute law. If the public is deceived in any form, it has a remedy criminally and civilly, as I have explained; a perfect remedy.

Q. You do not believe that there is a necessity of strict publicity secured either by the State or by the nation, to save the public harmless from these stock gamblers?—A. I do not think that the nation is charged with the care of its citizens in respect to contracts which they make.

Q. Unless it is a creature of the nation itself by incorporation. You have mentioned one a moment or two ago.—A. Yes.

Q. The nation I mean; the nation did not take great care of that child.—A. But if you follow out the suggestion of Professor Jenks and have an auditor appointed and have a prospectus based on the English form, stating how much is paid and all the details which are put into an English prospectus, you would have provided as ample remedies as you could.¹

Q. Is not every single aggregation of capital you are speaking of now, whether or not incorporated by the United States, a movement toward control, toward a monopoly?—A. I do not know; it would be a great assumption on my part to say that.

Q. How near does it approach that definition?—A. I do not know. They may have monopolistic purposes in view, but they can not be carried out unless you give them special privileges.

Q. If the promoter gets \$4,000,000 or \$5,000,000, that money must be made somewhere; that stock is carried in men's pockets, put on the stock market, or, as the expression is, shunted on to friends or relatives. Is it bad for the whole people that we do not have regulative laws to take in hand that class of gambling? Would it not be remiss on our part not to explore that and apply the remedies for that?—A. I think you have all the remedies you can possibly want to correct the evils of false representation, the evils of misrepresentation or misstatement; they are ample to protect the public, because if you are going to undertake to supply them with brains—

Q. (Interrupting.) We do not want to undertake that.—A. And guarantee that all the citizens shall be protected if they go into investments, why, that is another question.

Q. (By Mr. JENKS.) You have spoken of misrepresentation; do you want to add the word "nonrepresentation?"—A. Nonrepresentation, yes; the suppressio veri and the suggestio falsi, both. The suggestion of falsehood and the suppression of truth are equally reprehensible in morals and in law.

Q. (By Mr. FARQUHAR.) For instance, a great iron corporation makes a combination with transportation corporations and with iron miners, and ultimately comes into ownership of the mines. You would call those actions monopolistic?—A. Well?

Q. Or are they what you call fair competitive business?—A. I do not know, it would depend; you would have to give me the exact circumstances to justify an opinion.

Q. Well, one company, the Federal Steel Company, owning four of these great corporations of that kind?—A. Yes.

Q. Owning from the point of production to the perfect output of the structural steel?—A. It is indicative of having greater opportunities.

Q. And owning the first ones?—A. Those are speculative, hypothetical questions. My opinion is not worth any more than that of anybody you can take on the street.

¹ See pp. 1166, 1167, where the suggestion is made by Mr. Dos Passos.

Q. But in the evidence you gave this morning you advised all the people to go to common law for a remedy. We find statute law in New Jersey and Delaware and West Virginia and elsewhere that Congress will have to take care of in the process of time.—A. I do not think it will. I think those laws to which you refer simply authorize all people to go there and become corporations; that is all.

Q. So that the remedy is that people ought to place the matter in a million hands and take the chances?—A. Well, that is right. If you go in and there is any fraud you can arrest the people, and you can recover damages from them. I think I have explained that. The remedies are ample.

Q. You would not, then, state it as a broad proposition that the Sherman law, that prevents the restrictions of trade, is a good law?—A. If I had my own way I should never have passed it, for various reasons.

Q. Do you not think that under the two or three decisions that we have already gotten under that law the public are better educated up to what is in the law and what power the corporations may have than they ever were before?—A. No; I think not. I think that since the Sherman law there have been a great many corporations formed of the largest kind; Federal Steel, American Steel and Wire, all those corporations were formed afterwards. It had no effect at all—a dead letter, like that statute of George I that I spoke of.

Q. You state it, then, as a broad proposition that it does not matter how great the aggregation of capital, there is no harm in it?—A. I do not.

Q. How near do you come to that?—A. I can not tell except in the light of particular circumstances. I think aggregated capital may be very dangerous—very dangerous indeed.

REPORTS MIGHT WELL BE PUBLISHED.

Q. (By Mr. SMYTH.) In your argument you suggested the publication of reports of corporations as one means of informing the public. How far would you have that publication given—simply to the officers of the State, or to the newspapers?—A. There would not be any objection to having it in the form of a report published, as we had once in the annual reports of New York.

Q. You mean published in the newspapers?—A. Published in the newspapers.

Q. You would not be satisfied that it simply be filed in the office of the secretary of state?—A. I should be satisfied. I say that if you thought, after you had reflected about it, that it was well to publish it, I do not see how anybody could complain. I think, as I explained before, that it is a reasonable request that nobody should deny who wants to do a legitimate business.¹

(Testimony closed.)

Whereupon, at 4.50 p. m., the commission adjourned until to-morrow morning at 10.30 o'clock.

WASHINGTON, D. C., January 6, 1900.

TESTIMONY OF MR. CHARLES CLAFLIN ALLEN.

Attorney at law, St. Louis, Mo.

The commission met at 11 a. m., Vice-Chairman Phillips presiding. Charles Claflin Allen, esq., was introduced and, after being duly sworn, testified as follows:

Q. (By Mr. JENKS.) Will you give your full name and address, please?—A. Charles Claflin Allen, St. Louis, Mo.

Q. Please state your business.—A. I am a lawyer.

Q. How long have you been practicing law?—A. Something over 22 years.

Q. You have, I understand, a statement and argument prepared to present before the commission. You will make that, please, in your own way.

The WITNESS. Mr. Chairman and gentlemen of the commission: I wish to state that while in some respects it would have been more agreeable to make my argument in an extemporaneous form, as is my custom in making legal arguments, I felt that the importance of this question necessitated that I should endeavor to place my ideas as far as possible in writing. I have therefore prepared a written statement of my views, which, with your permission, I will now present.

When the telegram from Mr. Sackett, the secretary of your commission, was handed to me 3 weeks ago, and I read your invitation to make an argument concerning the legal aspect of trusts, my hesitation in accepting the honor thus conferred upon me was not influenced by any disinclination, except such as arose from my realization

¹ See pp. 1162, 1168.

of the great importance of the question involved and the seeming impossibility of making adequate preparation within the time allowed me under the terms of my invitation. This statement is made, not by way of apology, which has been defined as only egotism wrong side out, but that you may realize the difficulties connected with the preparation of an argument upon this subject and may make allowance for inaccuracies, especially with reference to matters of fact, concerning which lack of time has prevented verification. Indeed, I approach this argument strictly from the standpoint of the lawyer, and, like the lawyer in the daily practice of his profession, I shall be compelled to use for facts the testimony of other people.

The whole scope of human law is summed up in the first definition of Justinian's Institutes, which I shall give both in Latin and in English, in order that it may have the beauty of the coloring derived from each of these languages: "*Justitia est constans et perpetua voluntas ius suum cuique tribuendi*;" "Justice is a constant and perpetual wish of rendering to each man his due." It is because men so often fail to appreciate this definition of justice, and because they hold to the cold letter of the law as it is written, that so many illustrations are found of injustice. Times and conditions change, and human agencies vary to meet the necessities of human wants; but the principles of truth and justice are eternal. And so the definition of justice made by the learned lawyers of Justinian 1,500 years ago is like a lamp which, though old in form, sheds an effulgent light to all within the reach of its rays. It is in that spirit that I ask your leave to place the lamp before us, so that its light may shine upon all our thoughts and words in the consideration of this grave subject.

I have seen a copy of an argument made before the commission December 12, 1899, by Mr. John R. Dos Passos, of New York. If I were to attempt merely to reply to the argument of Mr. Dos Passos, I should find considerable difficulty—first, because Mr. Dos Passos says many things with which, as he says them, I entirely agree; second, because in his statement of the propositions against which he intends to argue he defines an issue as that of his opponents for which I do not contend, and for which, as I believe, very few people do contend; third, because from my point of view Mr. Dos Passos, in stating his issue, has omitted or evaded the essence of the whole question.

I can not agree with the first statement of Mr. Dos Passos, to the effect that the word "trusts," so frequently used in this country, "has become a synonym for aggregated capital—has become a phrase representing all the forms of combined capital."¹ His reference of the name "trust" to the definition, "an equitable interest which a man has in personal or real property," also seems narrow. That the history of trusts in equity jurisprudence shows that the law upon this subject arose out of the evasion of some of the principles of feudal law is not without force. But it is a significant fact that the law of trusts had its inception in the propensity of large corporations to absorb and hold perpetually all of the best property of the realm of England.

Blackstone thus describes the history of that legislation (2 Comm. star p. 268):

"Alienation in mortmain—in mortua manu—is an alienation of lands or tenements to any corporation, sole or aggregate, ecclesiastical or temporal. But these purchases having been made chiefly by religious houses, in consequence whereof the lands became perpetually inherit in one dead hand, this hath occasioned the general appellation of mortmain to be applied to such alienations and the religious houses themselves to be principally considered in forming the statutes of mortmain; in deducing the history of which statutes it will be matter of curiosity to observe the general address and subtle connivance of the ecclesiastics in eluding from time to time the laws in being, and the zeal with which successive Parliaments have pursued them through all their finesses; how new remedies were still the parents of new evasions; till the legislature at last, though with difficulty, hath obtained a decisive victory."

In observing the analogy between the ancient trust corporations and the modern trust corporations, it is to be hoped that the remarkable capacity of the new for imitation of the old, in escaping new remedies through new evasions, may be followed by corresponding capacity of the modern legislatures to imitate the ancients in obtaining a decisive victory.

THE OBJECT OF "TRUSTS."

Mr. Dos Passos makes a somewhat startling statement concerning the object of trusts. He says that the object was "to keep people who had no business to know, from knowing the secrets of that trust. That is the object of a trust; a perfectly innocent and a perfectly laudable object, in my estimation."²

¹ See p. 1141.

² See p. 1142.

The difficulty with this proposition is that it states an incident for a cause. The main object of the trust was to carry out the combination agreement whereby prices were to be fixed and production limited. These purposes being strictly contrary to the law, it is highly probable that the members of the trust agreement desired to keep their proceedings a secret, since the public knowledge of them would lead to a dissolution, by law, of their combination, and might lead to more serious consequences, on the criminal side of the court, to the individual participants.

But Mr. Dos Passos, having stated that only two large industrial corporations resorted to that system which he calls ancient procedure and ancient law,¹ says: "The word 'trust' must therefore be discarded in the discussion of these questions, now and forever; because the courts have set their seal of condemnation upon it, and they require that people who have in view the aggregation of capital shall now consummate it through the instrumentality of a corporation; and in discussing these questions we must dismiss this word 'trust' as meaningless and useless."²

Oh, that we might dismiss the problems surrounding the "trusts" as easily as Mr. Dos Passos dismisses the word from his argument. But, like Banquo's ghost, it will not go down; because, like Banquo's ghost, it is the spirit of an evil deed. Even the word will not disappear. The statute books contain it, the court records use it, the newspapers are full of it, political platforms are based on it. There is an essential idea contained in it which Mr. Dos Passos ignores.

AGGREGATED CAPITAL NOT PERNICIOUS IN ITSELF.

Having stated that his opponents are very vague in their definitions of their position, he says: "Let me create an issue." And he then states the issue as follows: "Aggregated capital is wrong, is pernicious."³ That is an issue which I am unable to meet because I do not believe that aggregated capital is necessarily wrong. Nor can I argue concerning the limitation of capital which persons may have. For the present at least, and for the purpose of this argument, I have no suggestions to make concerning the limitations of capital, either to individuals or corporations. Though I am unable to agree with the general argument made by the learned gentleman, to the effect that because corporations have shareholders, and some of them many thousand shareholders, the State ought not to impose any limitations upon its corporations. The individual shareholder is not to be compared with a natural person, because, first, the wrong, if any, is done by the corporation, the artificial being created by the State, i. e., by all the people, and it has only such rights as all the people choose from time to time to bestow. The people can give, and they can take away at will, having due regard for vested rights. The natural individual, on the other hand, has ethically, as well as constitutionally, all rights of personal liberty not expressly prohibited by law.

Again, Mr. Dos Passos says: "Now, let me again try to formulate some postulate for these people. They say that aggregated capital held by a corporation for the purpose of manufacturing, or business, or commerce is pernicious and detrimental to public interests. I can not undertake to give the language which has been used by some of the orators in portraying the terrible future which is in store for this country if aggregated capital is permitted to exist. Adopting this formula, 'Is aggregated capital, in the hands of corporations, detrimental to the interests of society?' On what grounds?"⁴

I can not answer the question. I never heard anyone say that aggregated capital in the hands of corporations was necessarily detrimental to the interests of society. I certainly never said so myself, and do not say so now.

Continuing, he says: "It is said that aggregated capital is pernicious because it creates a monopoly, and therefore we must advance one step further in the discussion, and try to discover what a monopoly is."⁵

I do not know that anyone has undertaken to say that all aggregated capital is pernicious because it creates a monopoly. All aggregated capital does not create a monopoly. There are undoubtedly many aggregations of capital amounting to very large sums which not only do not create a monopoly, but do not even tend, perceptibly, toward a monopoly. It is important to me that my position on that point should be clearly understood in order that my distinctions may have their intended effect; for while I can not agree with the last statement of the learned gentleman, or take issue with it in its present form, it trenches upon the essence of the subject under discussion.

MONOPOLIES EXIST, AND HAVE BEEN RECOGNIZED AS EXISTING BY THE COURTS.

Mr. Dos Passos continues: "Therefore, arguing this matter as a lawyer, I am looking upon questions of definition as of primary importance. Now, 'monopoly' has a

¹ See p. 1142. See footnote 2 on that page for references to other combinations which resorted to this system.

² See p. 1142.

³ See p. 1144.

legal, it has a grammatical, and it has a historical meaning. The legal and grammatical meaning of the word 'monopoly' is the same; it must be. A monopoly, according to the dictionary, is the exclusive privilege of traffic—the exclusive possession of anything, as a commodity or a market. It is an exclusive privilege, resting in the hands of one person or corporation, to the exclusion of everybody else; and to comprehend a monopoly, you must be able to understand that there can exist no monopoly unless it is exclusive. That is the whole basis of it. * * * We lawyers, brought up on the milk of Blackstone, absorbed a prejudice against monopolies to such an extent that when you mention monopoly to a lawyer it is precisely like waving a red flag before a bull. It was a fundamental basis of a lawyer's education to oppose monopolies. But there have existed in this country, with but few exceptions, to which I shall refer, no monopolies since its organization, and therefore the use of the word 'monopoly' in the legal and in the grammatical sense must be discarded from this discussion; it has no business here; it has no technical meaning when applied to aggregated capital."¹

The monopolies which he excepts from his exclusion are, first, patents; second, special charters; and, third, what he calls a monopoly in fact, or resulting monopoly, which he says is not alluded to by any legal writer so far as he remembers.

Unfortunately for his position, the statements that there have been no monopolies in this country, and that a monopoly in fact, or a resulting monopoly, has not been alluded to by any legal writer, are not borne out by the law books. On the contrary, there have been numerous instances in which not only the supreme courts of the several States, but the Supreme Court of the United States, have recognized the existence of monopolies in fact, or "virtual monopolies," arising out of combinations in restraint of trade, and held them to be void on the same grounds and under the same authorities which the courts of England have recognized for declaring void special grants of monopoly by the Crown.

Having summarily dismissed "trusts" from the discussion, Mr. Dos Passos now eliminates "monopolies" with equal ease. With these two words discarded, and the essential idea which they suggest eliminated, I should have but little to say in opposition to the arguments of Mr. Dos Passos, and that little would refer to incidental and unessential things. My reply to his argument, therefore, must be predicated, not upon the issue which he has in form raised by his statements of the issues, but upon the issue which he has expressly eliminated by refusing to consider or discuss the essence of the whole question.

Having thus stated the position of Mr. Dos Passos, as I understand it, and my own position with reference to it, I shall endeavor to present my argument upon what I believe to be the problem now under consideration by this honorable commission, and to present it in as impersonal a way as possible.

DEFINITION OF "TRUST."

The first and most important point in the discussion is to understand the subject of discussion. To this end it is important, if not necessary, to define the subject. Considering the great number of persons who have spoken or written upon the subject of "trusts" in the legislatures, through the press, and on the stump, it seems remarkable that no clear definition has been given of the term. The subject is usually referred to by concrete description rather than by definition. It is not without hesitation, therefore, that I attempt to define it. But taking the word in its popular significance I submit the definition for the consideration of the commission. Whether it be accurate or not for the uses of others, I shall adopt it for the purposes of this argument, and shall take the position that any corporation or combination, or aggregation of capital in the hands of individuals or groups of individuals, which does not come within its terms, is not a "trust." This is the definition:

A trust is a combination of financial interests, formed with the intention of creating a monopoly.

1. A trust must have in it the element of combination. Its history shows that it was the natural resultant of the idea contained in the old law prohibiting general restraint of trade. The earlier cases of the larger combinations in this country, which were formed before the adoption of the trust idea by combinations of business enterprises, were decided upon the basis of the old common-law rule against general restraint of trade, and the authorities were of the class of English cases which decided that the village doctor or the village blacksmith could sell out his business under an agreement not to do business again within the limits of the village; but could not make a binding contract not to carry on his business anywhere within the realm. Such combinations were at first called pools; but the necessity for avoiding the deci-

¹ See pp. 1144, 1145.

sions of courts, and the tendency to legislate against pools, soon led to the invention of the trust, or rather, to the application of the principle of trusts to the large aggregations of capital which were intended to monopolize the market by fixing prices and limiting the output. To accomplish this result it was necessary to combine all of a given class of manufactures, or so nearly all that those within the combination would be able to buy out or crush out those who had the temerity to stand against them. But as the trusts, strictly speaking, were speedily demolished by the courts, so far as the validity of their legal form was concerned, those engaged in the enterprise found it necessary to adopt some other form for their combination. Some of the States, notably New Jersey, furnished such easy facilities for incorporation, and so few limitations upon the power of corporations, and granted such large powers under their general corporation laws, that the plan of "trusts," technically speaking, was merged into the combination of all of the old corporations into the form of one huge corporation. But whatever its form there was always, in the class of industrial organizations now under consideration, a combination.

WEAKNESSES OF POOLS.

Q. (By Mr. JENKS.) Will you permit me to interrupt you? You made a statement a moment ago that such combinations were first called pools, but that the necessity for avoiding the decisions of the courts, and the tendency to legislate against pools, soon led to the invention of the trust. This abandonment of the pool for the trust—is that considered entirely from the legal side, or did you intend your statement to cover the whole question? The statement has been made at times by corporation men themselves that they abandoned the pool form and went into the trust form because they found the pool was not suitable as a business form, since they could not hold the different parties to the agreement they had made; and that was the business reason for abandoning the pool and going into the trust. I wondered whether in your statement you intended to confine yourself strictly to the legal side, or whether you intended to cover the whole ground; because if you intended the latter, I should be glad to hear your statement in reply to these arguments?—A. I am speaking in that particular as in all others, essentially as a lawyer. It is not always easy to separate the characters in which one may endeavor to speak. I did not intend to give an accurate history. I made the statement in passing. I believe, notwithstanding what may be said by the gentlemen as to the reasons, and being willing to admit that there may have been many good reasons for their change of form, that they were fundamentally trying to get a form of organization which the law recognized.

Q. Do you know whether as a matter of fact there has been serious difficulty in holding the different parties to pools up to their agreements, either railroad pools, or business pools, or anything of that kind?—A. I think there is no doubt that there was considerable difficulty both as to manufacturing pools, and unquestionably as to railroad pools; for that history is public, and I do not wish to be understood as assuming that the only reason was to escape the law. Men always act from complex motives, not from single motives, and I have not the slightest doubt that in what the members of the older pools did, they were governed by the desire to get into a stronger position from every point that affected their interests; but I say again, I believe that the tendency of the courts to declare all pools unlawful as in general restraint of trade, under well-known common-law principles, was the foundation stone.

DEFINITION OF "TRUST" CONTINUED.

2. The combination forming a trust is necessarily of financial interests, whether those engaged in the combination are individuals owning their own property or corporations acting officially, or the stockholders of corporations acting on their own account for the corporations. The definition may also include organizations of laborers in the form of trade unions or otherwise, since their combinations are formed especially for the financial interests of their members.

3. The combination constituting the trust is formed with the intention of creating a monopoly. Beyond doubt this is true of all that class of combinations which, upon a fair consideration of the circumstances under which they are formed, could be classed as trusts. And this classification undoubtedly includes the vast majority of those organizations which have recently been formed in such large numbers and with such immense capital, including industries scattered all over the United States. This statement seems so nearly indisputable as not to require amplification. A company owning a plant in St. Louis does not go into a combination with all of the other companies in the same industrial line in St. Louis, and all of the same kind in Chicago, and Cincinnati, and Philadelphia, and New York, and perhaps smaller towns between, until practically all of the manufacturing establishments in that line of business are included,

except with the defined intention to be able to control the market by fixing prices and limiting output. Such a company would not enter upon what, upon its face, appears so incongruous a business compact in the ordinary, incidental, everyday way in which a man would go into partnership with some other man in his own town, in order to carry on a business in the usual way, and with free, fair, and open competition with others in a like class of business.

The purpose of such a combination is to fix prices and limit output. These acts have been declared to be illegal by the "antitrust" laws in the several States, and are in contravention of the common law against "monopolies" as interpreted by the courts.

Q. (By Mr. JENKS.) May I interrupt you again for a moment? You would exclude, then, by your definition, such a combination as the Federal Steel Company, which is made up of a union of different corporations, one engaged in mining, one in transporting ore from the mine to the smelting works and the rolling mills, then the rolling mills themselves, and so on. The Federal Steel is made up of corporations which were not engaged in the same line of business, but were in different lines of business dependent one upon the other. But of course it is an immense corporation—100 millions of capital stock issued—and is often called a trust. Would your definition exclude that?—A. It would not, sir. It would include it, and if I were to argue along the line suggested by the question, I should say it would include it with much more force than combinations of persons engaged only in the same line of business. I will endeavor to say a few things later on in the paper concerning what seems to me the danger of the monopolization of different kinds of business, going from the source of supply to the consumer.

Mr. JENKS. Perhaps I had better postpone the questioning on that line until we come to it.¹

The WITNESS. I have not discussed it at great length, but I have made suggestions as to its being a danger, and under that suggestion I would consider that I was trying to answer your last question.

Mr. JENKS. Yes.

The WITNESS (continuing reading.) If in the natural and ordinary course of events a group of individuals, whether in corporate form or not, enter into business relations in such a way as merely to carry forward an industrial pursuit in the open market, it would not come within the definition above given of a trust. But out of the myriad groups which have been formed into combinations to control all, or nearly all, of the manufacturing plants or other industrial properties, under such circumstances as naturally and necessarily resulted in the fixing of prices and the limitation of outputs, there are few, if any, which would not come within the definition, which is now repeated: A trust is a combination of financial interests, formed with the intention of creating a monopoly.

DEFINITION OF MONOPOLY, AND SKETCH OF ANTIMONOPOLY LAW.

But what is a monopoly? In the sugar case in the supreme court of New York, in 1889 (same case on appeal, 121 N. Y., 582), Judge Barrett described a monopoly as "A combination, the tendency of which is to prevent competition in its broad and general sense, and to control and thus at will enhance prices to the detriment of the public. * * * Nor need it be permanent or complete. It is enough that it may be even temporarily and partially successful. The question in the end is, Does it inevitably tend to public injury?"

Antipathy toward monopoly is deeply rooted in the human heart. It is a natural expression of human nature that man should resent the privileges which other men obtain of alone controlling the sources of supply. And so far as this human impulse is concerned, it is quite immaterial whether the monopoly exists through royal grant or arises from the unlawful control of a few, or of one, over that in which the many, or all, have an interest. In the consideration of subjects of this kind men are likely to be more or less limited by the shortness of their own horizon lines, so that they judge of general principles from the limited conditions which surround them. But legal principles, like the rules of ethics, are old, and the conditions which surround men, while they change in external form, are wonderfully similar in their general character. To solve the problems of the present it is of great importance to look into the history of the past.

Antimonopoly laws are of ancient origin. By the *lex julia de annona* the Romans prohibited, under penalties, any interference with transportation, or preventing the free carriage of grain. By the statute of Zeno, the man who ran a "corner" in staples was subject to punishment and confiscation of goods. (2 Wharton Crim. Law, 9th ed., sec. 1849.) Monopolies were prohibited at common law, and combinations in restraint of trade are held to be conspiracies. A criminal conspiracy at com-

common law has been defined to be "Any combination between two or more persons to accomplish an unlawful purpose, or a lawful purpose by unlawful means."

The books from the earliest days are full of reiterations of this definition. Hawkins, in his *Pleas of the Crown* (Book 1, c. 27, s. 2), lays it down that "there can be no doubt but that all confederacies whatsoever wrongfully to prejudice a third person are highly criminal at common law, as where divers persons confederate together by indirect means to impoverish a third person."

In an anonymous case in 12 *Modern* (248, case 427, 1698) leave was given to file an information against several plate-button makers for combining by covenants not to sell under a set rate, and Chief Justice Holt said, "It is fit that all confederacies by those of a trade to raise their rates should be suppressed." In *Bolton's Justice* (vol. 2, p. 16) it is declared that any such conspiracy is an offense at common law. So in 1 *Keble* (850, report of *Rex v. Sterling*) Chief Justice Hyde says that the very conspiracy, without an overt act, to raise the price of pepper or other merchandise is punishable.

It will be noticed that these cases relate to those engaged in trade; yet they are cited as leading authorities in support of prosecutions against laborers for combinations to raise wages, as our own "antitrust" law was first invoked against strikers.

But the most notable illustration of the biblical assertion that "there is no new thing under the sun," is found in the *Liber Assisarum*, 27 *Edw. III* (pp. 138, 139), 5 years after the first of the "statutes of labourers," where, among other conspiracies directed to be investigated by the inquests of office, is that "of merchants, who by covin and alliance among themselves, in any year put a certain price on wools, which are to be sold in the country, so that none of them will buy, or otherwise pass in the purchase of wools beyond the certain price which they themselves have ordained, to the great impoverishment of the people."

More than 500 years ago our English ancestors were faced with the problem of "trusts," and legislated against them. Whether the inquest of office was more successful in 1354 than in 1900 history is silent.

A case decided in 1602 contains a statement of the common law on the subject of monopoly, and an explanation of the reasons for the law on that subject, which is so clear an exposition of the subject that it might well be applied to any of the many cases of well-defined "trusts" in the United States to-day. Practically the only difference necessary to make in the application of the case is to make a statement of facts of the modern conditions in place of those which existed at the time. The case was entitled *D'Arcy v. Allein*, and was known as "The Case of Monopolies." (8 *Coke's Reports*, part XI, star page 84.) The facts were these:

Queen Elizabeth, by letters patent, granted to Edward D'Arcy, esqr., the sole privilege of manufacturing and importing playing cards for a period of years, and imposed a penalty upon any other person who manufactured, imported, bought, or sold any cards within the realm.

Plaintiff, D'Arcy, sued defendant, Allein, for damages for having manufactured and sold cards contrary to the form of the letters patent and in contempt of the command of the Queen.

The court, speaking through Popham, chief justice, rendered the following decision: "That the said grant to the plaintiff of the sole making of cards within the realm was utterly void, and for two reasons: 1. That it is a monopoly, and against the common law. 2. That it is against divers acts of Parliament. Against the common law for four reasons: 1. All trades, as well mechanical as others, which prevent idleness (the bane of the commonwealth) and exercise men and youth in labor for the maintenance of themselves and their families and for the increase of their substance, to serve the Queen when occasion shall require, are profitable for the commonwealth, and therefore the grant to the plaintiff to have the sole making of them is against the common law, and the benefit and liberty of the subject, and therewith agrees Fortescue in *Laudibus legum Angliæ*. Cap. 26. And a case was adjudged in this court in an action of trespass inter Davenant and Hurdia, Trin. 41 *Eliz. Rot.*, 12, where the case was, that the company of Merchant Taylors in London, having power by charter to make ordinances for the better rule and government of the company, so that they are consonant to law and reason, made an ordinance, that every brother of the same society, who should put any cloth to be dressed by any cloth worker not being a brother of the same society shall put one-half of his cloaths to some brother of the same society who exercised the art of a cloth worker, upon pain of forfeiting 10 shillings, etc., and to distrain for it, etc., and it was adjudged that the ordinance, although it had the countenance of a charter, was against the common law, because it was against the liberty of the subject; for every subject, by the law, has freedom and liberty to put his cloth to be dressed by what cloth worker he pleases, and can not be restrained to certain persons, for that in effect would be a monopoly; and therefore such ordinance, by color of a charter, or any

grant by charter to such effect, would be void. 2. The sole trade of any mechanical artificer, or any other monopoly, is not only a damage and prejudice to those who exercise the same trade, but also to all other subjects, for the end of all these monopolies is for the private gain of the patentees; and although provisions and cautions are added to moderate them, yet, *res profecto stulta est nequitiae modus*, it is mere folly to think that there is any measure in mischief or wickedness; and therefore there are three inseparable incidents to every monopoly against the commonwealth. sc. 1. That the price of the same commodity will be raised, for he who has the sole selling of any commodity may and will make the price as he pleases. * * * And the poet saith, *Omnia Castor emit, sic fit ut omnia vendat*. * * *

"The second incident to a monopoly is, that after the monopoly granted the commodity is not so good and merchantable as it was before: for the patentee having the sole trade regards only his private benefit and not the commonwealth. 3. It tends to the impoverishment of divers artificers and others, who before, by the labour of their hands in their art or trade, had maintained themselves and their families, who now of necessity will be constrained to live in idleness and beggary; *Vide Fortescue ubi supra*; and the common law in this point agrees with the equity of the law of God, as appears in Deut., cap. xxiv, ver. 6, *Non accipies loca pignoris inferiorem et superiorem molam, quia animam suam apposuit tibi*—you shall not take in pledge the upper and the nether millstone, for that is his life; by which it appears that every man's trade maintains his life, and therefore he ought not to be deprived or dispossessed of it no more than of his life; and it agrees with the civil law.

* * *

"3. The Queen was deceived in her grant; for the Queen, as the preamble appears, intended it to be for the weal public, and it will be employed for the private gain of the patentee, and for the prejudice of the weal public. * * *

"4. This grant is *præsumptiva*, for no such was ever seen to pass by letters patent under the great seal before these days, and therefore it is a dangerous innovation, as well without any precedent or example as without authority of laws or reason."

MONOPOLIES BY PUBLIC GRANT IN THE UNITED STATES.

But, Mr. Dos Passos says, and a great many people honestly and earnestly contend, that there are no monopolies in the United States. To the extent that there are no royal grants of special privileges to manufacture or sell goods, this is conceded; but it is difficult to understand wherein a royal grant differs in fact, or in legal effect, from the more than royal grants which have been in times past bestowed by the United States Government, and by the States, and by municipal corporations, in the form of franchises for street railroads, conduit companies, and companies using or vending electricity for what is called a public use. If illustrations are needed, bear in mind the subsidies granted by Congress to railroads; or turn to the laws of Missouri of 1890, and see the statute in direct contravention of the general policy of the State, as otherwise expressed in its laws, whereby all except one of the street railroads of St. Louis, whose estimated value at their highest basis of estimate prior to consolidation was \$30,000,000, were consolidated under such a scheme that bonds were issued for \$45,000,000, and stock for \$45,000,000, making a total capitalization of \$90,000,000. And this was in a State which bears the reputation, outside its borders, of having the most pronounced antitrust legislation. Or, for illustration of municipal franchise monopolies, note the case of the National Subway Company of St. Louis, which was granted the privilege of using the streets of the city for its conduits, and given the privilege of renting those conduits to others, with nothing reserved to the city except a petty franchise payment, and without power in the city to regulate or control its exercise of its public franchises. And this was approved by the supreme court of Missouri as a contract with the city which could not be violated, although the laws of the State, as interpreted in other cases, prohibited the use of public highways in the city, or private ownership in what was in the streets, except subject to the municipal regulations.

OTHER MONOPOLIES RECOGNIZED BY THE COURTS AS EXISTING.

But while these monopolies, derived from public franchises, abound in all parts of the country, it is unnecessary to refer to them in order to show that the existence of monopolies in this country has been repeatedly recognized by the courts, both State and national. Fortunately for this country, its jurisprudence is founded upon the common law, whose elasticity and whose strength have always proved equal to reaching and holding new conditions within the fundamental principles of law embodied within its system. So, when it was shown to the United States Supreme

Court, in *Munn v. Illinois* (94 U. S., 113), that 14 warehouses in Chicago, controlled by about 9 business firms, charged prices which were agreed upon between the different elevators, the Supreme Court held that this was a "virtual monopoly," and Mr. Chief Justice Waite, speaking for the court, in its opinion said: "Looking, then, to the common law, from whence comes the right which the Constitution protects, we find that when private property is 'affected with a public interest, it ceases to be *juris privati* only.' This was said by Lord Chief Justice Hale more than 200 years ago in his treatise *De Portibus Maris*, 1 Horg. L. Tr., 78, and has been accepted without objection as an essential element in the law ever since. Property does become clothed with a public interest when used in a manner to make it of public consequence, and affect the community at large. When, therefore, one devotes his property to a use in which the public has an interest, he, in effect, grants to the public an interest in that use, and must submit to be controlled by the public for the common good, to the extent of the interest he has thus created."

Efforts have been made to minimize the influence and effect of *Munn v. Illinois*, and it has been criticised in some respects, but in spite of slight and criticism it is the law of the land to-day. It has been approved in two cases (*Budd v. New York*, 143 U. S., 517, involving the New York grain elevator law, and *Brass v. North Dakota*, 153 U. S., 391, involving the Dakota warehouse law). In spite of the storm and the stress which has been raised in the efforts to reduce its effect, for the benefit of private interests, it still stands like a light-house on a rocky shore. It illustrates more clearly, perhaps, than any other case in this country, the perpetuity of the common law.

Mr. Spelling, in his work on Trusts and Monopolies, section 130, says: "In the case of *State v. Standard Oil Trust* (Ohio, 30 N. E., 279), much was said in favor of the objects of the Standard Oil Trust and what it had accomplished. But the court remarked that it might be true that it had improved the quality and cheapened the cost of petroleum and its products to the consumer; but such was not one of the usual or general results of a monopoly; and it was the policy of the law to regard not what might but what usually does happen. Experience shows that it is not wise to trust human cupidity where it has the opportunity to aggrandize itself at the expense of others.

"The claim of having cheapened the price to the consumer is the usual pretext on which monopolies of this kind are defended, and it is well answered in *Richardson v. Buhl*, 77 Mich., 632 (43 N. W., 1102). After commenting on the tendency of the combination known as the 'Diamond Match Company,' to prevent fair competition and to control prices, Champlain, J., said: 'It is no answer to say that this monopoly has, in fact, reduced the price of friction matches. That policy may have been necessary to crush competition. The fact exists that it rests in the discretion of this company at any time to raise the price to an exorbitant degree.' Monopolies have always been regarded as contrary to the spirit and policy of the common law."

Some of the clearest and at the same time strongest utterances concerning the existence and character of monopolies in this country are to be found in the decisions of the Supreme Court of the United States.

In *United States v. E. C. Knight Co.*, 156 U. S., 1 (1894), Mr. Justice Fuller, writing the majority opinion, though holding that the American Sugar Refining Company did not violate the antitrust law of 1890, because the monopoly was a monopoly in manufacture and not in interstate commerce, nevertheless concedes the existence of a monopoly (p. 11), and says (p. 16): "All the authorities agree that in order to vitiate a contract or combination it is not essential that its result should be a complete monopoly; it is sufficient if it really tends to that end and to deprive the public of the advantage which flows from free competition."

In the same case, Mr. Justice Harlan, in a very exhaustive and learned dissenting opinion, says (p. 25): "But a general restraint of trade has often resulted from combinations formed for the purpose of controlling prices by destroying the opportunities of buyers and sellers to deal with each other upon the basis of fair, open, free competition. Combinations of this character have frequently been the subject of judicial scrutiny, and have always been condemned as illegal because of their necessary tendency to restrain trade. Such combinations are against common right and are crimes against the public."

Mr. Justice Harlan cites and analyzes a number of cases from other States, which sustain the proposition above quoted. Among them are: *Morris Run Coal Co. v. Barclay Coal Co.*, 68 Pa., 173, 8 Am. Rep., 159; *Arnot v. Pittston & E. Coal Co.*, 68 N. Y., 558, 23 Am. Rep., 190; *Hooker v. Vandewater*, 4 Denio., 352, 47 Am. Dec., 258; *Stanton v. Allen*, 5 Denio., 434, 49 Am. Dec., 282; *Saratoga Bank v. King*, 44 N. Y., 87; *Central Ohio Salt Company v. Guthrie*, 35 Ohio St., 666; *Craft v. McCaughy*, 79 Ill., 346; *People v. Chicago Gas Trust Co.*, 8 L. R. A., 497, 130 Ill., 269;

India Bagging Asso. v. Kock, 14 La. Ann., 168; *Santa Clara Mill and L. Co. v. Hayes*, 76 Cal., 887; *Richardson v. Buhl*, 6 L. R. A., 457, 77 Mich., 632.

Indeed, wherever the issue has been squarely presented, whether in the Federal courts or in the State courts, and where the purpose and tendency of the conditions found to exist in the case were toward a "virtual monopoly," the same principles of the common law have been applied, and the combinations found to be in restraint of trade have been declared to be illegal and void.

These decisions have sometimes been rendered on common-law principles alone, and sometimes in cases arising under special antitrust statutes. But it is believed that it is not too broad a statement to make to say this: Wherever the court had jurisdiction of the subject-matter, and the facts presented showed a combination of financial interests, formed with the intention of creating a monopoly, the court, State or national, whether acting under a statute or upon common law principles alone, has always declared such a combination to be illegal and void.

THE NATIONAL LEAD COMPANY CASE.

One of the most recent and important decisions out of the courts, bearing on this topic, was rendered by the St. Louis court of appeals, in the case of the National Lead Company v. S. E. Grote Paint Store Company, on May 2, 1899. It appeared in that case that the National Lead Company was incorporated under the laws of the State of New Jersey, as the successor of the National Lead Trust, and pursuant to articles of agreement among those interested, authorizing the trustees to have such incorporation perfected.

Q. (By Mr. JENKS.) May I interrupt you a moment? Can you tell us where the text of that decision can be secured?—A. I will furnish it to you. I have a copy with me. It is not in this room now.

Mr. JENKS. Afterwards will do; just so that we can have it on file.

THE WITNESS. Those who undertake to say that the decisions of the courts have no effect upon the operation of trusts are referred to the testimony of President Thompson, in that case, in giving his reasons for the dissolution of the old trust. He says: "Mainly because there have been laws passed by the United States, and a number of States, that were inimical to that form of organization, and the great public prejudice had been aroused, which seriously affected the values of the shares of the trust, and we had a great desire to conform to all of the laws of the country, and to the views which were taken by the public of that form of organization."

The National Lead Company is a tremendous concern. It is made up of more than 30 corporations and business concerns, any one of which would formerly have been considered large. The case decided by the St. Louis court of appeals was a suit by the Lead Company against a customer for a bill of goods sold to the customer. The defendant set up, as a special defense, a statutory provision entitling the defendant to plead in defense to the suit the special antitrust act, which provided that any purchaser from a trust within the meaning of the act should not be liable for the price of the goods purchased from the trust. The court of appeals held, Judge Bond delivering the opinion, that the corporation as formed was an illegal combination, and violative of the antitrust law of Missouri; that the foreign corporation was not entitled to engage in business in Missouri, contrary to the laws of Missouri, and that to obtain a charter for the purpose of evading the laws of a foreign State, under cover of the rule of comity, would be a fraud upon the State granting the charter; and to attempt to act under such a charter in a foreign State would be a fraud upon the latter. And it was also held that the defense set up was a valid defense.

The attorneys for the defendant in the National Lead Company case, Messrs. S. T. G. Smith and Thomas S. Meng, have so admirably stated in their brief the points involved, and have supported them with such a multitude of authorities, that the principal points are here appropriated as applicable to all cases of that class.

1. The agreement known as the National Lead Trust agreement was illegal and against public policy, at common law, because its tendency, purpose, and effect was to create a monopoly and suppress competition, and thus to fix prices and regulate production. Therefore the combination of corporations and stockholders under said trust agreement was illegal.

2. But it is not the particular form which the organization or combination may assume, but the fact that the purpose, tendency, and effect of such organization or combination is to create a monopoly and suppress competition, which is against public policy and illegal. The Missouri statute is broad enough to cover all combinations of whatever kind or nature which have this purpose, tendency, or effect, and to this extent it is declaratory of the common law. Therefore, notwithstanding the change of the form of plaintiff combination from that of a self-styled "trust" to that

of a self-styled "corporation," it is still illegal, the purpose, tendency, and effect of the combination being still the same.

3. All combinations, associations, contracts, or agreements in restraint of trade, or which tend to create monopoly, or to suppress competition, are against public policy and void.

4. The National Lead Company is itself such a trust or combination as is prohibited by the Missouri statute.

5. A corporation has no right to enter into a partnership or other combination whereby the control of the corporation is placed in the hands of some other corporation or unincorporated body.

6. A corporation is merely an association of the individuals who are its stockholders, united together for a common purpose, and having as such association certain privileges, powers, and liabilities.

7. A corporation has no standing as such outside of the State in which it is incorporated. The laws of a State can have no extraterritorial effect. Therefore one State can not confer upon an association of individuals, when doing business in another State, certain franchises, privileges, and powers and limitation of liability in their associated capacity. By the rule of comity foreign corporations are recognized and their rights enforced. But a corporation organized in one State for a purpose which is against the public policy of another State will not be recognized as a corporation in such other State.

Q. (By Mr. JENKS.) Is that decision a final decision, or is the case still pending?—A. The case is still pending in this way: It was reversed and remanded in order that certain errors in the course of the trial might be corrected in a new trial; but the principle of law was laid down, and was, so far as the courts of Missouri are concerned, final, unless it is subsequently reversed by some court or goes into the supreme court on a constitutional question.

Q. (By Mr. STIMSON.) There is no higher court in Missouri than the court of appeals?—A. Not unless there is a larger amount involved, or unless, as said, a constitutional question was involved, or unless upon division of opinion there is a certification of the case to the supreme court.

Q. Supreme court of Missouri?—A. Yes; supreme court of Missouri.

POWERS OF FOREIGN CORPORATIONS.

Q. Since you are on that last proposition, may I ask—there are decisions in the Federal courts, are there not, that take the other side entirely on that last proposition? Are there not decisions which state that unless a State has affirmatively excluded a corporation of any State from doing business in it by some statute, the corporation of such other State coming into it, though clothed with powers by the State creating it which are against the policy of the State where it wishes to do business, may, nevertheless, under the doctrine of comity, act as a corporation?—A. I think there are. I do not think the decisions of the several States can be in all respects harmonized with some of the Federal decisions. I understand the Federal decisions to have originated primarily in the natural tendency of those courts, perhaps, to take jurisdiction of these questions, in cases which determine that a corporation of another State was entitled to go into the State where a suit was brought, as a foreign corporation. Then there are other decisions which tend to hold that the corporation of one State is for some purposes a citizen of that State and entitled to the same rights in another State; but I contend, and I have not had time to make a brief upon that subject, that the cases are not fundamentally inharmonious, because I do not think that the Federal courts have ever attempted to give to the corporation all the rights, privileges, and immunities of the individual.

Q. That is one of the most important points, and I do not think it is a waste of time to have a word upon that, in order to make that part of your argument a little bit clearer. A very clear example of what I mean, perhaps, is best taken from what occurred in my own practice. The State of Massachusetts forbids corporations for distilling or brewing purposes. They are absolutely forbidden. The general law does not permit them, and consequently it is against the policy of the State of Massachusetts to have such corporations do business in it at all. A foreign—that is, an English—brewing company in this case wished to come in and do business as a brewing company in Massachusetts. They had a charter from Parliament, which, of course, gave them full powers to carry on the brewing business, and they had in fact bought \$9,000,000 worth of property of brewers in Boston—a trust, in other words—and they came to me to ask whether they were safe in taking title. I took the ground that it was doubtful. I was not willing to advise that they could take title to land without question, for the reason that you have expressed, that they were a cor-

poration which was against the policy of the State of Massachusetts, and that consequently, although the State of Massachusetts had not by express statute excluded foreign brewing companies from doing business, yet I was afraid of the implication, and that the courts might hold, as your St. Louis court has held, that being counter to the spirit of the Massachusetts law the doctrine of comity might not be allowed. But I am bound to say that I could find very few authorities on that position; only, in fact, two cases. It was before the St. Louis case had been decided. I had only one or two cases; one in the circuit court of the United States from Colorado¹ that seemed to me rather on the other side, which says, for instance, that this brewing company having come into the State to do business under the doctrine of comity, with its foreign powers, at a time when it was not yet expressly prohibited, it was too late for the court to say that they could not act with all the powers that the charter gave them.—A. May I say, in answer to the question and the statement which has been so clearly put by Mr. Stimson, that from my point of view it is not of so great consequence to determine the precise status of a decision on that subject, because it is partly, at least, in the power of the State to determine the question by express prohibitive legislation; and if there be any defect in that direction the power is supplemented in Congress, at least to the extent that so far as interstate commerce is concerned it has clearly the power of determining what regulations shall be included under the interstate-commerce clause of the Constitution.

Q. (By Mr. CLARKE.) Has any Federal question been raised in the Missouri case which is now pending?—A. No; not that I am aware of.

ANTITRUST LAW OF 1890—ADDYSTON PIPE CASE.

The most interesting evolution of the law concerning "trusts" is found in the history of the antitrust law of the United States passed in 1890, sometimes called the "Sherman Act." Though clearly designed to prevent dangerous combination of capital engaged in interstate commerce, it was allowed to slumber as an ineffectual piece of legislative machinery until the great Chicago strike of 1894, when it was successfully invoked against combinations of laborers, and was interpreted by the Supreme Court of the United States in *re Debs* as prohibiting such combination. The Trans-Missouri case followed, in which the great western railroad combination was held to be unlawful. And only a month ago, on December 4, 1899, the Supreme Court held the statute effective in the case of *United States v. Addyston Pipe and Steel Company* and others. In that case Mr. Justice Peckham said: "We have no doubt that where the direct and immediate effect of a contract or a combination among particular dealers in a commodity is to destroy competition between them and others, so that the parties to the contract or combination may obtain increased prices for themselves, such contract or combinations amount to a restraint of trade in the commodity, even though contracts to buy such commodity at the enhanced price are continually being made. Total suppression of the trade in the commodity is not necessary in order to render the combination one in restraint of trade. It is the effect of the combination in limiting and restricting the right of each of the members to transact business in the ordinary way, as well as its effect upon the volume or extent of the dealing in the commodity, that is regarded."

VON HALLE'S CLASSIFICATION OF MONOPOLIES.

Ernst von Halle, in his work on trusts in the United States, has classified the various kinds of combinations existing in this country into four classes: 1. Natural monopolies. In this class he includes commodities which only exist in quantities locally limited or are manufactured from materials so limited. 2. Quasi-natural monopolies. In this class he includes certain plants which everybody can establish, but which once introduced are practically beyond competition because they require an enormous amount of capital; and he adds, "By the mere fact of their existence they become nearly as powerful as natural monopolies." He instances railroads, telegraph companies, waterworks, gas works, and other quasi-public enterprises. 3. Legal monopolies, which definition includes patents and copyrights. 4. An undefined group, including a vast number of combinations, the cause for which can only be found to a limited extent in the conditions described, and which spasmodically appear and often as quickly disappear.

EXTENT OF COMBINATIONS AND INCORPORATIONS.

In an appendix to his work Mr. Von Halle gives a list covering 10 pages of fine print, alphabetically arranged, of trade combinations in commodities in the United

¹ *Conwell v. Colorado Springs Co* 100 U. S., 55. See also, as perhaps more directly in point, *Christian Union v. Yount*, 101 U. S., 352.

States at the time of the publication of his book in 1895. Since that book was published the progress in the formation of trusts has been so rapid that it is practically impossible to keep track of them at all.

Dr. Hadley, president of Yale University, in an article in *Scribner's Magazine* for November, 1899, stated that in 1898 the new companies formed in the United States for the purposes of industrial consolidation had a capital of over \$900,000,000. It is further stated that in the earlier half of 1899, according to the careful estimate of the *Financial Chronicle*, the capital of the new companies of this character was \$3,100,000,000, or more than three times that of the whole year preceding.

“RIGHTS” OF CORPORATIONS AND PUBLIC DANGERS FROM THEIR POWER.

This is stupendous. Doubtless in this large number of consolidations there are many which have only followed a natural normal tendency under economic laws. So far as this is so they are of course unobjectionable. It is a favorite argument at the present day of those who, like Mr. Dos Passos, believe that no limitations should be put upon aggregated capital, that it is useless to attempt by legislation or by law, in any form, to check the tendency of the times toward these tremendous consolidations. They say that it all represents an economic development. Having grown up in an age of corporations they blandly talk about the rights of consolidation and the rights of corporations, as if corporations were entitled to the presumptions concerning liberty of action and liberty of contract which are guaranteed by our constitutions, State and Federal, to the natural person.¹ They seem to forget altogether that the corporation is the creature of the State; that is, in a republic, of all the people of a State. They forget that every so-called right of a corporation is merely a privilege, a license, granted by the public, and within the control of the public in that respect. The State, i. e., the public, may give its franchise to the corporation to such extent as the State thinks best. It may limit it as much as it pleases. It may impose upon it such conditions concerning its exercise as it sees fit.

If present conditions were dependent upon combinations of natural persons only, the danger would be reduced to a minimum. A few men might, under peculiar circumstances, acquire large fortunes; though it is doubtful if any man, without the aid of corporate franchise, could acquire in so short a time, in this country, any one of the vast fortunes of the day. But a combination between such men could probably be easily broken up. Each man would also be financially, as well as morally, responsible for what he did. And at the worst each of those in the combination would die within a short time, and their fortunes would go to others, who might not possess their skill. It is the corporate form that cloaks the danger. The laws upon this subject, relaxed for the purpose of encouraging commercial enterprise, have, by looseness of statutory provisions and the implied powers conferred by judicial assistance, acquired a power to get what they want and a skillfulness in eluding responsibility for their misconduct, which is in itself a factor in the present dangerous tendencies toward unlawful combinations and monopoly. Do not understand that in saying this it is intended to make any general attack upon corporations as such. Quite the contrary. It must be recognized that they have in the past been potent factors in the development of the wonderful commercial progress which has been made by this country; a progress which has brought the United States to a position where it is threatening the manufacturing industries of nearly every European nation, and where it may claim, in many respects, if not in most, to be the leading nation of the world. One of the difficulties in taking a position against unlawful combinations is the possible danger of an assumption concerning the basis of the existing evil, which, if acted upon, might tend to interfere with legitimate development. Nevertheless, the fact remains that as the statutes stand to-day, and as they are interpreted by the courts, the corporations, even the private corporations, though the creatures of the State, are too far independent of the State and too little within the regulation and inspection of the State. If this be true of private corporations, how much more forcibly does the criticism apply to quasi-public corporations, such as railroads, telegraph and electric companies, street railroad companies, and others whose basis of success rests upon a public franchise. Here will be found a most potent factor in the dangerous conditions which face us. Quasi-public corporations, operating under municipal franchises, which they obtain for nothing—so far as the public treasury discloses—have the right to occupy public highways. They are usually incorporated under general statutes very indifferent in their description of the powers to be conferred; they get from the public their privilege, and yet are usually greater than the public in any contest which arises.

¹ See Mr. Dos Passos, p. 1162.

THE POWER OF TRUSTS RESTS ON THE POWER OF RAILROADS.

It is in the railroad companies that the greatest danger lies. Having obtained from the respective States the power of eminent domain, and having established under their public franchises what the courts have denominated public highways, and all this because they are run theoretically in the interests of the public, they have become a principal medium of establishing the greatest trusts in the United States.

Look at the history of the Standard Oil Company in connection with the railroads, as it is disclosed in public proceedings of various sorts—the courts of Ohio, investigations of legislative bodies, and of Congress. Who could not acquire a large aggregation of capital if his only competitor were required to pay 35 cents a barrel for the transportation of oil, of which 25 cents a barrel was to be turned over to him? It is impossible to go into a consideration in detail of the acts, even of the Standard Oil Company, in connection with railroad rates, to say nothing of the action of numberless other trusts or attempted trusts in the same regard. Much of that history is before this commission in the form of evidence. Other phases of it can be ascertained in the reports of the Interstate Commerce Commission. It is certainly a safe assertion to make that there is not one large shipper in fifty in any of the great cities of the country, or in any industrial locality, who has not made a large part of his success in placing his goods upon the market through special rates given to him by a railroad, or several railroads, lower than the established tariff rate published under the law, and therefore in contravention of the law. Yet this act on the part of the shipper, and of the agent of the railway company, is by law a crime, and the reputable members of the community who make themselves parties to the unlawful agreement for the discrimination in rates are either too ignorant, or more often too indifferent, to realize either their legal or their moral turpitude.

It is currently reported that a leading business man of one of the principal cities of the country said to this commission something to this effect: It takes both money and brains to move the wheels of commerce in this country, and I have both. This story may not be true; but it is true of the gentleman concerning whom it is told, that when he was asked by the Interstate Commerce Commission to disclose certain facts concerning the rates which he received from the railroad companies, he repeatedly refused to answer because his answers would incriminate him, thereby in effect admitting his criminality. That this latter statement is true is proved by the records of the published opinion of the Supreme Court of the United States.

Mr. A. B. Stickney, president of the Chicago and Great Western Railway, says in his work on *The Railway Problem* (p. 33): "The average business man feels strong enough and acute enough to cope with his competitors on equal terms, but here is a power he can not compete with, and he can not avoid. This power, like a government, has authority to make tariffs, and enforce their collection. It claims a right, which no civilized government claims, and no sovereign has dared to exercise for centuries, of rebating a portion of its tariff, and thus discriminating between its subjects in the collection of its revenues."

The terrible extent to which railway discriminations have gone is disclosed in the woeful confession made by the Interstate Commerce Commission in its report for 1899. After referring to repeated recommendations in former reports for further legislation, and the failure to obtain it, the report continues as follows: "Meanwhile the situation has become intolerable, both from the standpoint of the public and the carriers. Tariffs are disregarded, discriminations constantly occur, the price at which transportation can be obtained is fluctuating and uncertain, railroad managers are distrustful of each other, and shippers all the while in doubt as to the rates secured by their competitors. * * * Enormous sums are spent in purchasing business, and secret rates accorded far below the standard of published charges. The general public gets little benefit from these reductions, for concessions are mainly confined to the heavier shippers. All this augments the advantages of large capital and tends to the injury and often to the ruin of small dealers."

From all this it appears that the conditions which exist in the commercial world are largely, if not chiefly, dependent upon rates of transportation, and that the wealth and power possessed by the large trusts or combinations are derived from discriminative rates contrary to law. The political economist may argue that the rate of freight is a part of the price of goods to the consumer, and, therefore, an important part of the economic problem to the manufacturer. Abstractly stated, this is true. But if the one manufacturer grows rich through unlawful, unreasonable, and unjust discriminations in his favor, granted to him by the railroad, which has its franchise from the public, it must be apparent that the rule of political economy invoked on

¹ See Mr. Rice, pp. 706-709; Mr. Archbold, pp. 556-559.

behalf of the wealthy manufacturer has been influenced by the unlawful and unjust act of the railroad company, in which the manufacturer participates. Therefore, practically speaking, the quasi-public corporation upon which the public has bestowed its franchise for the public weal, has disturbed pro tanto the laws of political economy in a natural state. Furthermore, several of the largest trusts, notably the Standard Oil Company and the coal companies, have, by combination, obtained a practical monopoly of the source of supply by owning a large proportion, if not nearly all, of the valuable coal mines. In this class of cases the discrimination in rates has been most marked. And in furtherance of the tendency toward combination, these coal companies have not only had the benefit of special rates, but they have combined with the railroad companies themselves in such a way that the railroad companies have in many instances become the virtual owners and operators of the coal mines. This in itself is a terrible menace. Here is a railroad company organized under defined statutory provisions as to its powers to act as a railroad company alone. It is not a coal-mining company, and under the law has no right to be. Yet in one form or another the railroad company owns or controls the coal mine. Consider the natural consequence of this. The same dead hand holds the source of supply and the means of transportation. And this dead hand is galvanized into a power to hold anything by the free donation from the public of the franchise. Yet the friends of trusts, including Mr. Dos Passos, would try to make this commission believe that there is no right in law or ethics to withdraw the galvanic battery and relax the grasp of the dead hand.

The man who owns the soil naturally controls the price of the products of the soil within the limits of his market. But if that market is dependent upon transportation by other agencies, it is the transportation agency which practically controls the price. Because, if the one farmer, or the one miner, has a rate which is less than another farmer, or another miner, it is the one with the less rate who controls the price of the product in the market.

Extending this principle, if the owner of the soil gets a lower rate than all of the other owners within the limit of his market, if he can make that rate prohibitive, he will have a monopoly. The reason why railroad companies and other corporations with public franchises should not be allowed to go beyond the powers conferred by their charter is well expressed by the vice-chancellor in *Attorney-General v. Great Northern Railroad Company* (1 Drewry and Smale, 154). In that case the railroad company was found to have engaged in selling coal from mines along its line. And the vice-chancellor says: "Now, why has the rule been established, that railway companies must not carry on any business other than that for which they were constituted? It is because these companies, being armed with the power of raising large sums of money, if they were allowed to apply their funds to purposes other than those for which they were constituted, might acquire such a preponderating influence and command over some particular branch of trade or commerce as would enable them to drive the ordinary private traders out of the field, and create, in their own favor, a practical monopoly, whereby the interests of the public would be most seriously injured."

If the development of the railroad company into a mine-owning company were the only form of acts *ultra vires* of which railroad companies were guilty, the situation might perhaps be endured with a certain degree of equanimity. But when the public see the same hands, the same capital, the same power which controls the railroad company controlling the sources of supply in oil or minerals, or both, and see that same management and control extend to the banks which furnish the funds and control the money market, and to the quasi-public corporations which furnish public utilities, such as gas and water, the public, not unnaturally, pause and reflect, and wonder how long it will be before the creature is more powerful than the creator.

POWER GIVES POWER—MONOPOLY BREEDS MONOPOLY.

On December 23, 1899, the St. Louis Post-Dispatch published an article which stated in effect that the Standard Oil Company was responsible for the recent panic in Wall street, which cost innocent stockholders \$80,000,000 in one day and forced the great American Government to come to the rescue. According to the account, Mr. Anthony N. Brady, representing the New Amsterdam gas interests, was opposed to the Standard Oil control. This tremendous financial fight was represented as being made by the Standard Oil people in order to force their rivals to throw over the New Amsterdam Gas Company by attacking the stocks of all the corporations in which Mr. Brady and his friends were interested. It was stated that in order to accomplish the purpose certain banks were used to effect an artificial money stringency, and that foreign exchanges were juggled by the same financial agencies. Whether or not this

report was true is of less consequence than the fact that such a report was possible. If not true, it at least illustrates what might, and perhaps may yet, come to pass in a much more exaggerated form. To the thoughtful reader it must have suggested the idea that a comparatively few men, with their enormous wealth, could make and unmake fortunes in a day, and could do more than the Government itself can do in determining values and fixing the rate of exchange. It pointed to the possibility that the Standard Oil Company, or the combination of interests which have derived their power chiefly through public franchises, by whatever name it may be called, could be greater than the Government itself, for some purposes at least.

I should like to be permitted right here to say that after preparing this paper, and while coming from St. Louis to Washington on the train, I bought a copy of the Philadelphia Press, of January 4. I had some misgivings about using a mere newspaper article as a basis for any part of my argument, especially when it might be considered by some people that the paper from which I quoted sometimes had tendencies toward sensationalism. But I was very much struck by the fact that in a 2-column article in the Philadelphia Press (which I understand is neither avowedly against trusts nor specially sensational) a substantial verification of the item from which I have quoted was contained. If I have your permission I will read from that in order to indicate that, so far as newspaper opinion goes, it would appear as though what the Post-Dispatch treated as a fact about the Standard Oil people and the New Amsterdam people had had its effect. I take certain excerpts from the Philadelphia Press, as follows:

"NEW YORK, January 3.

"Some of the officers of the gas company of this city, which is identified with the Standard Oil interests, give a qualified corroboration of the report that has prevailed here for some days that this corporation has bought the interests of the Whitney syndicate in the corporation which practically controls the electric light, heat, and power franchises in this city. What the motive of the Whitney syndicate in selling their interest to the Rockefellers may have been no one pretends to say authoritatively. But there are all kinds of rumors, the most interesting or dramatic of them being associated with Mr. Whitney's name."

Passing on to a further point in the article—

"The probability is that it was deemed to be the business advantage of both interests involved in the deal that the Rockefellers, through the gas company, which they control, should obtain the majority interest in the electric company. The electric company is of recent organization. Some of its achievements a little over a year ago were very brilliant. In a few weeks, by the most skillful generalship, it obtained control of nearly all the electric light companies in the borough of Manhattan, as well as the absolute control of one subway and partial control of the remaining one in this borough. It increased its capital to \$36,000,000 for the purpose, as reported, of buying out the electric storage battery corporation of Philadelphia, and it made a contract with the street railway corporation, with which Whitney is identified, to furnish to it its surplus power. It was in position ultimately to take in all the gas companies of this city, provided they could be obtained at fair price, and it is in all probability due to this purpose that the corporation has passed into the control of the gas company with which the Rockefellers are identified. This company is one of the giant organizations of New York. It has nearly 40 millions of capital, and was organized 16 years ago upon a plan of financing similar to that which characterized almost all of the modern industries. It took in 6 companies, and it unquestionably aimed absolutely to control the entire market for gas, not only in Manhattan, but in the entire city of New York.

"Its purpose was exactly that which Governor Roosevelt especially condemned in the message which he submitted to the legislature to-day. It expected to possess the absolute monopoly of selling gas to New York customers. Recently a very bitter, somewhat damaging, and exceedingly interesting contest has been in progress between this corporation and other gas companies, and all the strategy that modern business genius can suggest has been employed by both sides in this battle, and yet neither side is the victor. Russell Sage is defiant, although it is said that his chief reason for this quality is that he is of the opinion that the other interests are trying to get possession of his company at a price that represents much less than its real value. Not Wall street opinion, but Metropolitan Club opinion, which upon many things is of more value than that of Wall street, is that this colossal deal is simply a move on the part of the Rockefellers in the great battle their gas company has been carrying on with others in this city for supremacy. The possession of the electric company gives them an almost impregnable fortress, and no doubt we shall hear in the course of a few days that the corporation has acquired control of the electric corporation, which has practical monopoly in the borough of Brooklyn."

(By Mr. KENNEDY.) Is that article signed "Holland?"—A. "Holland;" yes, sir. I do not know the gentleman. I am not able to substantiate, of course, the facts. You gentlemen have it in your power to get the evidence as to the specific facts.

Q. (By Mr. FARQUHAR.) Nor you could not know definitely where this article stands on the stock list, bear or bull?—A. Not at all. I have absolutely no information about it. I simply quote from two newspapers of different political faith, in different parts of the country, to show that there is at least in the public mind, as influenced by the newspapers, a strong basis for the assumption that there is now an effort on the part of those who have now great power to obtain still greater power, and that these facts tend to support my assumption that all of this class of combination tends toward monopoly.

STATUTES ARE NEEDED, BUT CAN NOT REPLACE THE PRINCIPLES OF THE COMMON LAW.

What can be done to remedy the existing evil of unlawful combinations? That is a difficult question to answer. It is always easy enough to point out an evil. It is not so easy to suggest a remedy. The situation is peculiar, and the conditions so varied, and the interests so vast, that any remedy suggested must of necessity be more or less tentative and experimental. Nevertheless, while principles are perennial, legislation is necessarily local and temporary and designed to meet existing conditions. As Burke says: "In effect, to follow, not to force, the public inclination, to give a direction, a form, a technical dress and a specific sanction to the general sense of the community, is the true end of legislation. * * * It would be terrible, indeed, if there was any power in the nation capable of resisting its unanimous desire, or even a desire of any very great or decided majority of the people. The people may be deceived in their choice of an object, but I can scarcely conceive any choice they can make to be so very mischievous as the existence of any human force capable of resisting it."

Undoubtedly the people of this country suffer from too much legislation, or rather, to limit that statement, too much haphazard and incomplete legislation. There are many occasions when a judicial application of well-understood principles of the common law would operate much more satisfactorily than the interpretation of an ill-considered statute. Nevertheless, in the complex civilization existing in this country, with the manifold forms of government, national, State, county, and municipal, and with the courts of 45 States and of the United States interpreting all of those statutes for themselves, separately, it is impossible to do without much and frequent legislation. Besides, statutes are the concrete expression of the opinions of the people concerning laws as related to concrete conditions. Yet in framing or suggesting statutes, especially with reference to industrial conditions, one is faced with the difficulty of the undertaking. As was said by Sir William Erle, in his essay on trade unions, concerning the right to contract freely and the efforts to regulate restraint of trade forcibly: "An attempt to adjust them by statute may succeed if the authors and interpreters of the statute understand the principles of the common law and in some degree incorporate them. Without that process the interpretation of the words of a statute merely by a dictionary leads often to unsatisfactory results. Even if the statute is well drawn society soon progresses beyond it, and the need of the principles of the common law is constantly renewed."

SUGGESTIONS FOR LEGISLATION.

With these rules in mind, the following recommendations are made as to methods by which some of the existing evils may possibly be cured or checked. They are made simply as suggestions, not as completed plans for legislation, but in the hope that among them may be found at least one thought which is worthy of consideration and of practical application when developed. These are the suggestions:

1. Each State should make a stricter classification of corporations, under its general corporation statutes; and by statutes, and through the courts, express and enforce more strictly the doctrine of *ultra vires*, and thus keep each corporation within its legitimate functions. Penalties should be imposed, including forfeiture of charter, for acts *ultra vires*.

2. Each State should so readjust the laws regarding all corporations, private as well as quasi-public, that their corporate functions shall be exercised under as much and as careful official inspection as will make them fairly answerable to the public, and prevent them from exceeding their charter powers, and from violations of law, unknown to the public.

3. Each State can provide that no foreign corporation shall do business within its borders without conforming to its laws.

4. Each State can provide that the stockholders of a local corporation shall not combine, by agreement with the stockholders of any other corporation of the same or any other State, and sell or exchange their shares in the old corporation for shares in the new corporation, when the effect of such agreement, and the formation of the corporation thereunder, is in general restraint of trade and tends to produce a "virtual monopoly."

5. Let Congress provide by statute that a corporation organized under the laws of one State, under conditions which violate the laws of another State, as being in restraint of trade and commerce, or tending to create a monopoly, can not engage in interstate commerce between any other State and such prohibitive State. To obviate the effect of such cases as hold that the corporation of one State is a citizen of that State, as, for instance, those giving jurisdiction to Federal courts on that ground, let Congress, by statute, declare that foreign corporations have no right, as citizens of one State, to do business in another State.

6. Let Congress provide that no State shall be allowed to grant incorporation to any corporation or association which is formed for the purpose of restraining interstate commerce, or establishing and maintaining a monopoly in any commodity or thing, to be sold to the citizens of the several States; and if such corporation is formed, and engages in business for any of such unlawful purposes, the Attorney-General, or any district attorney under his direction, shall apply for an injunction restraining such corporation or association from carrying on any such business. And jurisdiction should be given to the United States circuit court, as a court of equity, to enjoin such corporation or association, and all persons acting for it or under contract with it, from exercising its functions in another State and from sending its commodities into any other State.

My attention has been called to the paper of Hon. Francis G. Newlands in the Report of the Chicago Conference on Trusts (p. 305), and his principal suggestion of a remedy for the trust evil has so much force that it is adopted in this argument as a recommendation in addition to those already given, viz:

7. Let Congress exercise the power of taxation vested in the Federal Government; a more far-reaching power than that exercised under the interstate-commerce section of the Constitution.

As a practical suggestion for a beginning, Mr. Newlands says: "The first step should be the organization of a bureau of industry, somewhat resembling that of the Bureau of the Comptroller of the Currency, to which report should be made by all corporations, showing the amount of their capital stock, their bonds, their income, their transactions, the number of operatives employed, the wages paid, and all the other data which in time will present a mass of statistical information that will aid and guide legislation. Publicity itself will do much in the way of correcting evils, for definite statistics will suggest definite remedies. The tax at first inaugurated should be moderate. It should reach at first only those great organizations whose evil effects upon modern individualism are conceded, and reliance should be placed upon the statistics accumulated later on to furnish suggestions for additional tax legislation."

With reference to the first suggestion above made little need be said by way of explanation. It merely relates to well-defined powers of the State, concerning the classification of corporations, which are now constantly exercised. The demand is for a stricter exercise of that power. The doctrine of *ultra vires* is well established, and has been frequently enforced with strictness; notably by the Supreme Court of the United States in the case of *Central Transportation Company v. Pullman's Palace Car Company* (139 U. S., 24), and in other leading cases both before and since that case was decided, including the case of *De La Vergne Refrigerating Machine Company v. German Savings Institution* and others, decided October 30, 1899.

As to the second proposition, concerning greater publicity in the affairs of corporations, and State inspection, the power is unquestioned. Already the people have felt the necessity for this publicity in certain classes of corporations, and for a number of years there have been laws providing for inspection and publication of the affairs of such corporations. No one objects to the inspection of national banks by the Government of the United States, or to the inspection of banks generally, and the publication of their annual financial statement. There is even now a demand for a closer inspection of trust companies in some States, where the laws do not provide for such inspection. Recent legislation has provided for inspection of building and loan associations. There is no reason, therefore, why a certain amount of publicity should not be required of every corporation, since it is only the creature of the State. The objection really comes from persons who, having been trained under a system of corporation laws which enable a merchant to incorporate his business, and thereby limit his liability, while giving to his business comparative perpetuity, have carried

on their business substantially as if it were unincorporated, until they have come to think that they have an inherent right to the secrecy and independence to which they are accustomed.

That each State has the power to impose the conditions upon which a foreign corporation may do business in its territory is practically undisputed. Mr. Edward Keasbey, in an article in the 12 Harvard Law Review, page 1, says: "The Supreme Court has * * * repeatedly decided that a State may impose such conditions as it pleases upon the doing of any business within its borders, and that unless the condition be complied with the prohibition is absolute." (Citing *Allgeyer v. Louisiana*, 185 U. S., 578.)

The fourth proposition above suggested is based upon the idea that the way to prevent combinations is to reach the people who enter into them. After all, while the corporate entity is the thing to which the law technically looks in dealing with a corporation ordinarily, the stockholders are the living representatives of the fictitious being. Furthermore, the combinations which are in restraint of trade, and which tend to create a monopoly, necessarily imply individual intent. There is in the idea always the suggestion of a moral factor, a living being, capable of thinking, and feeling, and acting upon his thoughts and feelings.

In dealing with boycotts the courts have always held them to be essentially conspiracies within themselves. The term "boycott" is equivalent to conspiracy. If this be true concerning laborers, who conspire by boycott to injure other laborers or other people, it is quite as indisputable that a combination among capitalists, for the purpose of fixing prices and limiting outputs, and thereby depriving others of their respective rights, is a conspiracy. If, then, the effect of that conspiracy is in general restraint of trade and tends to produce a virtual monopoly, the laws should be so framed as to interfere with those who, having stocks in local corporations, enter into agreements contrary to the law.

The fifth suggestion is predicated upon the power of Congress to legislate concerning interstate commerce. Plainly, a State has the right to prescribe upon what conditions foreign corporations shall do business within its territory, except as that right is limited by the interstate commerce clause. Now, a corporation having no natural rights, a foreign corporation has no inherent right to do business in another State. That it may now ship goods into such other State, under the interstate commerce clause of the Constitution, is due to the existing acts of Congress, or to the silence of Congress on the subject, and the inferential rights that arise therefrom. But if Congress speaks, and prohibits such corporations from going into the State prohibiting them, what legal right of such foreign corporation is infringed, and under what constitution?

In the Original Package Case (*Leisy v. Hardin*, 135 U. S., 100) it was decided that a statute of Iowa, which prohibited the importation and sale of intoxicating liquors within the State, was in contravention of the interstate commerce clause of the Federal Constitution. Mr. Chief Justice Fuller, in stating the grounds upon which the decision was founded, said: "Whenever, however, a particular power of the General Government is one which must necessarily be exercised by it, and Congress remains silent, this is not only not a concession that the powers reserved by the States, may be exerted as if the specific power had not been elsewhere reposed, but, on the contrary, the only legitimate conclusion is that the General Government intended that power should not be affirmatively exercised, and the action of the States can not be permitted to effect that which would be incompatible with such intention."

In other words, the Supreme Court of the United States decided in that case that the silence of Congress was reservation of the power, and any action of the State during that silence which affected interstate commerce was so far void.

Congress having passed an act to remedy the disturbance of the State police power caused by the Original Package decision, that act came up for consideration in the case of *In re Rahrer* (140 U. S., 545). The act provided that liquors transported into a State should be subject to the operation and effect of the laws of such State, to the same extent as though produced in such State. Mr. Chief Justice Fuller in that case said: "The Constitution does not provide that interstate commerce shall be free, but, by the grant of this exclusive power to regulate it, it was left free, except as Congress might impose restraint. Therefore it has been determined that the failure of Congress to exercise this exclusive power in any case, is an expression of its will that the subject shall be free from restrictions or impositions upon it by the several States. (*Robbins v. Shelby Taxing District*, 120 U. S., 489.) And if a law passed by a State in the exercise of its acknowledged powers, comes into conflict with that will, the Congress and the State can not occupy the position of equal opposing sovereignties, because the Constitution declares its supremacy, and that of the laws passed in pursuance thereof."

So also in the recently decided case of *United States v. Addyston Pipe and Steel Company*, Mr. Justice Peckham said: "Under this grant of power to Congress, that body, in our judgment, may enact such legislation as shall declare void and prohibit the performance of any contract between individuals or corporations where the natural and direct effect of such a contract will be, when carried out, to directly, and not as a mere incident to other and innocent purposes, regulate to any substantial extent interstate commerce."

The Supreme Court having thus so clearly laid down the rule that interstate commerce is not necessarily free, but is subject to regulation and limitation by Congress, there is no reason why the plan suggested in point 5 above may not lawfully be carried into effect.

The same argument applies to the sixth suggestion, but in addition it may be said that the right to enjoin that which is by statute of the United States declared to be unlawful has been repeatedly recognized by Congress. In the interstate commerce act of 1889, the antitrust act of 1890, and the tariff act of 1894, Congress empowered courts of equity to restrain violations of the statutory prohibitions against monopolies and trusts.

In addition to these statutory precedents there has always existed a power in courts of equity to enjoin acts *ultra vires*, at the instance of the Attorney-General, when such acts were injurious to public right. An instance has already been cited, in the English case of *Attorney-General v. Railroad Company* (1 Drewry & Smale, 154), where the chancellor enjoined the railroad company from carrying on a coal business as being contrary to its charter and in violation of public right. And the authority is well settled by a number of decisions, English and American.

That Congress has wide and ample powers to legislate concerning matters which affect interstate commerce can not be doubted. Said Mr. Chief Justice Marshall, in *McCulloch v. Maryland* (4 Wheat., 400): "The Constitution of the United States has not left the right of Congress to employ the necessary means, for the execution of the powers conferred on the Government, to general reasoning. To its enumeration of powers is added that of making 'all laws which shall be necessary and proper for carrying into execution the foregoing powers and all other powers vested by this Constitution in the Government of the United States or any department thereof.'"

* * * * It must have been the intention of those who gave these powers to insure, so far as human prudence could insure, their beneficial execution. This could not be done by confining the choice of means to such narrow limits as not to leave it in the power of Congress to adopt any which might be appropriate, and which were conducive to the end. * * * To have prescribed the means by which Government should, in all future time, execute its powers, would have been to change entirely the character of the instrument, and give it the properties of a legal code."

Gentlemen of the Industrial Commission, you have before you a difficult and delicate task. You have had under consideration a variety of topics besides the subject of trusts, but surely you have had none of greater importance. Notwithstanding the able argument which you have heard in favor of aggregated capital, it must be apparent to you that there is something in the question of trusts which was not covered by that argument. How far that omission has been supplied and how far the objections have been answered is a matter of small consequence if out of this argument you can derive one thought or suggestion which helps you to reach the true solution of the problem confronting you.

In what has been said there has been but little effort to consider the future of trusts from a strictly economic or commercial point of view. Doubtless, the remark attributed to Attorney-General Griggs is true, and, in an immediate, direct, financial sense investors in many of the so-called trusts will be the worst sufferers. Some of the trusts are already shaking, and the explosion which is almost certain to come in a year or so is likely to be loud and disastrous. But this temporary and local condition does not affect the main question. Those which explode first are likely to be the least dangerous.

But, if the position taken in this argument is true, the temporary success or failure of individual organizations is of little concern, compared with the vital question of the wrong done to the public by combinations, which are unlawful, or which, in the furtherance of justice, should be made unlawful. The laws of trade are more potent than the statutes of the State. Political economy will ultimately evade the effect of judicial decisions. But if the public are willing to create artificial beings with power to disturb the laws of trade and the rules of political economy, they must be prepared to suffer the fate of the maker of the Frankenstein, which used its senseless, unfeeling power to destroy its maker.

That this argument has been so largely made up of quotations is not accidental. An examination of the authorities discloses such a wealth of ideas, expressed in the

choicest and most accurate language, by judges of the greatest distinction, speaking *ex cathedra*, that no one could hope, by the expression of his own ideas merely, to furnish a fitting substitute for the originals. Besides, that which is quoted stands not as the opinion of an individual, but as the recorded wisdom of the judiciary, binding upon all men alike. From those decisions it is obvious that there is such a thing in this country as a trust, within the definition first stated in this argument; that there is such a thing as a monopoly, which the courts condemn and declare void; and that there is, in the language of statutes and in the principles of the common law, sufficient vitality to meet and cope with unlawful combinations. If some unlawful combinations have continued to thrive, in spite of adverse decisions, it indicates that there are shrewd lawyers off the bench as well as learned judges on the bench. Nevertheless, the history of antitrust legislation and litigation shows, that while the trust evil has not been overthrown, the trusts themselves have been driven to adopt ever-changing forms to escape detection and punishment. The laws were first formed to encourage aggregations of capital in the hands of corporations. The aggregations of capital have advanced beyond the design of those who first created the corporation laws. The laws are following close after them. In so far as the aggregations of capital are the result of natural economic laws, legislation ought not to interfere with them; but in so far as they are essentially unjust and oppressive, they will ultimately be crushed by the slow-moving power of public authority as the expression of public opinion.

Whereupon at 1.05 o'clock the commission took a recess until 2 o'clock p. m.

WASHINGTON, D. C.,
Saturday p. m., January 6, 1900.

The commission met at 2.20 p. m., Vice-Chairman Phillips presiding.
Mr. CHARLES CLAPLIN ALLEN again on the stand and examination resumed.

MONOPOLY DOES NOT NECESSARILY IMPLY CONTROL OF NEARLY THE WHOLE PRODUCT OF THE COUNTRY.

Q. (By Mr. JENK.) You stated in your argument that an organization like that of the Federal Steel Company, which was made up of corporations not engaged in the same line of industry, but of corporations that contribute one to another in the way of furnishing raw material, did come under your definition of a trust.¹ I wish you would explain that somewhat more fully, because that did not seem to me clearly brought out. Let us suppose that no one of these corporations, before the combination, produced more than 30 per cent of the total output of the country. Now, if half a dozen of them—mines, steamship companies, rolling mills, wire mills—we will say, combine, do they come under your definition?—A. They do.

Q. Will you explain why and how?—A. I define a trust as being a combination of financial interests formed with the intention of creating a monopoly. I used the word "intention" instead of "purpose" because the word "purpose" has to my mind a suggestion that there is in the conditions of formation or the articles of agreement of formation an expression of that purpose. I sought to get beyond the formal expression of the purpose in the constituting instruments.

Q. Would you consider that an organization that did not control over 30 per cent of the output would come under your definition of a monopoly?

ANSWER: I think it is the intention of creating a monopoly, and does not come within my definition of a trust. I want to add, however, that, hypothetically, if I saw a great railroad company forming a combination with the original producers of an entire region, though only a part of the entire country, and with a steamship company whose facilities were necessary for the continuation of the shipment from the source of supply to the point of consumption, and especially if I saw added to that various financial combinations which collaterally aided in the combination, I should say that for the purposes of my definition that was a trust.

Q. You would think that it would be possible then that, although the output of this combination did not exceed 30 per cent of the total output of the country, it nevertheless would control so large a part within the locality that there would be a virtual monopoly of the product, would you?—A. Yes. If you will permit me to

¹ See p. 1182.

go back of the days of trusts and illustrate by something in my own experience, and give you the results of my investigation at that time, I can, perhaps, illustrate what I mean. In a certain manufacturing line, before the word "trust," in its later sense, was, so far as I know, invented, facts were presented to me upon which it appeared that in a particular industry in which my clients were engaged it was desired to combine for mutual interest, under such conditions that those engaged in the manufacturing industry, in the particular line, included all of what we may call for brevity the Mississippi Valley. By a usage of the business, as it appeared, these particular manufacturing companies never invaded territory east of the Allegheny Mountains. There were other manufacturing industries of the same kind east of the Allegheny Mountains whose market was within that limit; but the market of my clients and that of those with whom they wished to combine was completely within the limits which we will call for brevity between the Alleghenies and the Rocky Mountains; and there was in existence besides this a trade usage, which did not amount to an agreement, that those east of the Allegheny Mountains would not invade any territory west of the Allegheny Mountains, and those west of the Allegheny Mountains would not invade any territory east of the Allegheny Mountains. The effect, however, was undoubtedly to create a pool, as those combinations were then called, which was in general restraint of trade by controlling prices and limiting output, and I so advised.

Q. The matter did not get into the courts?—A. Did not get into the courts. I use that not to state what I have done, but merely to illustrate what I believe to be the underlying principles, irrespective of the modern statutes and irrespective of the mere use of the word "trusts."

ARE TRADE UNIONS MONOPOLIES OR TRUSTS?

Q. Did I understand you to take the position in your argument that the attitude of the courts had been substantially the same as regards monopolies, without material change, for the last 2 or 3 centuries?—A. That is my understanding of the authorities from my investigation.

Q. You called attention to the fact that within your definition would be included trade unions?—A. Yes.

Q. And you called attention to some of the earlier English decisions in which trade unions were considered monopolies and were forbidden?—A. Yes.

Q. Do the courts still in either England or the United States take that attitude with reference to trade unions?—A. The attitude of the courts in this country and the attitude of the courts in England, as I understand it, have not been entirely harmonious in that particular. There has been, I believe, an unmistakable tendency toward the recognition of the necessity if not the legality of the combination of labor, and it is predicated upon the conditions which exist by reason of the combination of capital. I remember, incidentally, that Mr. Justice Holmes, in the well-known case of *Vegeahn v. Guntner*, in the 167th Massachusetts, in a dissenting opinion on the question of the extent to which it is necessary for strikers to go in the matter of boycott, delivers quite an interesting essay on the tendency of the times as being toward the conflict of the two great forces, and he declines to recognize the illegality; but it is to be noted that Mr. Justice Holmes's decision was a dissenting opinion.

Q. Is it not nevertheless true that the courts both in England and the United States do recognize that trade unions are legal combinations for the protection of their members, for the purpose of securing higher wages than could be secured without the protection of the union?—A. I think there are statutes in England, and the courts have certainly trended that way. There are also some statutes in America which are inclined to exempt trade unions from the statutes which declare invalid and, in some cases and for some purposes, criminal, combinations in restraint of trade.

Q. Have the constitutionality of those statutes been called in question?—A. I am not clear in my recollection. I have a faint recollection at the moment that there has been some adjudication upon that in Illinois, but I am not sure and I am unable to answer that question; generally speaking, they have not been.

Q. (By Mr. FARQUHAR.) Isn't there a wide difference between the trade union, regarded with its trust features, and a capitalistic combination, in one or two very radical points? First of all, can not a trade-unionist or a workingman join a trade union without regard to the amount of capital that he contributes, and has he not one vote and only one?—A. Yes; but will you permit me to qualify that answer? I look upon capital as stored labor.

Q. I am looking more to the status, to find out where the workingman stands and the capitalist stands. First of all, is there not an open door for a man to join a trade union, where he has an equal voice with all others in the union?—A. There are so

many phases of trade unionism with which I am not in detail familiar that it is very difficult for me to answer that. I should assume that in most trade unions there was an equality of vote.

Q. He is one man and has no privileges over his brother in the union?—A. I think not, generally speaking.

Q. Is there not an intention, purpose, or whatever expression you may make, to combine workmen as a combination of the weak against the strong?—A. Oh, undoubtedly.

Q. Is not that sufficient vindication for the formation of these organized bodies of workmen?—A. I am not attacking organized bodies of workmen; I am inclined to agree with the view that trade unions or combinations of labor, by whatever name they may be called, are absolutely bound to exist and must exist in the condition of the centralization of capitalistic interest.

Q. Now, under another definition, is not the essential feature of all trusts monopoly?—A. I have tried so to express the idea.

Q. Then every man who is in a trade union is simply a unit; he has not the command of more votes to defend his own capital than the man who has less capital put in. They are placed on the same equal ground; the door is open for every good workman to come into that union and join hands in expanding its wage power. Now, why can the word trust be applied to organized labor?—A. Because I look upon the trust as being the combination of financial interests. The right of the individual to pursue his calling is clearly laid down in the Case of Monopolies from which I have read, taken from the 6th of Coke. Whether it applied to unions of laboring men or unions of capitalists seems to me to make no essential difference, if there be in the act itself the deprivation of an individual right. Does that answer the question as you put it?

Q. Yes; that leaves it a little more open than the first part of your answer before. In other words, is it not a fact, that divesting the idea of the simple assemblage of men in the trade union, they are just exactly like the citizens who come together without or with political action and express for their own welfare, through that union, through the rules and discipline and regulations, that which is best for their welfare and the welfare of their families and the welfare of the community?—A. There again I should have to answer by saying that there seem to be very different kinds of trade unions. That some organizations of labor do interfere with the individual liberty of the workman and of others, I think, is beyond question. There seems to have been a great difference in different organizations, and some of the labor organizations have been led by minds which show a high degree of intelligence, and they have comported themselves with great discretion, and I am inclined to think in the concrete have resulted in no substantial injury to others; but there are organizations which have exercised whatever power they had in a way other than by simply coming together and voting, because they have undoubtedly exercised the power of exclusion to a point where others were deprived of a privilege.

Q. Only in the exclusion feature; simply modified by the apprenticeship law or something of that kind?—A. They have, sometimes.

Q. Is there a union in the whole United States that has not got its open door to the good workman and the fair man to come in? That is the point I wish to get at. There is no close monopoly in the union; it is not the syndication of wealth to control the rights of other parties and every man's rights. Are they not subserved in the organization itself and every man a unit in voting?—A. I do not think the rights are always subserved.

Q. Oh, human nature, of course, fails sometimes; I grant it.

Q. (By Mr. RATCHFORD.) Do you hold that the trade union is a combination of financial interests?—A. It may be and it may not be. I should say that if it is formed with the intention of creating a monopoly, it is a trust.

Q. Admitting for the time being that one of the purposes of a trade union is to increase wages, there are still other purposes—the purpose of shortening the hours of labor, the purpose of providing for the sickness and death of its members, the purpose of affording a decent burial to its members, the purpose of founding a home for disabled members, etc., all intended to improve the social and moral condition of its members. Taking all of those things into account, do you still hold that the trade union, even though its purpose be to increase the rate of wages, is a combination of financial interests?—A. I am not quite able to go so far as you do. I did not mean to say so. The mere increasing of wages is not in my judgment sufficient of itself to create a monopoly. The other elements which you have mentioned are absolutely not only not objectionable, but most praiseworthy, and should be encouraged in every particular; that is to say, taking care of the sick, burial, the educational ele-

ments, all those things which come from the combination of men to make men better, to promote the brotherhood of men; everything in the combination that does that ought to be encouraged. But in so far as they have used the power to injure others, I say it tends to create a monopoly. Now, I do not specify this or that trade union, because there are too many of them, and I have not their constitutions and by-laws before me and I am not attempting to pass judgment on them, just as I have been unable to attempt to describe all of the combinations of capital. But I do say that if it comes within the definition which I have given, it is a trust.

COMBINATION IS NOT WRONG IN ITSELF, BUT MONOPOLY IS ALWAYS UNLAWFUL.

Q. (By Mr. CLARKE.) Have not the decisions of the courts, whether directed against trade unions or combinations of capital, been confined to the abuses resulting from or incident to combination, rather than going to the extent of branding combination as such?—A. Of course. No court that I am aware of has ever said that mere combination between individuals was wrong. A combination to do a lawful act by lawful means is clearly right. The combination whose abuse of legal rights is checked. You will please bear in mind that I have never said that mere combination was wrong, either in law or morals. I have sought to show why I reduced my definition to the briefest and tersest terms of that, and that is which I was capable.

Q. (By Mr. JENKS.) Did I understand you, however, to say that monopoly was unlawful regardless of the use that was made of it?—A. I believe it is a fair deduction from the common-law decisions, irrespective of statutes.

HOW FAR MAY WE EXTEND THIS NOTION, "AFFECTED WITH A PUBLIC INTEREST?"

Q. In your argument, as I understood you, you made no distinction between the different classes of monopoly so far as legality is concerned, although you enumerated several classes. You spoke of natural monopolies; you spoke of those that are often called capitalistic monopolies; but the illustrations that you gave were taken rather more from the so-called natural monopolies, to use that term, than from those that are ordinarily called capitalistic monopolies. Have the courts regularly taken the same position with reference to both, or have they assumed that the public had more power of control over these quasi-public corporations than over what are more frequently called private corporations?—A. Oh, beyond question. The courts have been chiefly engaged, until a very recent time, with the quasi-public corporations. The distinctively private corporation has developed as an ordinary incident of business life, and for the most part in a harmless way, until the recent developments have brought about such conditions as have led you gentlemen to meet here to consider the evils growing out of that. But excluding one or two statutes, I mean statutes in the States and by Congress, I think it may fairly be said that they were almost all directed at quasi-public corporations.

Q. You used this expression in your discussion, that "When property is clothed with a public interest,"¹ when used in a manner that makes it of public consequence, so that it affects the community at large, then the courts will make a special effort to control these corporations and see that they do not injure people. Has that expression, that property is clothed with a public interest, been applied by the courts themselves to any of these corporations excepting those of a quasi-public nature?—A. I think not.

Q. (By Mr. FARQUHAR.) The Addyston case?—A. That was not a corporation; that was an agreement between a number of persons.

Q. (By Mr. JENKS.) That expression was not used.—A. No, they did not use that; but I want to say that the application of the *Munn v. Illinois* case was carried to very great lengths, it seems to me, in the *North Dakota* case, *Brass v. North Dakota*, was it not?

Q. Yes.—A. You remember that in the case of *Munn v. Illinois* much of the argument of the court in applying its rule was based upon a state of facts which disclosed that there were some 14 warehouses and elevators in the city of Chicago which were so blended with the conditions of commerce as to have become an integral part of them, and to be associated both with rail transportation and lake transportation, and it was under those circumstances that the justice delivering the opinion applied the law to the facts. And subsequently in the *North Dakota* case, as I recollect the facts, the situation was this: An individual was the owner of a moderate-sized elevator in a little town—a little village of only about 100 inhabitants. He in his pleadings set

¹ See p. 1125.

feet that he used the elevator almost entirely for the purpose of storing grain which he had purchased, but did from time to time purchase grain to ship to Chicago and sell in the market under contracts previously made. He did, however, engage in the warehouse business to the extent of taking grain for storage when other persons offered it and he had room. Under the statute, which was very general in its terms, and which was to the effect that any owner of a warehouse who stored grain for compensation should be subject to the regulation of 2½ cents, I think, provided under the statute, his warehouse was subject to regulation because he had applied it to the public use under the general statute. Notwithstanding the peculiar facts of that case, which would seem to be a very extreme application of *Munn v. Illinois*, *Munn v. Illinois* was sustained by a majority of the court.

Q. It has been substantially uniformly held, if I understood you, that it is within the power of the legislatures so to control the railroads, street railways, telegraph lines, and so on, all of these quasi-public corporations, as even to fix rates for them?—A. Yes.

Q. But if I understand you, in these elevator cases, all of them, it is simply an extension of the principle to elevators because elevators are supposed also to be transporting agencies?—A. Precisely.

Q. Now, the expression that I called up was, "When property is clothed with a public interest." Would you judge that this late Dakota case would justify the extension of that expression to corporations that should have so nearly a monopoly of some necessary of life that the public were very much interested in it, as for example sugar, so that a statute fixing a maximum price of sugar would be upheld by the courts as constitutional on this principle?—A. I can not go so far as your illustration. In the application of law to facts, I doubt whether that would be held to be constitutional; but if out of the complexities which environ the situation there can be derived a state of facts which makes plain to the minds of the court that there is a public interest in the exercise of the functions of the corporation, I think they will extend the principle and ought to extend the principle to that extent. In any specific enumeration of the circumstances I am not prepared to answer the question.

Q. Your line of argument would seem to show this, that if it can be shown that one corporation controls, we will say, 90 or 95 per cent of the output of a necessary of life like sugar, that does in itself constitute a virtual monopoly; and, if I understood you, you thought that the courts under the common law would probably stand ready to dissolve that corporation because it was a monopoly, and to hold it an illegal combination?—A. That is carrying the idea of the common law to an extreme extent. I should hesitate somewhat to go quite so far. If the corporation is legally organized and is conducting its business lawfully, it is a serious question whether the courts have a right to dissolve that corporation.

THE INTENTION TO CREATE A MONOPOLY IS ESSENTIAL TO THE IDEA OF A TRUST, AND IS TO BE SHOWN BY EVIDENCE.

Q. How are you going to draw the line between lawful and unlawful corporations? You used such expressions as unlawful corporations, unlawful monopolies, and so on, a great many times, and your words seemed to involve an assumption that all corporations that were large enough and controlled enough of the output to have a virtual monopoly were, merely by reason of that fact, unlawful. Did you intend to take that position?—A. I think if you will analyze what I said a little more closely you will find it does not go quite so far.

Q. That is what I wanted to find out.—A. The idea I had in my mind is very well defined in the Missouri case which I have referred to, where it is possible to trace into the incorporation itself the intent to create a monopoly. There the facts were different from what they would subsequently be made, no doubt. If the intent can be shown evidentially, I think the ultimate conclusion follows of the right to disregard the incorporation, to annihilate it, as contrary to the law against combinations. That was shown in the Lead Company case by the fact that the constating instrument or agreement between stockholders, whereby they vested all their rights in the trustees, conferred upon them specifically the right, and instructed them, as I recollect it, to form a corporation to carry out the purposes of the trust. There was the evidence furnished that the corporation was a continuance of the trust. No doubt many corporations might be formed which would not have in them the evidences of a trust, and therefore the court could not reach that element, which seems to me to be an essential part of the case; that is, the intent to create a monopoly; but I should consider that rather as evidential than as fundamental. Much of what I said had in view this idea first. It must necessarily be that in many cases existing abuses can not be corrected, because rights have become fixed; but for the purposes for which

I am addressing this commission that makes no difference to me, because this commission is asking for methods by which those abuses can be corrected for the future; and therefore whether or not the courts to-day will reach a little further than a given line is of less consequence, from my point of view, than whether they can be made by any form of law, even by constitutional amendment if necessary, to reach that further point, which is essentially a question of a fundamental abuse of power.

Q. (By Mr. CLARKE.) I judge, by what you have said in this answer, that you consider the intent in some of these corporations inferential from the existence of the combination itself, even when it is not declared in the articles of agreement. Is it not your understanding that the decision of the Supreme Court in the Addyston pipe case turns upon the abuses which were clearly set forth in the agreement itself?—A. Yes; it was plainly a decision based upon a specific agreement which the court held to be in restraint of trade between the States, and as limiting the supply and increasing prices in connection with interstate commerce.

Q. You have said that you would consider the Federal Steel Company a trust. You have no evidence that there is anything in their articles of agreement that proposes to set up a monopoly or to control production or prices, either or generally within a limited field, have you?—A. I am quite sure that you will find nothing in any answer of mine that pretends to have any personal knowledge of anything connected with the Federal Steel Company. I was answering a hypothetical case in which Professor Jenks made use of illustrative terms; and even in that case I think I discriminated somewhat. I have nothing to say with reference to the Federal Steel Company, because I have not adequate information.

Q. The mere fact, then, that a corporation carries on a variety of business, the different kinds being contributory and helpful to each other, does not in your judgment constitute a monopoly or a trust?—A. Not necessarily, as you stated.

Q. (By Mr. A. L. HARRIS.) As to the drawing of the line between the lawful and the unlawful combinations of capital, is not that largely a question of fact?—A. Absolutely.

WHAT IS INTERSTATE COMMERCE?

Q. (By Mr. JENKS.) So far as I am able to judge, the differences of opinion with reference to the powers of the United States courts over interstate commerce turn almost entirely upon the definition of the term. You have used the expression several times and have cited several cases in connection with it. Will you go into the matter a little further than you did in your argument? Will you tell us just what you mean by interstate commerce?—A. I will try, though you have opened up a field that might lead to my reading you a longer paper than I read you this morning if I were to attempt to cover the whole topic. I understand the formation of the Constitution of the United States to have been based upon two necessities: First, the necessity and the overwhelming demand of the people at that time that State sovereignty should not be given up; and on the other hand, the recognition by the framers of the Constitution that it was not possible to have a United States in fact without so defining the powers as to make a unified body for all purposes for which one nation was needed. The evils which had been found in the original Confederation were principally derived from the want of central authority. It was manifest even in the days of the formation of the Constitution that to organize what were then 13 States, with possibilities of more, and to let each have control of commerce between the States, would be to make 13 independent sovereignties which would fall apart as the members of the original confederation had fallen apart. Therefore, the clause known as the interstate-commerce clause, giving Congress jurisdiction over interstate commerce and all commerce with foreign nations and the Indian tribes, was made a part of the powers specifically conferred upon Congress, that there might be one nation for the purposes of commerce. I understand the interpretation of that clause by the Supreme Court of the United States to have followed along a line which interpreted the power to be absolute in Congress the instant the question became one of commerce between two States. Now, commerce between two States may go on in a great variety of ways, and I could not attempt to enumerate them from memory, but I will endeavor to express myself by saying that everything which is held to be distinctly within the purview of commerce between the States is held by the Supreme Court of the United States to be retained in the powers of Congress until Congress specifically releases the limitation and itself defines regulations.

CONGRESS SHOULD DEFINE INTERSTATE COMMERCE.

Q. In your fifth suggestion you say that Congress should provide by statute that a corporation organized under the laws of one State under conditions which violate

the laws of another State, as being in restraint of commerce or tending to create a monopoly, can not engage in commerce between any other State and such prohibitive State. In framing a statute along the lines of your suggestion, would it, in your judgment, be possible to define in the statute itself what was meant by interstate commerce in a way that might guide the courts?—A. You ask me another difficult question. I am not in the position of a legislator. The qualities which go to make up a legislator are somewhat different from those of the lawyer. Nevertheless I believe that the safe way to do would be to make definitions in the preliminary legislation cautiously and a step at a time, so that experience might determine that which is wise and discriminate it from that which is unwise, even though it should not in the first instance cover all cases which might appear to be dangerous. In other words, I believe in cautious and gradual legislation about such important matters; but with that statement I should say it is possible to express in each statute within reasonable limits what is to be covered by that statute. Do I make myself plain now?

Q. If I understand your answer, it would mean this: That a statute drawn in accordance with your suggestion filed here would enumerate two or three specific things that were understood by Congress itself as being interstate commerce. Those definitions would be put into the statute itself with the expectation that the courts would follow that suggestion as to what was meant by interstate commerce?—A. If you are asking me my opinion of the powers of Congress—

Q. (Interrupting.) It is not a question of powers; it is a question of judging the wisdom— A. (Interrupting.) The wisdom of framing a statute of that kind. On the line of wisdom I always believe in going very cautiously and very slowly. A attack each evil as you meet it, but do not legislate hypothetically or on mere abstract principles.

Q. There have been a good many statutes that have used that expression "interstate commerce." Bills are now pending before Congress forbidding certain things that are connected with interstate commerce; but if I may judge from your own answer a moment ago, nobody knows exactly what interstate commerce is. The question is whether Congress can aid in clearing up that matter in its legislation itself?—A. Oh, undoubtedly. I believe that the particular function of Congress at this time is to clear up doubt by saying what it means and leaving unsaid what it does not mean.

Q. That is, when it is legislating with reference to interstate commerce, it should define in the statute itself precisely what it means by interstate commerce for the purposes of that statute?—A. That is what I mean.

Q. You think that it will attempt to define interstate commerce on that principle?—A. Oh, undoubtedly.

WHAT IS INTERSTATE COMMERCE (RESUMED).

Q. (By Mr. STIMSON.) When a man in New York sells goods to a man in Pennsylvania which are paid for in New York, is that interstate commerce?—A. The sale is made in New York, the goods are shipped from New York to Pennsylvania, the payment is made in New York; my recollection is that the cases tend to hold that that is a contract made in New York to be executed in New York; but for the purposes of my point here it ought to be interstate commerce.

Q. A man in New York sells goods to a man in Pennsylvania, but payable in Pennsylvania; in other words, the title only passes in Pennsylvania. Does that make any difference in your mind? Is that more clearly interstate commerce than the other?—A. Under existing decisions, I think it is; from my point of view it ought not to make any difference.

Q. I do not think so.—A. But under existing law it is, as I understand it.

Q. Under existing law, of course.—A. I understand there is a distinction.

Q. Then the law to-day is that the test is whether the title passes after or before it leaves the home State?—A. Yes, I believe that is the main test.

Q. (By Mr. PHILLIPS.) Is an individual or a corporation engaged in interstate commerce in manufacturing goods in one State and shipping them to another?—A. Yes; yes, that is interstate commerce.

STATUTES ARE VALUABLE, EVEN IN ENFORCING PRINCIPLES OF THE COMMON LAW.

Q. (By Mr. STIMSON.) You said that combinations of corporations in the same line of business always tend to create a monopoly—that is, they seek, they have a tendency, to maintain prices and limit output—and such you said have been declared illegal under the trust statutes and also under the common law concerning restraint of trade; that is substantially the sentence boiled down?—A. Yes.

Q. Do you know of any case in any State where any court has yet held such a combination unlawful under any trust statute that it might not also have held unlawful under the common law in restraint of trade, leaving out for the moment this late St. Louis case?—A. I think not. If there is any point of discrimination between cases decided at common law and cases decided under statutes, it is descriptive rather than fundamental, expressive of the language of the statute; but the decision is in nearly every instance founded on well-defined common-law principles.

Q. (By Mr. JENKS.) Would that answer of yours imply this, that the antitrust statutes of the different States that have been passed are practically unnecessary, and that the citizens and their rights would be protected as efficiently and as well under the common law as under these statutes?—No; I do not think so. I tried to show in my written statement that concrete conditions called for concrete statutes which shall so describe the objects sought to be reached that it will not leave the decision to antiquated forms.

Q. (By Mr. STIMSON.) And does that amount after all to more than codifying common law?—A. Well, it is pro tanto codification, if you will; but while I am not an advocate of general codification, I am a believer in a certain amount of codification to carry out that same idea which I just sought to express, namely, that if you want to have the courts intelligently determine what the law shall be about the system of elevators in Chicago, it is wiser to define the obligations of the managers or owners of the elevators than to leave the courts to probe back to Coke's time and find a little wharf case to apply or not to apply, according to the individual judge's view of whether it fits the case or not. But on the other hand, I have sought in my written statement to emphasize the fact that the strength of the common law lies in the fact that when the statutes are silent the courts will go back to those primeval times and, taking a case based upon the simple methods of that time, will apply it to the complex methods of these times.

Q. In other words, such antitrust laws are valuable for the purpose of informing the public as to what the law is, and possibly of informing not too deeply educated lawyers or judges what the law is?—A. That is one way of putting it; but I am unable to separate the judges from the public.

Q. I am not attacking the trust statutes, but I simply want to know whether you think they have yet succeeded in getting any new principle?—A. No, I do not; but what I did want to say, following what I said a moment ago, was this: If the public, as you call it, needs education to understand a concrete condition, I am unable to deduce from my experience the conclusion that the judges do not need the same education; because, without wishing in that remark to slight either the learning or the ability of our judges, it is an undoubted fact that the judge is after all an expression of the public on all matters which relate to public concerns and which are not strictly technical, along lines of individual interests.

RESTRAINT OF TRADE 700 YEARS AGO.

Q. Just to supplement what you said about how old this law is, you went back 300 or 400 years. I find here this case, which you probably remember, but did not quote—the Abbot of Lilleshall, in England—which goes back to 1221, I think; it was only printed a few years ago; that is nearly 700 years, is it not, and that applies to this, does it not?—A. Yes; and I shall be very much obliged to you if you will refresh my memory by reading.

Q. (Reading.) "The Abbot of Lilleshall complains that the bailiffs of Shrewsbury do him many injuries against his property, and that they have caused a proclamation to be made in the town that none be so bold as to sell any merchandise to the Abbot or his men on pain of forfeiting 10 shillings." That is the case substantially.—A. Yes; I remember it in connection with the work I did once before, which involved an examination of that.

EVIDENCE WHICH MAY SHOW THE INTENTION TO CREATE A MONOPOLY.

Q. Now, to go from the oldest to the newest—this Missouri statute, which does seem to me to come as near as any antitrust statute to giving a new principle under the law—I want to ask just the clause of that statute under which the lead trust was declared to be a trust obnoxious to the law. I see section 1 of the statute says in substance, "No corporation organized under the laws of this or any other State for transacting any kind of business, etc., who shall create, enter into, become a member of, or a party to any pool, trust, agreement, combination, confederation, or understanding with any other corporation, etc., to regulate or fix the price of any article of merchandise, etc., or to limit the amount or quantity of any article manufactured, etc.,

shall be deemed guilty of conspiracy and subject to this act." That, I presume, was the section under which this corporation was found guilty?—A. Yes.

Q. Now, there are two other questions I want to ask on that. In the first place, if you think on the question of fact, whether that corporation was under the prohibition of the statute, if it had gone to a jury it would have been decided as a fact that it was a corporation, as did this case?—A. That case did go to a jury and was reversed on the ground that certain errors had occurred, with orders to remand the case, as I recollect, for a new trial.

Q. Now, my difficulty is one that you had in your mind, as appears from your using the word "intention." The only word in this statute which you can get that under is the word "understanding," perhaps. "Confederation or understanding." Those last words might include the intention—mere intention without the expressed purpose to create a partial monopoly, I presume?—A. Yes, but I think if you will follow down you will find just such language with reference to limiting output or raising prices as being taken in connection with the word combination—that is the definition I have given.

Q. You mean from the decision or in the law?—A. From the first section from which you have read almost at length: "Who shall create, enter into, become a member of or a party to any pool, trust, agreement, combination, confederation, or understanding, with any other corporation, partnership, individuals, or any other person or association of persons, to regulate or fix the price of any article of merchandise, or commodity, or shall enter into, become a member of, etc., any combination or confederation to fix or limit the amount or quantity of any commodity or article." I think those words necessarily carry the idea of fixing that which is to result in an injury to others, the fixing of prices or the limiting of the output, as tending to monopoly.

Q. They do so far as the intention is expressed clearly, and I agree with you that they also do probably if the intention is not expressed, but can be read into a series of transactions, but the point I am coming to is in the case you put yourself. Suppose a combination of persons, a combination absolutely legal in all respects on its face, where there is no increase even of capital stock, where there is nothing whatever in any part of the transaction to indicate the fact of a combination, to create a monopoly, to raise prices and limit the output; but as men of sense, you and I know that they combined in order to do that, and that that would be the result. How can you reach that by any statute that you can devise?—A. You can not, any more than you can prove a man guilty of murder by making a statute on him.

Q. In other words, if you charge a person under this or any statute with being a party to an obnoxious trust, solely because you say you are willing to assume that the result of his actions will be to create a partial monopoly, is that a thing of which the law can take cognizance until it has happened?—A. The way you state it, I think not, sir. In other words, you must prove the elements for the cause of action, or your cause of action is demurrable; and if upon a good petition you fail in your proof you go out of court on a demurrer to the evidence.

Q. To put the case at the strongest, then, suppose that all corporations, partnerships, and individuals in a certain industry in the United States combine into one corporation which has an absolute practical monopoly, a 100 per cent monopoly; there might be nothing in the by-laws or correspondence or anything you can see in the writing to indicate any intent to create a monopoly. Do you mean to say that they can not be reached under this statute, or any statute that could be drawn, or do you not? I do not wish to put it in a leading way.—A. If I were sitting as a judge, sir, I should probably have to decide that they did not come within the designation of the facts as you state them; but I should want very much to be a legislator to make some legislation that would bring them within something which did reach them.

Q. Take that very case; is it quite so certain as that? Can not the judge leave it to the jury with instructions to find from the acts what the jury believe to be their intentions, although not expressed in writing, or on paper, or in any article or by-laws?—A. If I understand your hypothetical question, you have given me a case in which there is no evidence of the cause of action; therefore, the court has no right to submit the case to the jury, for as a matter of law there is no evidence before the court.

Q. Then, my difficulty is to see—I understood you to say that there are many trusts formed where the intention is not expressed, as in the Addyston case, but where on its face it is a mere combination, although the motive and intention and the probable result are to create monopoly. I understood you to say that that could be met by legislation as it was perhaps met in Missouri.—A. It is pretty hard for me to segregate all I have said, or remember what I said exactly as you state it to

me. Legislation can not cure all evils. I tried to say that legislation is the expression of the public will applied to concrete conditions; it must be general. To prove a case you must have your facts within your legislation; that is, you may pass any number of statutes, and if you can not prove the facts the courts can not enforce the statutes. I did not mean to be understood as saying that every combination in existence to-day which might have in it the elements of the virtual monopoly could be reached, because you must be able to prove your case; and if I seemed to say that every combination of that kind—

Q. I said some.—A. Well, everything I said as to what could be done with a combination in the courts was necessarily predicated upon proof of what formed the gravamen of the thing charged.

Q. Perfectly clear. But perhaps I can make clearer my difficulty by stating it in this way: I understood that you were advising remedies to cure trusts, and that you thought it was possible to devise remedies by statute which would help the case, and I also understood you to say—these are my own words, perhaps—that the most insidious form of trusts was the one where many corporations or individuals combined with the intention of monopolizing their trade, but were careful not to show by anything in their articles, charters, franchises, by-laws, or correspondence that they had that intention. We are now talking about trusts which are at the beginning obnoxious to the law—I mean in their organization primarily, before they sell goods. Now, that is a theoretical position, and if you can not punish the intention of monopoly you can not punish anything, it seems to me, provided they have not shown their design in organizing their corporations.—A. I am sure, sir, that as a very able lawyer you will remember that the courts are full of cases, from early common-law times to the latest reports, in which there have been actions brought both in law and in equity involving elements of fraud, and the courts have invariably declined to define fraud; but if they have had facts from which they could deduce the conclusion, as a matter of law, that there was a fraud, they have found on the petition or the bill in equity, as the case might be, in favor of the complainant. Now, the idea I have in my mind is closely analogous to that. You can only make your law with definitions which mean something, when there are facts that substantiate it, and you can not prove a case against a corporation when you have no facts.

Q. I understand you to mean that although you may have merely this case, that all or most of the corporations or firms in the line of business deeded over all their property to a new corporation absolutely, and although you had no facts, that nevertheless the court, or the jury, acting under the court's instructions, could infer fraud from these facts; that is, I mean could infer the intention of monopoly from these facts?—A. I have been trying to answer your question in general terms. If you will permit me to answer it in what I conceive to be the practical aspect, as I sought to make it in my written statement, I will state this: I find it difficult to imagine that that which is what you and I, as you have stated, understand or know to be a trust could be formed of competing concerns between St. Louis and New York without somewhere in that long chain a link that we might get hold of, if we were attorneys endeavoring to present the case.

STATE SUPERVISION.

Q. If I may ask two or three questions on the recommendations. As to the second one, "Each State should so readjust the laws regarding all corporations, private as well as quasi public, that their corporate functions shall be exercised under as much and as careful official inspection as will make them fairly answerable to the public and prevent them from exceeding their charter powers, and from violations of law, unknown to the public." There you mean State supervision solely?—A. Yes, I had reference entirely to the States, and I endeavored in my further explanation of that so to state.

A CORPORATION OF NATIONAL EXTENT CAN ONLY BE DEALT WITH ON NATIONAL GROUNDS.

Q. "Each State can provide that no foreign corporation shall do business within its borders without conforming to its laws." That the States, of course, can do. Do you think that the United States itself, with an act of Congress, could provide that a corporation of Delaware could not do business in Massachusetts without conforming to the laws of that State?—A. That is a very difficult question to answer. It is right upon the dividing line of State and Federal jurisdiction, rather at the ultimate point, if I may say so. Believing as I do that there are defined powers given to Congress, with all powers implied necessary to enforce them, but that notwithstanding the ulti-

mate sovereignty was reserved to the States respectively and to the people—I do not wish to go too far in that suggestion, but the utterances of the Supreme Court of the United States have gone so far that I am inclined to think that where legislation is a part of the inherent powers of Congress nothing can stop them; they will again in the future be declared to be, as they have been declared in the past to be, supreme; and I want to add that I believe that the tremendous concentration and centralization of the industrial combinations from all parts of the country is going to be a very potent factor in developing that class of public sentiment which finds expression in judicial sentiment, that if one corporation can control all of the output of the country there is only one power that can deal with it. The corporation becomes in effect national, and it can only be dealt with on national grounds.

Q. The latter part of your fourth suggestion brings out much the same point. We have already spoken of the substantial facts. You suggest that the States should provide that stockholders of local corporations should not combine by agreement, etc., with the stockholders of other corporations out of the State when the effect of such an agreement and the formation of the corporation thereunder is in general restraint of trade and tends to produce a virtual monopoly. There also, I suppose, that would be determined by a jury, would it not? Whether the effect of such an agreement was in general restraint of trade would be a question of fact?—A. Yes, a question of fact; yes. It would depend upon the nature of the action whether it would be determined by a jury or not.

FOREIGN CORPORATIONS SHOULD BE EXCLUDED ONLY ON THE GROUND OF GENERAL RESTRAINT OF TRADE.

Q. Your fifth suggestion seems to me to go to the length of stating implied authority in Congress to provide that the corporations of one State shall not do business in another State when they are for various reasons objectionable and obnoxious to the law. Do you mean to go as far as that?—A. I am going to stand on the definition, sir. I realize it is rather an extreme ground, but I expressed it along the lines which I have just been following as being, in my judgment, a matter which is properly construed a function of the National Government; of the United States Constitution—under proper legislation, you understand.

Q. Will you carry that beyond the case of being a trust? What I mean is, your statute in Missouri, as we have just read, provides that a corporation of another State which is a trust within the meaning of the law of Missouri, or belongs to a trust, shall not do business in Missouri and shall not enforce its contracts in Missouri. Now, suppose that the laws of Missouri require that stocks shall be paid for at par, in cash, and that stockholders shall be individually liable for debts, and that the laws of Maryland do not contain either of these provisions; would you recommend that the State action should go also to the extent of going into that and seeing what was the organization of the corporation that was coming in to do business? I see Senator Hoar has recommended that in public and private very frequently of late, and that is why it is in my mind.—A. The fact that Senator Hoar recommended it would give it very great weight with me in the first instance. I think it ought to have in it, sir, those elements which I tried to express, as I remember, in my fifth point of general restraint of trade. Is that not it?

Mr. STIMSON. Yes.

A. In every single corporation for home use, or for the many purposes for which a corporation may be formed; but if the intent, or purpose, or the effect—if you will get away from the mere intent or purpose—is to be in general restraint of trade, I would have it in that way.

GRADUATED TAXATION—THE POWER TO INVESTIGATE AS DERIVED FROM THE POWER TO TAX.

Q. Then on the seventh and last recommendation—"Let Congress exercise the power of taxation vested in the Federal Government; a more far-reaching power than that exercised under the interstate-commerce section of the Constitution." In the first place, I beg to ask whether you think that a tax by the United States upon State corporations, determined, let us say, by the amount of their capitalization, would be constitutional?—A. I think it would.

Q. And then, going a step further; inasmuch as an advantage is gained, as all arguments show, by an aggregation of capital, would it be found constitutional to have something like a graduated tax?—A. I do not think that makes a particle of difference, if you apply it to corporations which are to be formed. As to whether or not it

could be applied to every corporation already formed I have some doubt, which I can not solve at this moment, because of the rights which might be claimed by a corporation under existing laws and its present legal privileges. But I would like to eliminate that, because the main question is not what exists right now, but how to legislate generally. Putting that question aside, the power to do that I believe to be absolute, because the corporation can have imposed upon it any conditions which the State or nation may determine—that is, the public, the lawmaking power—provided that be attached when they become a corporation. I will not go so far as to say it could always be done in every instance to an existing corporation.

Q. And finally, would that power of taxation vested in the Federal Government authorize Congress to require any amount of investigation of the affairs of the corporation, in your judgment? I mean not simply the return of the amount of capital stock and the indebtedness, but should it go into the question of the amount of profits they made in the preceding year, etc., and wages they pay, anything more than enough merely to fix their capitalization?—A. About that, I have some doubt, for this reason: The power of taxation has generally been construed to exist for the purpose of raising revenue primarily. Therefore if it be imposed as taxation under the general taxing power, it should be for the purpose primarily of raising revenue. If it be imposed at the creation of the corporation as a condition of corporate existence, it may be anything you choose, because it is no longer a tax as a tax, and is not properly referable to the taxing power of the State, but is a condition imposed, and which is within the power of the State, by which the State receives the consideration. I think that is the point of definition.

Q. That is clear; but, still, let us take corporations already existing. There are a great many, and it is possible that they could be approached if any taxing law was passed. How is the Government to determine what the amount of tax should be unless it can go beyond the mere paper amount of stock and debt; how can it tell what the value of the corporation stock and franchise is unless it goes into the earnings, for instance?—A. I fear I misunderstood you. Are you asking whether they can get information from the corporation?

Q. I am asking whether the taxing power of the Government would authorize it to establish a bureau, or officer, or commissioner, with authority to enforce collection of the tax and returns from corporations, not only on the amount of stocks and bonds, but on their wages, profits, earnings, etc.—A. I believe they could. I did not quite understand your question. I thought you referred to the amount of taxation which might be imposed.

Q. (By Mr. A. L. HARRIS.) When does the control of the State leave off and the control of the Federal Government begin, in your opinion, upon goods manufactured in one State and contracted for in another State?—A. I think the dividing line is the delivery to the representative of the purchaser, whether that representative be the purchaser himself or his agent, or, in the ordinary uses of trade, a common carrier.

Q. Delivered to the common carrier to be transmitted?—A. Yes.

Q. And not necessarily have to pass into the other State?—A. No, sir.

Q. Or even in transit?—A. I think it is in transit, sir, in the common sense of the law, the instant it is delivered to the common carrier.

Q. (By Mr. SRIMSON.) Your question suggests one question that I want to ask. In your Missouri trust case, which has been decided against this corporation, if it is sustained on appeal, that corporation will be practically shut out from doing business in Missouri. But is there, even under your Missouri statute to-day, anything to prevent that corporation from selling these same goods in question to an individual in some other State where the corporation is established, or that individual from carrying the goods into Missouri?—A. No, sir; and that is why I make the suggestion that under statutes to be enacted any point that is against the corporation itself should hold against any person acting by or for it or under contract with it. In other words, it is a very easy thing to elude such a law as that by just simply selling to somebody in the same town, if you will, a factor, or anybody; but I would have the law go back to the intent itself.

Q. And you think you could get behind them, do you?—A. Yes; I do, sir.

Q. In the case of a factor, as you say, and there would be more than one factor in the town, of course—20 or 30—and some days the American Sugar Trust sells to one factor and some to another, and when he comes to Missouri with the sugar, do you think you could reach back to that factor?—A. I believe you could. I want to say some of my opinions are not predicated upon mere adjudicated cases. The question of the power of the courts, of the Congress of the United States, and of the States, is not easy of solution on any one question, to say nothing of so many questions as are here involved; but I observe that, although it has been supposed that Congress could not create corporations—I always believed it could not create corporations—I may

say that when they wanted to find a way to subsidize the Union Pacific road they found a way to do it, and whenever they wanted to do various things of that kind, which do not immediately occur to me, but which have been in effect the creating of corporations, they have succeeded in doing it.

Now, the question we have been discussing, or that I have been meaning to discuss, has had in it primarily industrial conditions which can never be segregated into States. I believe that Congress has gone so far and the Supreme Court has gone so far in construing the acts of Congress that they can not stop short of the exercise of all the power that is necessary to make the Government in fact, what it is in name, in all the functions which appertain to the Federal Government under the Constitution of the United States; and so I have sometimes said things which I did not have authority for.

Q. (By Mr. A. L. HARRIS.) Would it need a constitutional amendment, in your opinion, to give to Congress the power to grant charters for interstate corporations?—A. I am conservative on that point; I think it would.

Q. (By Mr. STIMSON.) One step further. Suppose the buyer does not even buy in Missouri, but he or his buyer goes into Pennsylvania, where we may say sugar is, and buys his goods there of the objectionable corporation; can you reach that by any process of law?—A. And ships it to Missouri, you mean?

Q. I may say ships it to himself in Missouri.—A. Under the existing law I do not think that can be done, sir; but I should be disposed to say, frame a law by which it could be done.

Q. Your Missouri buyer bought his goods in Pennsylvania. Hasn't he a constitutional right to carry his own property into Missouri?—A. Yes; and as you state the proposition, I think I want to modify what I said. You can not reach it unless upon a basis of intent under some statute, and you can not, to my mind, supply the intent; but if that element be added, you could reach it.

Q. (By Mr. PHILLIPS.) If such were the habit in Missouri, to buy in Pennsylvania, or other States, from all or a very large number of these trusts, and ship there, would it come under the Missouri statute by intent to evade the law?—A. There you get what I mean as to intent; the custom would hardly cover it. Each case must stand upon its own proof; custom might possibly tend to show what they intended to do, but I think it would be evidential only. As I said, the custom alone would not be a sufficient basis to make a case.

Q. (By Mr. FARQUHAR.) You speak of State legislation in respect to the remedies. State legislation could not give an effectual remedy unless it was similar in form all over the country, could it?—A. If by that you mean to say that its effects would be uniform, undoubtedly. The State law has no force outside of its own domain. It might, however, under certain conditions, help Missouri, considered by itself, to have a statute—even though Illinois, across the river, did not have it; it might effect a partial benefit, although that might not reach the root of the evil.

Q. At any time since the organization of the Government, has uniformity of State legislation ever been secured?—A. Absolutely not; but I undertake to say there never will be, notwithstanding the very admirable efforts made by the commission and the committees of the American Bar Association to produce it as near as possible, the difficulty being that, if you had the legislatures of the 45 States adopt the same law to-day, the following legislature is not bound by the act of its predecessor, and would be very prone to change it according to its own fancies. If by that I seem to discourage the idea of trying to get uniformity, I want to say I am far from that attitude. On the contrary, I think a partial or approximate uniformity may be created. Every word that has been uttered along these lines is valuable for that purpose, because it is all educational. It tends to form better, more thoughtful, and well-considered legislation, so that people will be satisfied, not merely because it is uniform—for they will not care for that in several States—but because it is the best.

Q. Is it not somewhat of an anomaly that only a forty-fifth part of the State sovereignty of the United States can create a corporation that can command, and possibly control, a national market as well as an international?—A. It is not only an anomaly, but it is a very serious danger.

Q. That leads to the question whether the privileges that are granted to a corporation in the State of New Jersey can invade the State of New York against the well-being of that State, and what remedy the State of New York has against the State of New Jersey?—A. I have endeavored in my suggestions to cover the two forms of that. First, let New York legislate for that which is properly a matter of State legislation, and exclude corporations which she does not wish. Let that action be supplemented by Congress to such an extent that New York shall not be invaded under any plea of rights under the United States Constitution.

Q. (By Mr. KENNEDY.) Governor Roosevelt recently complained that the convict-

made goods of other States are carried by interstate commerce into the State of New York to the detriment of New York working people, they having taken the convict-made goods of their own State off the market; and he calls for national legislation to remedy that evil, forbidding the carriage of convict-made goods into the State of New York. Is it competent for Congress to pass a law to prevent the carrying of convict-made goods of one State into another State?—A. I have no doubt of it.

Q. (By Mr. PHILLIPS.) That has been discussed very fully, and there is a difference of opinion in regard to it. It has been before the Labor Committee for years in the House, and I think the consensus of opinion is with Mr. Allen that it would be competent for the United States to do that.

Q. (By Mr. STIMSON.) I suppose that the first sale of convict-made goods can be regulated; but suppose they are sold in Ohio to another man, a private citizen, and then he tries to go to New York. Do you go so far as to say that that also can be prevented, if the title has passed out of the original manufacturer and out of the State?—A. Mr. Chief Justice Fuller says that under the United States Constitution there is not a right to an absolute free interstate commerce, but that this is a matter subject to the regulation of Congress. If you will remember the original-package case, the Supreme Court said that under the silence of Congress the right was reserved to the United States to control the commerce in packages going into that State, liquor or otherwise, and that the law of the State of Iowa was void as to any packages going in that way. That case, you remember, was followed by the statute, to which I have made reference in my written statement, which provided that packages of liquor that are taken into that State should be made subject to the laws of that State, and from that time on they were so subject and so held in *re Rahrer*. There was affirmative legislation by Congress declaring that that which was the subject of interstate commerce could be brought by Congress within the purview of the State laws.

Q. Do you think there is any distinction due to the fact that it is intoxicating liquor, which is universally subject to police regulation, and perhaps somewhat obnoxious inherently in the minds of many people?—A. A fortiori, to the contrary under the decision in the original-package case. They put up the police power of the State on the one hand, the strongest power the State has, and on the other the Federal power over interstate commerce; and they said, bearing in mind the limitations of the State police power and the necessity for enforcing it to the furthest point, the law of the United States was predominant as to that which was interstate commerce. And this would apply, I think, much more strongly where there was no police power involved.

Q. (By Mr. RATCHFORD.) Assuming that uniform laws were passed by all the States, is there not great danger that the supreme courts would pass upon these laws adversely in some cases?—A. Oh, yes; the danger of their overthrowing the uniformity, if that is what you mean; undoubtedly, sir. Different courts in different States would interpret them each for itself, and each would be supreme within its own jurisdiction.

Q. That danger seems to be perhaps as great a danger as any, does it not?—A. Oh, yes.

Q. So far as uniform laws are concerned by the States?—A. Yes.

Q. (By Mr. STIMSON.) In connection with the commissioners of the States, I have been for years the commissioner of Massachusetts, and have been vice-chairman and secretary. I have not found that so much of a difficulty as either of you gentlemen think. And another thing, we have not found that it is difficult to hold a uniform law when it is once established. We have now, in 21 States, I think, a uniform law upon bills and notes, and it has been attempted to modify it in probably half of them since it was passed, in slight particulars, and universally, with the exception of Massachusetts, the argument for uniformity prevailed. The people and the legislators were intelligent enough to see that uniformity was a greater thing than a slight local objection, and they have defeated every proposition to amend any uniform law that we have had passed, except one, and that was in Massachusetts on the 3 days of grace, which they did not like for various reasons, last year. We also find that decisions of the courts are uniform, because they cite each other. They know the law is uniform, and the court of Missouri will regard the court of Massachusetts as practically of the same State. It knows it has the same law, and it has been previously interpreted, and it will be followed. There has not yet been an instance where a uniform law has been set aside by the courts of one State in its interpretation.

Q. (By Mr. RATCHFORD.) To show the force of my question, I have a case in mind, and I want an opinion from the witness and Mr. Stimson, either of them. Is it not a fact that similar laws have been passed in two or more States, and that in some of the States where they have been passed they have been declared unconstitutional?

tional, while they have stood and are still in operation in other States?—A. Undoubtedly, sir. Mr. Stimson, I see, nods his head in agreement.

Mr. STIMSON. But when the State has a guide, when it is under the provisions of an agreement, this uniform law, which the United States and all States are adopting in order to meet the conditions, then it seems that when a strong hint is given that it is a national affair these laws are not likely to be held unconstitutional, because we do not recommend them except in matters about which there is very little difference of opinion, so that the question which you have just mentioned is not practical.

Q. (By Mr. A. L. HARRIS.) And the courts, as a rule, follow the decisions of courts in other States in the absence of conflicting decisions?

Mr. STIMSON. They do, as a rule.

The WITNESS. That is, they follow about as near as they follow their own decisions.

Q. (By Mr. A. L. HARRIS.) In general, I mean?—A. Yes.

(Testimony closed.)

CONSTITUTIONAL ASPECTS OF THE FEDERAL CONTROL OF CORPORATIONS.

By Prof. ERNEST W. HUFFCUT, of Cornell University.

[Submitted on request of the United States Industrial Commission.]

It seems to be generally conceded that there is need of a stricter control than now exists of the large corporate combinations, monopolistic in tendency and dominating in fact, which are the most striking feature of our present industrial and commercial development. How this stricter control shall be attained is partly a question of constitutional power and partly a question of political and economic expediency. The problem concerns itself with two classes of corporations—those engaged in interstate commerce and those not engaged in interstate commerce. Most of the corporations of both classes are the creations of State legislation, and normally would be within the control of the State that created them. But most corporations having any considerable business pass beyond the borders of their own State and into the territory of sister States, and when within the territory of another State they become subject to the laws of that State or of the United States, so far as those laws may constitutionally operate upon and affect them and their business undertakings. Thus the problem of corporate control may involve three factors—the State that creates the corporation, the State into which it goes, and the United States.

Briefly stated, the result is this: If the corporation is not engaged in interstate commerce, it is subject to control by the State of its creation, subject to the constitutional prohibitions against impairing the obligation of contracts and depriving it of its property without due process of law. It becomes subject to the laws of any other State into which it goes, and that State may regulate its operations even to the extent of prohibiting it from doing any business there whatever. What a State may do with corporations of its own creation it may do with such foreign corporations admitted within its territory. (*Hoper v. California*, 155 U. S., 648; *New York State v. Roberts*, 171 U. S., 658; *Orient Ins. Co. v. Daggs*, 172 U. S., 557.) If, on the other hand, it be engaged in interstate commerce, then the third factor—the United States—must be introduced, for since the Federal Constitution gives to Congress the power to regulate interstate commerce no State may usurp that power either by denying to the corporation the right to conduct business in the State (*Pensacola Telegraph Co. v. Western Union Telegraph Co.*, 96 U. S., 1; *Crutcher v. Kentucky*, 141 U. S., 47) or by regulating or taxing such interstate trade (*Brown v. Maryland*, 12 Wheat., 419; *State Freight Tax*, 15 Wall., 232; *Gloucester Ferry Co. v. Pennsylvania*, 114 U. S., 196).

If the corporation be one employed by the National Government for some end of its own, still less may the State deny to it necessary privileges or regulate its business. (*Stockton v. Baltimore and N. Y. R. Co.*, 32 Fed. Rep., 9; *Horn Silver Mining Co. v. New York State*, 143 U. S., 805.)

The result of this distribution of powers under the Federal Constitution has been to leave the States largely helpless to remedy evils which are thought by the people of the States, or of some of them, to be a menace to their welfare. In yielding control of interstate commerce to the Federal Government there has been naturally some serious loss to the States in general governmental power, quite distinct from the mere inability to regulate commerce. In the desire to avoid the evils of separate

and antagonistic control of trade and commerce the States have deprived themselves of the power to control their own internal affairs whenever those affairs are connected in any direct way with commerce between the States or with foreign nations.

In this situation of affairs the question naturally arises, What is the appropriate remedy? Laying aside all suggestions of change in the organic law, it would seem that there are three possible solutions:

First. The present system of dual control may be maintained with an increased harmony of action among the States and between the States and the National Government, such harmony of action being directed toward the stricter control of monopolistic combinations.

Second. The National Government may, by Congressional action, give to the States a larger, perhaps an exclusive, control of corporations engaged in interstate commerce.

Third. The National Government may take to itself a larger, perhaps an exclusive, control of corporations engaged in interstate commerce.

The first proposition demands an examination of the constitutional provisions by which the relative powers of the State and Federal Governments are determined and of the effect given to these provisions by judicial decisions.

Three provisions of the Federal Constitution confer upon Congress the extensive powers "to regulate commerce with foreign nations, and among the several States and with the Indian tribes;"¹ "to lay and collect taxes, duties, imposts, and excises;"² "to establish post-offices and post-roads."³

The exercise of these comprehensive powers may be said to be subject to these limitations: "Direct taxes shall be apportioned among the several States * * * according to their respective numbers;" "no capitation or other direct tax shall be laid, unless in proportion to the census or enumeration hereinbefore directed to be taken;"⁴ "no tax or duty shall be laid on articles exported from any State;"⁵ "no preference shall be given by any regulation of commerce or revenue to the ports of one State over those of another, nor shall vessels bound to or from one State be obliged to enter, clear, or pay duties in another;"⁶ "no person shall be * * * deprived of life, liberty, or property without due process of law;"⁷ "the citizens of each State shall be entitled to all privileges and immunities of citizens in the several States."⁸

The above powers and limitations have been the subject of a very large number of decisions by the Supreme Court. As thus interpreted the provisions may be said to measure the power of Congress over interstate commerce and the extent to which such control has been taken from the States. The conclusions may be stated first in general terms and afterwards in the form of specific applications. In general terms these conclusions are warranted: In the matter of interstate commerce the United States are but one country. (*Robbins v. Shelby Taxing District*, 120 U. S., 489, 494.) What is commerce is to be determined by the usages of the commercial world and not by the declaration of a particular State. (*Bowman v. Chicago & N. W. Ry.*, 125 U. S., 465; *Leisy v. Hardin*, 135 U. S., 100.) The reasons which may have caused the framers of the Constitution to repose the power to regulate commerce in Congress do not affect or limit the extent of the power. (*Leisy v. Hardin*, 135 U. S., 100; *Addyston Pipe & Steel Co. v. United States*, 20 S. C. R., 96.) When Congress has not acted its inaction is to be taken as an indication of its will that commerce shall be free from any restrictions. (*Robbins v. Shelby Taxing District*, 120 U. S., 493.) State laws passed to regulate interstate commerce are invalid. (*Gibbons v. Ogden*, 9 Wheat., 1.) State laws passed with another intent or in the reasonable exercise of the police power, but which incidentally affect interstate commerce, are valid if local in operation and reasonable in their incidental effect upon such commerce. (*Wilson v. Blackbird Creek Marsh Co.*, 2 Pet., 245; *Mayor v. Milns*, 11 Pet., 102; *Cooley v. Board of Wardens*, 12 How., 299; *County of Mobile v. Kimball*, 102 U. S., 691; *Morgan Steamship Co. v. Louisiana*, 118 U. S., 455; *Plumley v. Massachusetts*, 155 U. S., 461; *Hennington v. Georgia*, 163 U. S., 299; *Patapsco Guano Co. v. North Carolina*, 171 U. S., 345; *Lake Shore & Mich. So. Ry. v. Ohio*, 173 U. S., 285.) But State laws which unreasonably affect interstate commerce, although passed for local purposes or in the exercise of the police power, are invalid. (*Passenger Cases*, 7 How., 283; *Welton v. Missouri*, 91 U. S., 275; *Walling v. Michigan*, 116 U. S., 446; *Wabash, etc., R. v. Illinois*, 118 U. S., 557; *Robbins v. Shelby Taxing District*, 120 U. S., 489; *Leisy v. Hardin*, 135 U. S., 100; *Schollenberger v. Pennsylvania*, 171 U. S., 1.)

The application of these general conclusions to specific cases enables us to appreciate the comparative impotence of the States in the matter of controlling interstate commerce or the persons or corporations engaged in it. A State can not exclude a foreign corporation engaged in interstate commerce. (*Pensacola Telegraph Co. v.*

¹Art. I, § 8.
²Art. I, § 8.

³Art. I, § 8, 1.
⁴Art. I, § 8.

⁵Art. I, § 7.
⁶Amend. V.

⁷Art. I, § 9.
⁸Art. IV, 2, 1.

⁹Art. I, § 4.

Western Union Telegraph Co., 96 U. S., 1; *Crutcher v. Kentucky*, 141 U. S., 47.) A State can not tax a corporation upon its interstate commerce (*Brown v. Maryland*, 12 Wheat., 419; *State Freight Tax*, 15 Wall., 232; *Gloucester Ferry Co. v. Pennsylvania*, 114 U. S., 196), not even though created under its own laws (*Philadelphia, etc., Steamship Co. v. Pennsylvania*, 122 U. S., 326). Nor can it tax the agents of such a corporation or of a natural person for the privilege of doing business in the State. (*Walling v. Michigan*, 118 U. S., 446; *Robbins v. Shelby Taxing District*, 120 U. S., 489.) A State can not fix the toll on a bridge connecting it with a sister State and owned by one of its own corporations. (*Covington, etc., Bridge Co. v. Kentucky*, 154 U. S., 204.) A State can not fix a rate for carrying interstate commerce. (*Wabash, etc., Rwy. v. Illinois*, 118 U. S., 557.) A State can not absolutely fix the rates for the carriage of domestic (intrastate) commerce, for if its rate be held unreasonably low the legislature deprives the carrier of property without due process of law. (Fourteenth Amendment; *Smyth v. Ames*, 169 U. S., 466.) A State can not require carriers to sell 1,000-mile tickets at less than the usual rate fixed for other tickets. (*Lake Shore and Mich. S. Rwy. v. Smith*, 173 U. S., 684.) A State can not exclude oleomargarine (*Schollenberger v. Pennsylvania*, 171 U. S., 1; *Collins v. New Hampshire*, 171 U. S., 30); nor intoxicating liquors (*Bowman v. Chicago and N. W. Rwy.*, 125 U. S., 465; *Leisy v. Hardin*, 135 U. S., 100; *Scott v. Donald*, 165 U. S., 58); nor immigrants (*Henderson v. New York*, 92 U. S., 259); nor even "lewd and debauched women" (*Chy Lung v. Freeman*, 92 U. S., 275).

In the exercise of its police power a State is permitted to legislate for local purposes affecting the health, morals, safety, or convenience of its people, provided the legislation does not directly or unreasonably affect interstate commerce. A State may pass local pilotage laws (*Cooley v. Board of Wardens*, 12 How., 299); harbor improvement laws (*County of Mobile v. Kimball*, 102 U. S., 691); quarantine laws (*Morgan Steamship Co. v. Louisiana*, 118 U. S., 455); laws forbidding the heating of cars with stoves (*New York, etc., R. v. New York*, 165 U. S., 628); laws forbidding the running of Sunday freight trains (*Hennington v. Georgia*, 163 U. S., 299); laws

163 U. S., 142); laws requiring the prompt delivery of telegrams (*Western Union Tel. Co. v. James*, 162 U. S., 650); laws to prevent fraud in the sale of oleomargarine (*Plumley v. Massachusetts*, 155 U. S., 461); reasonable inspection laws (*Potapscow Guano Co. v. North Carolina*, 171 U. S., 345); but not if unreasonable or a cover for the regulation of commerce (*Minnesota v. Barber*, 136 U. S., 313; *Brimmer v. Rebman*, 138 U. S., 78; *Scott v. Donald*, 165 U. S., 58).

While the States are thus restricted and limited in their control of interstate commerce and of persons and corporations engaged in it, the United States are equally circumscribed in their control of nontrading enterprises and of corporations not engaged in interstate commerce or in some business over which the Constitution gives Congress authority. As was held in the *Knight* case (156 U. S., 1), the antitrust law does not extend to a combination for the manufacture of sugar, because manufacture is not trade or commerce. Congress, therefore, could not suppress a monopoly for the manufacture of sugar, while the States could not suppress a monopoly for the interstate sale of sugar. The States could exclude the manufacturing corporations, for since a corporation is not a citizen within the meaning of Article IV, section 2, subsection 1, of the Constitution, it is not entitled to the privileges and immunities of citizens in the several States. (*Blake v. McClung*, 172 U. S., 239; *Orient Ins. Co. v. Daggs*, 172 U. S., 557.) But the States could not exclude the trading corporations, for the States can not regulate interstate commerce. If, then, the corporations are both manufacturing and trading corporations, how are they to be dealt with? It is obvious that the product of the sugar combination is to go largely into interstate commerce and will pass beyond the control of the States. If one State offers a refuge to the manufacturing corporations, the other States are powerless. Forty-four States may pass uniform laws to control such combinations; the forty-fifth may render this combined action in large part nugatory by chartering and protecting the very combination which it is the object of the forty-four to suppress. In such case it would require a harmony of action among the States to prevent a monopolistic manufacturing combination and cooperative action on the part of the United States to prevent a monopolistic trading combination. In other words, forty-six distinct jurisdictions must work in concert in order to protect all the people of the United States from combinations formed to control the prices of raw material and the output and price of the finished products.

Under its power to regulate commerce Congress has thus far passed but two acts calculated to aid the States in the control of monopolistic enterprises, namely, the interstate-commerce act of 1887 and the antitrust act of 1890.

The interstate-commerce act was passed to regulate interstate transportation rates after it had been decided (*Wabash, etc., R. v. Illinois*, 118 U. S., 557) that the States could not regulate such rates within their own territory. This act, as interpreted by the courts, places upon interstate carriers a prohibition against unjust or unreasonable rates and against unjust discrimination, but otherwise leaves them as free as they were at common law to make special contracts looking to the increase of business, to classify traffic, to adjust and apportion rates so as to meet the necessities of commerce, and generally to manage their own business in their own way. (*Interstate Commerce Commission v. Railway Co.*, 167 U. S., 479.) The commission appointed under the act is charged mainly with the duty of investigating questions as to the reasonableness of the rates established or questions as to unjust discriminations, and is not authorized to fix rates. (*Interstate Commerce Commission v. Alabama Midland Rwy.*, 168 U. S., 144.) To this end it may require the attendance of witnesses and the production of books and papers. (*Interstate Commerce Commission v. Brimson*, 154 U. S., 447; 155 U. S., 3.) But its powers as thus defined are not extensive, and perhaps the criticism of Mr. Justice Harlan (168 U. S., 176) is justified that "it has been shorn by judicial interpretation of authority to do anything of an effective character."

The antitrust act (26 Stat. L., 209) was passed to prohibit monopolistic combinations in restraint of interstate or international commerce. It has been the subject of several adjudications by the Supreme Court, and from these it is possible to deduce the following conclusions as to the effect of the legislation: (1) A restraint of business not included in the category of interstate commerce is not within the prohibitions of the act (*United States v. E. C. Knight Co.*, 156 U. S., 1); (2) a combination which, although affecting interstate commerce, does not restrain it—that is, does not exclude the operation of competition—is not within the act (*Anderson v. United States*, 171 U. S., 604); (3) any combination which restrains interstate commerce, whether such restraint be illegal at common law or not, is illegal under the act and may be enjoined at the suit of the United States, although the rates fixed by the combination may be reasonable and fair (*United States v. Trans-Missouri Freight Ass'n*, 166 U. S., 290; *United States v. Joint Traffic Ass'n*, 171 U. S., 506; *Addyston Pipe and Steel Co. v. United States*, 20 S. C. R., 96).

The importance of the last decision rendered by the Supreme Court under this act, accompanied as it is by the rare spectacle of a unanimous court, justifies more than a passing reference. In *Addyston Pipe and Steel Co. v. United States* a combination of iron-pipe manufacturers was enjoined from carrying out a contract the purpose of which was to exclude competition among the parties to the contract. From the opinion of Mr. Justice Peckham, concurred in by the whole court, we gather these instructive conclusions as to the powers of Congress under the commerce clause of the Federal Constitution and the extent to which it is deemed to have exercised those powers in the passage of the antitrust law:

(1) The reasons which may have caused the framers of the Constitution to repose the power to regulate interstate commerce in Congress do not affect or limit the extent of the power itself.

(2) The power is not limited or restricted by the constitutional guaranties of private rights, such as the liberty to enter into contracts, under the provision that "no person shall be deprived of life, liberty, or property without due process of law."

(3) On the contrary, the provision regarding the "liberty" of a person is itself limited by the commerce clause, and the power of Congress to regulate interstate commerce carries with it the right to enact laws forbidding persons to enter into private contracts which directly and substantially (and not merely indirectly, remotely, incidentally, and collaterally) regulate to a greater or less degree commerce among the States.

(4) Under the antitrust act any combination which directly restrains the purchase, sale, or exchange of commodities among the several States is illegal, and if it destroys competition it must be held to restrain trade. The reasonableness of the restriction is of no consequence.

This establishes a radical rule concerning the power of Congress over interstate commerce and a radical rule in the application of the provisions of the antitrust act. It may be said to mark the decisive line between the rights of the individual under the Constitution and the rights of the public to control the individual for public ends. Happily it gives full force and effect to Congressional legislation intended to protect the people from monopolistic combinations and points the way toward future constitutional legislation.

We must not, however, lose sight of the division between State and Federal authority. Taking the *Knights* case (156 U. S., 1) at the one extreme and the *Addyston* case (20 S. C. R., 96) at the other, we see how nicely the State control and the Federal

control of monopolistic combinations are balanced, and how difficult it may be to adjust the balance in such a way as to prevent all the evils aimed at and at the same time keep within the constitutional power of each government. Congress could not regulate the sugar monopoly; the States could not regulate the iron-pipe monopoly. If now, in either case, the combinations were to take the form of a corporation and not a trust the difficulties might be increased. To be sure, if neither a State nor the United States would charter the corporation the scheme of corporate monopoly would fail. But too many States are bidding for such corporations to enable us to entertain the hope that a corporate combination can not somewhere find a congenial and fostering home. And should every State refuse to welcome the corporation, there yet remains the possibility of securing corporate charters in foreign countries. I note, for instance, in the New York Tribune, for January 7, that Quebec is the latest bidder for corporate consideration, and that a representative of that Province says that, "In case of the development of drastic 'antitrust' legislation in the United States, to go to Quebec will be the easy and perhaps only solution for many of the large industrial combinations in the United States." No State can forbid the entrance of such a corporation for international or interstate trade, although probably the United States could do so, unless restrained by some treaty provision. On the other hand, the United States could not forbid its entrance for manufacturing or nontrading purposes, although any State could do so. Hence a very harmonious scheme among the governments of the States and the United States would be necessary to prevent the successful operations of such corporations.

The joint control of corporations by the States and the National Government, while it has led to a good many inconveniences, has not heretofore seemed wholly inadequate to meet existing conditions. But with the present marked tendency to consolidate competing interests into one corporation, and with the present marked tendency to offer to such corporate aggregations a favorable habitat, the question becomes a practical and pressing one whether the dual control heretofore exercised ought not to make way for an undivided control—not of interstate commerce, for that is already solely in the hands of Congress—but of corporations engaged in interstate commerce, either by giving to the States, if that be possible, full power over corporations engaged in interstate commerce, or by reserving to the Federal Government, if that be possible, full control over them.

Turning now to the second possible solution of the problem we are met at the threshold with these questions: May Congress delegate to the States full control over corporations engaged in interstate commerce? May it place such corporations in the same position as concerns their right to do business in a State as that occupied by nontrading corporations? May it enact constitutionally that a corporation engaged in interstate commerce shall upon entering the territory of a State be subject to the laws of that State, and that its right to enter the territory of a State shall depend upon the laws of that State?

There is no direct authority known to me upon this point. But such authority as there is casting light upon the problem seems to support the thesis that Congress may grant to a State regulative power over interstate commerce, which, in the absence of such legislation, the State would not possess. Thus where the Supreme Court had held invalid a State law authorizing a bridge over the Ohio because such bridge obstructed navigation, it thereafter held that a subsequent act of Congress declaring such bridge to be a lawful structure superseded its former judgment and validated the State legislation. (*Pennsylvania v. Wheeling and Belmont Bridge Co.*, 18 How., 421.) Again, after the Supreme Court had decided (*Leisy v. Hardin*, 135 U. S., 100) that State legislation forbidding the sale of intoxicating liquors imported into the

liquors should . . . of its power to regulate commerce, and that the State laws thereafter operated upon and affected such liquors (*In re Rahrer*, 140 U. S., 545). It is true that the court is careful to say that Congress did not delegate thereby to the States its power to regulate interstate commerce, nor use terms of permission to the States to act, but that it simply removed an impediment to the enforcement of State laws created by the absence of a specific indication of the will of Congress. It is familiar doctrine that where Congress has not acted its silence is to be taken as an indication of its will that commerce shall be free. By speaking in this case Congress repelled this presumption and indicated how, and to what extent, interstate trade in a particular article of commerce should be restricted. But this it did by subjecting the article to the laws of the various States. It is obvious that Congress thereby gave to every State power to regulate interstate traffic in intoxicating liquors to the extent of prohibiting a resale in the original package.

In the recent case of *Scott v. Donald* (165 U. S., 58, 107), arising under the South Carolina dispensary law, it was held that the law was invalid so far as it forbade the shipping of liquor into the State for the use of the consignee, because the Wilson Act did not authorize the State law to operate until the liquor was in the State and at its destination. In *Rhodes v. Iowa* (170 U. S., 412) it was held that the Wilson Act did not permit the State to stop the liquor at the State line or to operate upon it until it was in the hands of the consignee. In *Vance v. Vandercook Co.* (170 U. S., 438) it was held, under the South Carolina dispensary law, that the law as amended, was valid so far as it forbade the sale of original packages, although the State did not prohibit the sale of such liquors altogether, but merely regulated it.

Another example of Congressional delegation of power to the States over interstate commerce is found in the act (U. S. Rev. Stat., sec. 4280) subjecting explosives in transit through a State to the laws of the State and authorizing States to prohibit the introduction of such explosives for sale or use at their discretion. A very early example of the same sort of legislation is found in the act of February 28, 1803 (2 Stat. L., 205), forbidding the importation from abroad of negroes into any State whose laws forbade such importation. In the same way State quarantine laws (1 Stat. L., 619) and State pilotage laws (U. S. Rev. Stat., 4235, 4236) have by Congressional action been made operative upon international and interstate commerce. So also Congress has yielded to the States power to tax the shares of national banks (U. S. Rev. Stat., 5219).

There is at present a Federal statute forbidding the importation of convict-made goods (30 Stat. L., 211, § 31). A similar State law forbidding the introduction into the State of convict-made goods has been declared unconstitutional because regulative of interstate commerce (*People v. Hawkins*, 157 N. Y., 1). But if, following the suggestion of Governor Roosevelt in his last annual message, Congress should enact that the laws of a State shall operate upon and affect convict-made goods brought from another State equally with those made and sold in the State, would not this be a valid method of regulating commerce within the decision based upon the Wilson Act (*In re Rahrer*, 140 U. S., 545)?

The civil-rights laws of the States have been held invalid so far as they regulate interstate commerce (*Hall v. De Cuir*, 95 U. S., 485). But if Congress should provide that such laws shall operate upon and affect interstate commerce, would not such a law fall within the same doctrine?

If, now, Congress may enact that the laws of a State passed to restrict the sale of intoxicating liquors, or the dangers arising from the transportation and use of explosives, shall operate upon and affect interstate commerce, and if, as suggested, Congress may enact that the laws of a State concerning convict-made goods or civil rights, etc., shall operate upon and affect interstate commerce, is it not reasonable to hold that it may enact that the laws of a State concerning foreign corporations shall operate upon and affect those engaged in interstate commerce equally with those engaged in insurance (*Paul v. Virginia*, 8 Wall., 168) or bill brokerage (*Nathan v. Louisiana*, 8 How., 73) not held to be engaged in interstate commerce? It must be remembered that a corporation is not a citizen within the meaning of Article IV, section 2, of the Federal Constitution, and all that prevents a State from controlling a foreign corporation is the commerce clause. If, in the exercise of its powers under that clause, Congress should remove the impediment to State regulation of such corporations, there would seem to be no reason why the States could not protect themselves by their own laws against the operations of monopolistic combinations. They may do so now as to combinations, whether in the form of corporations or "trusts," created for nontrading purposes. They could do so then as to trading corporations, and thus a very complete scheme of State control over corporations could be worked out.

To sum up: A corporation has no inherent right to go into another State than that of its origin. The only corporations that escape this rule are those engaged in interstate commerce (or those chartered by Congress, which are not now under consideration). Congress, in the exercise of its powers to regulate commerce among the States and with foreign nations, may remove the impediment to the operation of State laws upon such commerce. It may, therefore, remove the impediment to the operation of State laws upon corporations engaged in interstate or international commerce. This would commit the control of all domestic and foreign corporations in any State to the legislature of that State.

Turning now to the third possible solution of the problem, we face the inquiry whether the United States may, under the Federal Constitution, limit the right of corporations to engage in interstate commerce to corporations created by Congress, and thus take to itself the entire practical control of such corporate enterprises.

There are, perhaps, three ways in which Congress could effectively exercise a power to restrict or destroy the business of State corporations engaged in interstate

commerce. (1) It might forbid to such corporations as fall within a definition of monopoly the use of the mails. (2) It might tax State corporations upon their interstate commerce. (3) It might directly prohibit State corporations from engaging in interstate commerce.

Congress has exercised the right to exclude from the mails letters or circulars concerning lotteries or other enterprises in which there is the element of chance (act of September 19, 1890; 26 Stat. L., 465), and this legislation has been held constitutional. (*In re Jackson*, 96 U. S., 727; *In re Rapier*, 143 U. S., 110.) It has exercised the right to prohibit the carriage of indecent publications and articles in the mails or by interstate carriers. (25 Stat. L., 496; 29 Stat. L., 512.) It has forbidden the transportation of diseased cattle or meat which has been exposed to infection. (23 Stat. L., 31; 26 Stat. L., 1089.) All of these acts are a proper exercise of the Federal police power. But it is now clear that the police power is not confined to the protection of health or morals or safety, but extends to the protection of the reasonable and convenient exercise of private rights. (*Lake Shore & Mich. So. Rwy. v. Ohio*, 173 U. S. 285.) Why, then, may not Congress denounce monopolistic combinations, whether in the form of corporations or not, as a hindrance to such rights, and deny to such combinations the use of the mails? If it may denounce gambling contracts into which persons voluntarily enter, and forbid such contracts to be made or executed by the use of the mails, a fortiori it may denounce a monopoly which compels the people at large to buy the necessities of life at a price fixed by the monopoly, and may deny to it the use of the mails.

In like manner, Congress has exercised its power of taxation to render impossible, because unprofitable, the continuance of a business by a State corporation over which Congress desired to assume the control vested in it by the Federal Constitution.

When the National Government determined to suppress the evils arising from the want of uniformity and adequate control in the laws of the various States authorizing or permitting the issue of circulating notes as a medium of exchange, it resorted to the expedient of providing for the formation of banking corporations under a Federal law and the reorganization of State banking corporations under the Federal law, and supplemented this legislation with a tax on the issues of State banks which rendered it impossible for them to continue their issues at a profit. This legislation was sustained as within the constitutional powers of Congress. (*Veazie Bank v. Fenno*, 8 Wall., 533; *National Bank v. United States*, 101 U. S., 1.) And it was held that it required no concurrent action on the part of the States to enable the State corporations to reorganize as Federal corporations. (*Casey v. Galli*, 94 U. S., 673.)

The logical result of this decision was recognized by the court. Mr. Justice Nelson, in dissenting from the judgment of the court in *Veazie Bank v. Fenno* (p. 556), pointed it out very distinctly in these words: "It is true that the present decision strikes only at the power by create banks, but no person can fail to see that the principle involved affects the power to create any other description of corporation, such as railroads, turnpikes, manufacturing companies, and others."

The legislation in question, supplemented by the decision that it is a valid exercise of the Federal power, suggests the method of securing a uniform Federal control of corporations engaged in interstate commerce. A national act which should provide for the incorporation of trading companies and the reorganization of State trading corporations under the Federal act, supplemented by a tax upon the interstate business of the State corporations, would lead to a uniformity similar to that attained in the case of banks of issue, and would place all such interstate business, so far as it is carried on by corporations, strictly within the control of the Federal power.

But would such legislation be constitutional? I believe that it would, and for the following reasons:

First. The power to regulate interstate commerce is unquestionably confided exclusively to Congress, and is restricted, if at all, by Congressional acquiescence in the exercise of a concurrent power by the States so far as that operates for merely local purposes and is not designed to regulate, and does not directly regulate, such commerce. (*Gibbons v. Ogden*, 9 Wheat., 1; *Brown v. Maryland*, 12 Wheat., 419; *Cooley v. Port Wardens*, 12 How., 299; *The License Cases*, 5 How., 504; *County of Mobile v. Kimball*, 102 U. S., 691; *Bowman v. Chicago & N. W. Ry.*, 125 U. S., 465; *Leisy v. Hardin*, 135 U. S., 100; *In re Rahrer*, 140 U. S., 545; *Addyston Pipe & Steel Co. v. United States*, 20 S. C. R., 96.)

Second. Where Congress is given a power it is given the supplementary power "to make all laws which shall be necessary and proper for carrying into execution the foregoing powers" (Const. Art. I, sec. 8, subs. 18), and this includes the power to create such corporations or agencies of the Government as may be deemed necessary. (*McCulloch v. Maryland*, 4 Wheat., 316; *Luxton v. North River Bridge Co.*, 153 U. S., 525.) In the exercise of this power Congress has created banking corporations

(1 Stat. L., 191; 12 Ib., 666; 13 Ib., 99; 21 Ib., 66; 22 Ib., 162; Rev. Stat., p. 992); railroad and telegraph companies (12 Stat. L., 489; 13 Ib., 365; 14 Ib., 292; 16 Ib., 573; 17 Ib., 59); bridge companies (26 Stat. L., 268); the Nicaragua Canal Company (25 Stat. L., 673); savings and trust company (13 Stat. L., 510); insurance company, though perhaps this was while acting as a legislature for the District of Columbia (13 Stat. L., 428; 27 Ib., 29), and perhaps other corporations.

It has been held that the States can not tax such corporations without the consent of Congress (*California v. Pacific R. R. Co.*, 127 U. S., 1), and that under the act of March 3, 1875, they are entitled to remove their causes into the Federal courts (*Pacific Railroad Removal Cases*, 115 U. S., 2), though doubtless Congress could deny them this right if it thought fit.

Such corporations might, and probably would, do a domestic business within the States, but if so they would be subject to the rule that where Congress creates a corporation and remains silent as to its merely domestic business, its silence is equivalent to a declaration of intention that the corporation should be subject to State laws as to such domestic business. (*Reagan v. Mercantile Trust Co.*, 154 U. S., 413; *Smyth v. Ames*, 169 U. S., 466, 519-522.)

Third. A tax upon the commercial operations of corporations engaged in interstate commerce is not a direct tax, for it is not a tax upon real or personal property, or upon the income derived from real or personal property. In *Pollock v. Farmers' Loan and Trust Company* (158 U. S., 601, 637) the majority of the court, while holding a tax on the income of realty and personalty a direct tax, are careful to state that "we do not mean to say that an act * * * might not lay excise taxes on business, privileges, employments, and vocations." In *Nicol v. Ames* (173 U. S., 509) the court held the stamp tax on sales made at an exchange or board of trade to be an indirect tax or excise, and not a direct tax on the property sold or on the members who engaged in the business, although the tax is measured by the value of the property sold. The same case held further that the tax was not objectionable for want of uniformity. It is true the court places its decision upon the ground that it is a tax upon the facilities offered at exchanges, and suggests that a tax upon a sale made in any place would be practically a tax upon property, because taking no notice of any kind of privilege or facility. But the privilege or facility offered to a corporation to engage in interstate commerce is of two kinds: First, the privilege to be a corporation, which is derived from the State and can not be taxed by the Federal Government, and, second, the privilege to engage in interstate commerce, which is beyond the control of the States and within the control of Congress, and may therefore be taxed by the power that confers or permits it. This offers, it seems to me, the basis of classification which is necessary to the laying of such a tax and brings the case into harmony with the leading cases on Federal taxation. (*Veazie Bank v. Fenno*, 8 Wall., 533; *National Bank v. United States*, 101 U. S., 1; *Scholey v. Rew*, 23 Wall., 331; *Pollock v. Farmers' Loan and Trust Company*, 157 U. S., 429, on rehearing 158 U. S., 601; *Nicol v. Ames*, 173 U. S., 509.)

Practical difficulties might arise in determining when an article sold by a corporation has become a part of interstate commerce, and so the transaction one subject to the privilege tax; but this difficulty is no greater than that now experienced in determining the same question where the right of a State to tax or regulate interstate commerce is questioned. (*Brown v. Maryland*, 12 Wheat., 419; *Brown v. Houston*, 114 U. S., 622; *Cole v. Errol*, 116 U. S., 517; *Leisy v. Hardin*, 135 U. S., 100; *Pittsburg, etc., Co. v. Bates*, 156 U. S., 577; *State v. Engle*, 34 N. J. L., 425.)

Probably Congress might, if it saw fit, act directly by prohibiting State corporations from engaging in interstate commerce. It must be remembered that a corporation has no rights outside of the State of its origin except such rights as the State into which it goes is pleased to grant to it, except that the State into which it goes can not deny it the right to engage in interstate commerce, because the State has no power over such commerce. In other words, it is not the strength of the corporation but

: power to regulate

commerce. It therefore may do what the State may not do, forbid a corporation to engage in interstate commerce. It can not be that in the division of powers anything has been lost. If the State has lost, the nation has gained. If the corporation could have been prevented from entering another State before the Constitution was in effect, the power to prevent it must still be lodged somewhere, unless it has been expressly denied by the Constitution to both State and nation. No such denial of the power can be found in that document. Therefore, since the States have no longer the power to prevent a corporation from engaging in interstate commerce, the nation must have become the recipient of the power by the very terms of the pro-

vision that impliedly denied it to the States. I am unable to see any escape, therefore, from the conclusion that Congress, under the power to regulate commerce among the States, may fix the terms on which corporations may conduct such business or may prohibit them from engaging in it at all. If this be not true, then a single State may create an artificial being that is not a citizen of any State (save merely for jurisdictional purposes) or of the United States, and which no other State or States nor yet the United States can control when it passes outside of the State of its origin. It is impossible to hold that one State can thus foist upon the other States and upon the United States an ungovernable creature of this sort, a legalized and irresponsible Frankenstein.

Whether, finally, we are to go on under the present system of dual control, or whether we are to have a system of exclusive State control, or whether we are to have a system of exclusive Federal control, seems to be within the province of Congress to decide. The present system rests upon a long development and commends itself to the conservative and the cautious. Whether it is satisfactory or can be made so is for the economists and statesmen to determine. The system of exclusive State control would doubtless lead to different results in different States, and while it might create some confusion and inconvenience, and even hardship, it would eventually furnish a basis for a comparative study of the differing experiments. Whether this loss in uniformity would overbalance the gain from diversity I do not pretend to say. I merely point out that such diversity would furnish the data for a later movement looking toward uniformity in case such a movement should later seem desirable. The system of exclusive Federal control would seem, perhaps, the logical outcome of the constitutional provision giving to Congress the power to regulate interstate commerce. I am even disposed to think that it will be the ultimate solution of the present problems. Whether the time is now ripe for it, or whether we need rather to proceed first with tentative experiments under one of the other two methods, is a question upon which we may well hear more before we make haste to decide.

APPENDIX.

CHARTERS AND BY-LAWS.

NOTE.—The trust agreement of The Sugar Refineries' Company (the so-called Sugar Trust) can be found on page 3 of the report of the Bacon Committee of 1888 (report in relation to the Sugar Trust and the Standard Oil Trust by the Committee on Manufactures, House of Representatives, Fiftieth Congress, first session. House Reports, vol. 9). For the trust agreement of the Distillers' and Cattle Feeders' Trust (the so-called Whisky Trust), see page 198 of the present volume. For the articles of incorporation of the Distilling and Cattle Feeding Company, see page 218. See also the report of the Whisky Trust investigation of the Fifty-second Congress, second session (1893), H. R. No. 2601, vol. 3.

THE STANDARD OIL TRUST AGREEMENT.

This agreement, made and entered upon this second day of January, A. D. 1882, by and between all the persons who shall now or may hereafter execute the same as parties thereto, witnesseth:

I. It is intended that the parties to this agreement shall embrace three classes, to wit:

(1) All the stockholders and members of the following corporations and limited partnerships, to wit:

Acme Oil Co. (New York), Acme Oil Co. (Pennsylvania), Atlantic Refining Co., of Phila.; Bush & Co. Limited, Camden Consolidated Oil Co., Elizabethport Acid Works, Imperial Refining Co., Limited, Chas. Pratt & Co., Paine, Ablett & Co., Limited, Standard Oil Co. (Ohio), Standard Oil Co. (Pittsburg), Smith's Ferry Oil Trans. Co., Solar Oil Co. Limited, Sone & Fleming Mfg. Co., Limited.

Also all the stockholders and members of such other corporations and limited partnerships as may hereafter join in this agreement at the request of the trustees herein provided for.

(2) The following individuals, to wit:

W. C. Andrews, John D. Archbold, Lide K. Arter, J. A. Bostwick, Benj. Brewster, D. Bushnell, Thomas C. Bushnell, J. N. Camden, Henry L. Davis, H. M. Flagler, Mrs. H. M. Flagler, H. M. Hanna, and George W. Chapin, D. M. Harkness, D. M. Harkness, trustee; S. V. Harkness, John Huntington, H. A. Hutchins, Chas. F. G. Heye, O. B. Jennings, Chas. Lockhart, A. M. McGregor, Wm. H. Macy, Wm. H. Macy, jr., estate of Josiah Macy, jr., Wm. H. Macy, jr., executor; O. H. Payne, O. H. Payne, trustee; Chas. Pratt, Horace A. Pratt, C. M. Pratt, A. J. Pouch, John D. Rockefeller, Wm. Rockefeller, Henry H. Rogers, W. P. Thompson, J. J. Vandergrift, Wm. T. Wardwell, W. G. Warden, Joseph L. Warden; Warden, Frew & Co., Louise C. Wheaton, Julia H. York, George H. Vilas M. R. Keith, Geo. F. Chester, trustees. *

Also all such individuals as may hereafter join in this agreement at the request of the trustees herein provided for.

(3) A portion of the stockholders and members of the following corporations and limited partnerships, to wit:

American Lubricating Oil Co., Baltimore United Oil Co., Beacon Oil Co., Bush & Denslow Manuf'g Co., Central Refining Co., of Pittsburg; Chesebrough Manuf'g Co., Chess-Carley Co., Consolidated Tank Line Co., Inland Oil Co., Keystone Refining Co., Maverick Oil Co., National Transit Co., Portland Kerosene Oil Co., Producer's Con'd Land and Petroleum Co., Signal Oil Works, Limited, Thompson and Bedford Co. Limited, Devoe Manuf'g Co., Eclipse Lubricating Oil Co., Limited, Empire Refining Co., Limited, Franklin Pipe Co., Limited, Galena Oil Works, Limited, Galena Farm Oil Co., Limited, Germania Mining Co., Vacuum Oil Co., H. C. Van Tine & Co., Limited, Waters-Pierce Oil Co.

Also stockholders and members (not being all thereof) of other corporations and limited partnerships who may hereafter join in this agreement at the request of the trustees herein provided for.

II. The parties hereto do covenant and agree to and with each other, each in consideration of the mutual covenants and agreements of the others, as follows:

(1) As soon as practicable a corporation shall be formed in each of the following States, under the laws thereof, to-wit: Ohio, New York, Pennsylvania and New Jersey; provided, however, that instead of organizing a new corporation, any existing charter and organization may be used for the purpose when it can advantageously be done.

(2) The purposes and powers of said corporations shall be to mine for, produce, manufacture, refine, and deal in petroleum and all its products, and all the materials used in such business, and transact other business collateral thereto. But other purposes and powers shall be embraced in the several charters such as shall seem expedient to the parties procuring the charter, or, if necessary to comply with the law, the powers aforesaid may be restricted and reduced.

(3) At any time hereafter, when it may seem advisable to the trustees herein provided for, similar corporations may be formed in other States and Territories.

(4) Each of said corporations shall be known as the Standard Oil Co. of _____ (and here shall follow the name of the State or Territory by virtue of the laws of which said corporation is organized).

(5) The capital stock of each of said corporations shall be fixed at such an amount as may seem necessary and advisable to the parties organizing the same, in view of the purpose to be accomplished.

(6) The shares of stock of each of said corporations shall be issued only for money, property, or assets equal at a fair valuation to the par value of the stock delivered therefor.

(7) All of the property, real and personal, assets, and business of each and all of the corporations and limited partnerships mentioned or embraced in class (1) shall be transferred to and vested in the said several Standard Oil companies. All of the property, assets, and business in or of each particular State shall be transferred to and vested in the Standard Oil Co. of that particular State, and in order to accomplish such purpose the directors and managers of each and all of the several corporations and limited partnerships mentioned in class first are hereby authorized and directed by the stockholders and members thereof (all of them being parties to this agreement) to sell, assign, transfer, convey, and make over, for the consideration hereinafter mentioned, to the Standard Oil Co. or companies of the proper State or States, as soon as said corporations are organized and ready to receive the same, all the property, real and personal, assets, and business of said corporations and limited partnerships. Correct schedules of such property, assets, and business shall accompany each transfer.

(8) The individuals embraced in class second of this agreement do each for himself agree, for the consideration hereinafter mentioned, to sell, assign, transfer, convey, and set over all the property, real and personal, assets, and business mentioned and embraced in schedules accompanying such sale and transfer to the Standard Oil Company or Companies of the proper State or States, as soon as the said corporations are organized and ready to receive the same.

(9) The parties embraced in class third of this agreement do covenant and agree to assign and transfer all of the stock held by them in the corporations or limited partnerships herein named, to the trustees herein provided for, for the consideration and upon the terms hereinafter set forth. It is understood and agreed that the said trustees and their successors may hereafter take the assignment of stocks in the same or similar companies upon the terms herein provided, and that whenever and as often as all the stocks of any corporation and limited partnership are vested in said trustees the proper steps may then be taken to have all the money, property, real and personal, of said corporation or partnership assigned and conveyed to the Standard Oil Company of the proper State on the terms and in the mode herein set forth, in which event the trustees shall receive stocks of the Standard Oil Company equal to the value of the money, property, and business assigned, to be held in place of the stocks of the company or companies assigning such property.

(10) The consideration for the transfer and conveyance of the money, property, and business aforesaid to each or any of the Standard Oil Companies shall be stock of the respective Standard Oil Company to which said transfer or conveyance is made, equal at par value to the appraised value of the money, property, and business so transferred. Said stock shall be delivered to the trustees hereinafter provided for, and their successors, and no stock of any of said companies shall ever be issued except for money, property, or business equal at least to the par value of the stock

so issued, nor shall any stock be issued by any of said companies for any purpose except to the trustees herein provided for, to be held subject to the trusts hereinafter specified. It is understood, however, that this provision is not intended to restrict the purchase, sale, and exchange of property of said Standard Oil Companies as fully as they may be authorized to do by their respective charters, provided only that no stock be issued therefor except to said trustees.

(11) The consideration for any stock delivered to said trustees as above provided for, as well as for stocks delivered to said trustees by persons mentioned or included in class third of this agreement, shall be the delivery by said trustees, to the persons entitled thereto, of trust certificates hereinafter provided for, equal at par value to the par value of the stocks of the said Standard Oil companies so received by said trustees, and equal to the appraised value of the stocks of other companies or partnerships delivered to said trustees. (The said appraised value shall be determined in a manner agreed upon by the parties in interest and said trustees.) It is understood and agreed, however, that the said trustees may, with any trust funds in their hands, in addition to the mode above provided, purchase the bonds and stocks of other companies engaged in business similar or collateral to the business of said Standard Oil companies on such terms and in such mode as they may deem advisable, and shall hold the same for the benefit of the owners of said trust certificates, and may sell, assign, transfer, and pledge such bonds and stocks whenever they may deem it advantageous to said trust so to do.

III. The trusts upon which said stocks shall be held, and the number, powers, and duties of said trustees, shall be as follows:

(1) The number of trustees shall be nine.

(2) J. D. Rockefeller, O. H. Payne, and Wm. Rockefeller are hereby appointed trustees, to hold their office until the first Wednesday of April, A. D. 1885.

(3) J. A. Bostwick, H. M. Flagler, and W. G. Warden are hereby appointed trustees, to hold their office until the first Wednesday of April, A. D. 1884.

(4) Chas. Pratt, Benj. Brewster, and John D. Archbold are hereby appointed trustees, to hold their office until the first Wednesday of April, A. D. 1883.

(5) Elections for trustees to succeed those herein appointed shall be held annually, at which election a sufficient number of trustees shall be elected to fill all vacancies occurring either from expiration of the term of office of trustee or from any other cause. All trustees shall be elected to hold their office for three years, except those elected to fill a vacancy arising from any cause except expiration of term, who shall be elected for the balance of the term of the trustee whose place they are elected to fill. Every trustee shall hold his office until his successor is elected.

(6) Trustees shall be elected by ballot by the owners of trust certificates or their proxies. At all meetings the owners of trust certificates who may be registered as such on the books of the trustees may vote in person or by proxy, and shall have one vote for each and every share of trust certificates standing in their names; but no such owner shall be entitled to vote upon any share which has not stood in his name thirty days prior to the day appointed for the election. The transfer books may be closed for thirty days immediately preceding the annual election. A majority of the shares represented at such election shall elect.

(7) The annual meeting of the owners of said trust certificates for the election of trustees and for other business shall be held at the office of the trustees in the city of New York on the first Wednesday of April of each year, unless the place of meeting be changed by the trustees, and said meeting may be adjourned from day to day until its business is completed. Special meetings of the owners of said trust certificates may be called by the majority of the trustees at such times and places as they may appoint. It shall also be the duty of the trustees to call a special meeting of holders of trust certificates whenever requested to do so by a petition signed by the holders of 10 per cent in value of such certificates. The business of such special meetings shall be confined to the object specified in the notice given therefor. Notice of the time and place of all meetings of the owners of trust certificates shall be given by personal notice as far as possible and by public notice in one of the principal newspapers in each State in which a Standard Oil Co. exists at least ten days before such meeting. At any meeting, a majority in the value of the holders of trust certificates represented consenting thereto, by-laws may be made, amended, or repealed relative to the mode of election of trustees and other business of the holders of trust certificates; provided, however, that said by-laws shall be in conformity with this agreement. By-laws may also be made, amended, and repealed at any meeting, by and with the consent of a majority in value of the holders of trust certificates, which alter this agreement relative to the number, powers, and duties of the trustees and to other matters tending to the more efficient accomplishment of the objects for which the trust is created, provided only that the essential intents and purposes of this agreement be not thereby changed.

(8) Whenever a vacancy occurs in the board of trustees more than sixty days prior to the annual meeting for the election of trustees, it shall be the duty of the remaining trustees to call a meeting of the owners of the Standard Oil Trust certificates for the purpose of electing a trustee or trustees to fill the vacancy or vacancies. If any vacancy occurs in the board of trustees, from any cause, within sixty days of the date of the annual meeting for the election of trustees, the vacancy may be filled by a majority of the remaining trustees, or, at their option, may remain vacant until the annual election.

(9) If, for any reason, at any time, a trustee or trustees shall be appointed by any court to fill any vacancy or vacancies in said board of trustees, the trustee or trustees so appointed shall hold his or the respective office or offices only until a successor or successors shall be elected in the manner above provided for.

(10) Whenever any change shall occur in the board of trustees, the legal title to the stock and other property held in trust shall pass to and vest in the successors of said trustees without any formal transfer thereof; but if at any time such formal transfer shall be deemed necessary or advisable it shall be the duty of the board of trustees to obtain the same, and it shall be the duty of any retiring trustee, or the administrator or executor of any deceased trustee, to make said transfer.

(11) The trustees shall prepare certificates, which shall show the interest of each beneficiary in said trust, and deliver them to the persons properly entitled thereto. They shall be divided into shares of the par value of \$100 each, and shall be known as "Standard Oil Trust certificates," and shall be issued subject to all the terms and conditions of this agreement. The trustees shall have power to agree upon and direct the form and contents of said certificates, and the mode in which they shall be signed, attested, and transferred. The certificates shall contain an express stipulation that the holders thereof shall be bound by the terms of this agreement, and by the by-laws herein provided for.

(12) No certificates shall be issued except for stocks and bonds held in trust, as herein provided for, and the par value of certificates issued by said trustees shall be equal to the par value of the stocks of said Standard Oil Companies, and the appraised value of other bonds and stocks held in trust. The various bonds, stocks, and moneys held under said trust shall be held for all parties in interest jointly, and the trust certificates so issued shall be the evidence of the interest held by the several parties in this trust. No duplicate certificates shall be issued by the trustees except upon surrender of the original certificate or certificates for cancellation, or upon satisfactory proof of the loss thereof, and in the latter case they shall require a sufficient bond of indemnity.

(13) The stocks of the various Standard Oil Companies held in trust by said trustees shall not be sold, assigned, or transferred by said trustees, or by the beneficiaries, or by both combined, so long as the trust endures. The stocks and bonds of other corporations held by said trustees may be by them exchanged or sold and the proceeds thereof distributed pro rata to the holders of trust certificates, or said proceeds may be held and reinvested by said trustees for the purposes and uses of the trust; provided, however, that said trustees may from time to time assign such shares of stock of said Standard Oil Companies as may be necessary to qualify any person or persons chosen or to be chosen as directors and officers of any of said Standard Oil Companies.

(14) It shall be the duty of said trustees to receive and safely to keep all interest and dividends declared and paid upon any of the said bonds, stocks, and moneys held by them in trust, and to distribute all moneys received from such sources or from sales of trust property or otherwise by declaring and paying dividends upon the Standard Trust certificates as funds accumulate, which in their judgment are not needed for the uses and expenses of said trust. The trustees shall, however, keep separate accounts and receipts from interest and dividends, and of receipts from sales or transfers of trust property, and in making any distribution of trust funds, in which moneys derived from sales or transfers shall be included, shall render the holders of trust certificates a statement showing what amount of the fund distributed has been derived from such sales or transfers. The said trustees may be also authorized and empowered by a vote of a majority in value of holders of trust certificates, whenever stocks or bonds have accumulated in their hands from money purchases thereof, or the stocks or bonds held by them have increased in value, or stock dividends shall have been declared by any of the companies whose stocks are held by said trustees, or whenever from any such cause it is deemed advisable so to do, to increase the amount of trust certificates to the extent of such increase or accumulation of values and to divide the same among the persons then owning trust certificates pro rata.

(15) It shall be the duty of said trustees to exercise general supervision over the affairs of said several Standard Oil Companies, and as far as practicable over the other

companies or partnerships, any portion of whose stock is held in said trust. It shall be their duty as stockholders of said companies to elect as directors and officers thereof faithful and competent men. They may elect themselves to such positions when they see fit so to do, and shall endeavor to have the affairs of said companies managed and directed in the manner they may deem most conducive to the best interests of the holders of said trust certificates.

(16) All the powers of the trustees may be exercised by a majority of their number.

They may appoint from their own number an executive and other committees. A majority of each committee shall exercise all the powers which the trustees may confer upon such committee.

(17) The trustees may employ and pay all such agents and attorneys as they may deem necessary in the management of said trust.

(18) Each trustee shall be entitled to a salary for his services not exceeding twenty-five thousand dollars per annum, except the president of the board, who may be voted a salary not exceeding thirty thousand dollars per annum, which salaries shall be fixed by said board of trustees. All salaries and expenses connected with or growing out of the trust shall be paid by the trustees from the trust fund.

(19) The board of trustees shall have its principal office in the city of New York, unless changed by vote of the trustees, at which office, or in some place of safe deposit in said city, the bonds and stocks shall be kept. The trustees shall have power to adopt rules and regulations pertaining to the meetings of the board, the election of officers, and the management of the trust.

(20) The trustees shall render at each annual meeting a statement of the affairs of the trust. If a termination of the trust be agreed upon, as hereinafter provided, or within a reasonable time prior to its termination by lapse of time, the trustees shall furnish to the holders of the trust certificates a true and perfect inventory and appraisal of all stocks and other property held in trust, and a statement of the financial affairs of the various companies whose stocks are held in trust.

(21) The trust shall continue during the lives of the survivors and survivor of the trustees in this agreement named, and for twenty-one years thereafter; provided, however, that if at any time after the expiration of ten years two-thirds of all the holders in value, or if after the expiration of one year 90 per cent of all the holders in value of trust certificates shall, at a meeting of holders of trust certificates called for that purpose, vote to terminate this trust at some time to be by them then and there fixed, the said trust shall terminate at the date so fixed. If the holders of trust certificates shall vote to terminate the trust as aforesaid, they may, at the same meeting, or at a subsequent meeting called for that purpose, decide by vote of two-thirds in value of their number the mode in which the affairs of the trust shall be wound up, and whether the trust property shall be distributed or whether part, and if so, what part shall be divided and what part sold, and whether such sales shall be public or private. The trustees, who shall continue to hold their offices for that purpose, shall make the distribution in the mode directed, or, if no mode be agreed upon, by two-thirds in value as aforesaid, the trustees shall make distribution of the trust property according to law. But said distribution, however made, and whether it be of property, or values, or of both, shall be just and equitable, and such as to insure to each owner of a trust certificate his due proportion of the trust property or the value thereof.

(22) If the trust shall be terminated by the expiration of the time for which it is created, the distribution of the trust property shall be directed and made in the mode above provided.

(23) This agreement, together with the registry of certificates, books of accounts, and other books and papers connected with the business of said trust, shall be safely kept at the principal office of said trustees.

(Signatures.)

SUPPLEMENTAL AGREEMENT.

Whereas in and by an agreement dated January 2, 1882, and known as the Standard Trust agreement, the parties thereto did mutually covenant and agree, *inter alia*, as follows, to wit: That corporations to be known as Standard Oil Companies of various States should be formed, and that all of the property, real and personal, assets, and business of each and all of the corporations and limited partnerships mentioned or embraced in class first of said agreement should be transferred and vested in the said several Standard Oil Companies; that all of the property, assets, and business in or of each particular State should be transferred to and vested in the Standard Oil Company of that particular State, and the directors and managers of each and all of the several corporations and associations mentioned in class first were authorized and directed to sell, assign, transfer, and convey, and make over to the Standard Oil

Company or Companies of the proper State or States, as soon as said corporations were organized and ready to receive the same, all the property, real and personal, assets and business of said corporations or associations; and whereas it is not deemed expedient that all of the companies and associations mentioned should transfer their property to the said Standard Oil Companies at the present time, and in case of some companies and associations it may never be deemed expedient that the said transfer should be made, and said companies and associations go out of existence; and whereas it is deemed advisable that a discretionary power should be vested in the trustees as to when such transfer or transfers should take place, if at all: Now, it is hereby mutually agreed between the parties to the said trust agreement, and as supplementary thereto, that the trustees named in the said agreement and their successors shall have the power and authority to decide what companies shall convey their property as in said agreement contemplated, and when the said sales and transfers shall take place, if at all, and until said trustees shall so decide, each of said companies shall remain in existence, and retain its property and business, and the trustees shall hold the stocks thereof in trust, as in said agreement provided. In the exercise of said discretion the trustees shall act by a majority of their number as provided in said trust agreement. All portions of said trust agreement relating to this subject shall be considered so changed as to be in harmony with this supplemental agreement.

In witness whereof, the said parties have subscribed this agreement this 4th day of January, 1882.

(Duly signed by the same parties.)

BY-LAWS OF THE TRUSTEES OF THE STANDARD OIL TRUST.

ARTICLE I.—*Election of trustees.*

Trustees shall be elected by ballot by the owners of trust certificates or their proxies.

Elections of trustees to succeed those already appointed shall be held annually, at which election a sufficient number of trustees shall be elected to fill all vacancies occurring either from expiration of the term of office of any trustee or from any other cause.

All trustees shall be elected to hold their office for three years, except those elected to fill a vacancy arising from any cause except expiration of term, who shall be elected for the balance of the term of the trustee whose place they are elected to fill. Every trustee shall hold his office until his successor is elected.

The annual meeting of the holders of trust certificates and the election of trustees shall be held at the office of the trustees in the city of New York, on the first Wednesday in April of each year, unless otherwise ordered by the trustees, and the said meeting may be adjourned from day to day until its business is completed.

Special meetings of the holders of trust certificates may be called by a majority of all the trustees at such time and place as they may appoint.

Special meetings shall also be called by a majority of the trustees whenever requested so to do, by a request signed by the holders of 10 per cent in value of trust certificates.

The business of such special meetings shall be confined to the objects specified in the notice given therefor.

Notice of the time and place of all meetings of owners of trust certificates shall be given by a personal notice, as far as possible, and shall also be advertised in one of the principal newspapers published in each State in which a Standard Oil Company exists, at least ten days previous to the time of meeting.

At all meetings the owners of trust certificates, who may be registered as such on the books of the trustees, may vote in person or by proxy, and shall have one vote for each and every share of trust certificates standing in their names, but no such owner shall be entitled to vote upon any share which has not stood in his name thirty days prior to the day appointed for the election.

The transfer books may be closed for thirty days immediately preceding the annual election.

A majority of the shares represented at such election shall elect.

At all elections of trustees the board of trustees shall be the judges of the qualification of voters; shall prescribe rules and regulations for voting, appoint tellers to direct and count the votes, and cause the result of the election to be entered in full on their minutes.

The trustees may commit their powers in this matter to a committee of their own members.

The election shall be held on a day designated for that purpose, unless prevented by accident, in which case the trustees shall designate another day for the election.

ARTICLE II.—*Board of trustees.*

The board of trustees at their first meeting after their annual election shall elect by ballot from their own number a president, vice-president, treasurer, and secretary, and such officers shall hold their offices during the pleasure of the board. Whenever a vacancy occurs in the board of trustees more than sixty days prior to the annual meeting for the election of trustees, it shall be the duty of the remaining trustees to call a meeting of the holders of the trust certificates for the purpose of electing a trustee or trustees to fill the vacancy or vacancies.

If any vacancy occurs in the board of trustees from any cause within sixty days of the date of the annual meeting for the election of trustees, the vacancy may be filled by a majority of the remaining trustees, or at their option may remain vacant until the annual election.

The board may also appoint an assistant treasurer, assistant secretary, auditor, and such additional officers, agents, executive and other committees as it may deem advisable, and remove the same at its pleasure.

In the absence of the president and vice-president the board may appoint a chairman pro tempore; during a prolonged absence or inability of the president or any other officer, the board may appoint substitutes pro tempore, and on the death or resignation of the president or other officers, it shall fill the vacancy.

A majority of the trustees shall be required to constitute a quorum for the transaction of business, but less than a quorum may adjourn from time to time and from place to place.

Regular meetings of the board of trustees shall be held on the first Wednesday of January, April, July, and October of each year, unless the same shall be a legal holiday, in which event the meeting shall be held on the day following.

ARTICLE III.—*The president.*

The president shall preside at all meetings of the owners of trust certificates or trustees if present; appoint or remove all officers and agents other than those elected by the owners of trust certificates or the board of trustees; call meetings of the board of trustees, when requested by a majority of the trustees in writing; sign all certificates of shares, and have a general care, supervision, and direction of the affairs of the trust. He shall have power to call meetings of the board from time to time when he shall think proper; to sign certificates of shares in blank and leave them with the treasurer in sufficient numbers to provide for the prompt transfer of shares.

In the event of the death, absence, or inability of the president to perform the duties imposed upon him by these by-laws and the orders of the board of trustees, the vice-president may exercise his powers and perform his duties, subject to the control of the board of trustees or executive committee.

ARTICLE IV.—*The secretary.*

It shall be the duty of the secretary to notify the members thereof of all meetings of the board of trustees, when required by the president or by a majority of the trustees in writing; to attend such meetings when practicable, keep true records of the proceedings; attest such records after meeting by his signature; safely keep all documents and papers which shall come into his possession, and truly keep the books and accounts of the trust appertaining to his office, so as at all times to show the real condition of the trust affairs, and shall present statements thereof when required by the board. He shall keep books in which transfers of shares may be made by any owner of trust certificates or his attorney duly constituted in writing; also a share ledger and certificate book; prepare new certificates upon the transfer of shares and surrender of the old certificates, and keep a register of all the certificates issued.

On the day of the annual election the secretary shall furnish for the use of the inspectors an alphabetical list of the names of all the owners of trust certificates who shall have been registered as such for thirty days prior to said election. The assistant secretary shall perform such of the duties of the secretary as may be required of him by the board of trustees.

ARTICLE V.—*Treasurer.*

It shall be the duty of the treasurer to keep and account for all moneys, funds, and property of the trust which shall come into his hands, and he shall render such

accounts and present such statements to the trustees and executive committee as may be required of him.

Disbursements shall only be made by him under resolutions of the board of trustees, or by the executive committee, or upon vouchers approved by the proper officers.

He shall sign certificates of shares when presented to him after they shall have been signed by the president.

The assistant treasurer shall perform such of the duties of treasurer as may be required of him by the board of trustees.

ARTICLE VI.—*Executive committee.*

The executive committee shall possess and exercise by a majority of all its members all the powers and duties of the board of trustees, but only when the board shall not be in session. They shall keep a record of all their proceedings, which shall be certified by the secretary under his hand, which record shall be read at the next ensuing meeting of the board of trustees. The secretary shall call meetings of this committee on the requisition of the president of the board or of any of its members.

ARTICLE VII.

The fiscal year of this trust shall be the calendar year.

ARTICLE VIII.

Those by-laws may be altered, amended, or repealed at any meeting of the owners of trust certificates by a vote of majority in value of all the owners represented, provided, however, that all by-laws relative to formal meetings and formal duties of the trustees and officers may be altered by the board of trustees.

REVISED CHARTER OF THE STANDARD OIL COMPANY OF NEW JERSEY.

Resolved, That it is advisable to alter the charter of this company to read as below stated, and that a meeting of the stockholders be called to meet at the principal office of the company in Bayonne, New Jersey, on the 14th day of June, 1899, at 11 a. m., to take action thereon, notice of such meeting to be signed by the president and secretary and given to each stockholder in person, or mailed to his proper post-office address, at least ten days previous to the time of meeting, as provided by the by-law.

First. The name of the corporation is Standard Oil Company.

Second. The location of the principal office in the State of New Jersey is at the company's refinery in the city of Bayonne and county of Hudson. The name of the agent therein and in charge thereof, and upon whom process against this company may be served, is J. H. Alexander.

Third. The objects for which this company is formed are: To do all kinds of mining, manufacturing, and trading business; transporting goods and merchandise by land or water in any manner; to buy, sell, lease, and improve lands; build houses, structures, vessels, cars, wharves, docks, and piers; to lay and operate pipe lines; to erect and operate telegraph and telephone lines and lines for conducting electricity; to enter into and carry out contracts of every kind pertaining to its business; to acquire, use, sell, and grant licenses under patent rights; to purchase or otherwise acquire, hold, sell, assign, and transfer shares of capital stock and bonds or other evidences of indebtedness of corporations, and to exercise all the privileges of ownership, including voting upon the stocks so held; to carry on its business and have officers and agencies therefor in all parts of the world, and to hold, purchase, mortgage, and convey real estate and personal property outside the State of New Jersey.

Fourth. The total authorized stock of the corporation is one hundred and ten million dollars, divided into one million and one hundred thousand shares of the par value of one hundred dollars each. Of said stock the one hundred thousand shares now issued and existing shall be preferred stock, and the increase of one million shares shall be common stock. Said preferred stock shall entitle the holder thereof to receive out of the net earnings a dividend of and not exceeding one and one-half per centum quarterly before any dividend shall be paid on the common stock. Common stock may, at the discretion of the company, be issued in exchange for preferred stock, and all preferred stock so received by the company shall be canceled. Common stock may also be issued in payment for such property as the company has authority to purchase. Holders of preferred and of common stocks shall have like voting power.

Fifth. The names and post-office addresses of the incorporators and the number of shares subscribed for by each shall remain as set forth in the original certificate of incorporation.

Sixth. The duration of the corporation shall be unlimited.

Seventh. The corporation may use and apply its surplus earnings, or accumulative profits authorized by law to be reserved, to the purchase or acquisition of property, and to the purchase or acquisition of its own capital stock from time to time, to such extent and in such manner and upon such terms as its board of directors shall determine; and neither the property nor the capital stock so purchased or acquired, nor any of its capital stock taken in payment or satisfaction of any debt due to the corporation, shall be regarded as profits for the purpose of declaration or payment of dividends, unless otherwise determined by a majority of the board of directors or a majority of the stockholders.

The corporation, in its by-laws, may prescribe the number necessary to constitute a quorum of the board of directors, which may be less than a majority of the whole number.

The number of directors at any time may be increased or diminished by vote of the board of directors, and in case of any such increase the board of directors shall have power to elect such additional directors, to hold office until the next meeting of stockholders, or until their successors shall be elected.

The board of directors shall have power to make, alter, amend, and rescind the by-laws of the corporation, to fix the amount to be reserved as working capital, to authorize and to cause to be executed mortgages and liens upon the real and personal property of the corporation, and from time to time to sell, assign, transfer, or otherwise dispose of any or all of the property of the corporation; but no such sale of all of the property shall be made except pursuant to the votes of at least two-thirds of the board of directors.

The board of directors, by resolution passed by a majority of the whole board, may designate three or more directors to constitute an executive committee, which committee, to the extent provided in said resolution or in the by-laws of the corporation, shall have, and may exercise, the power of the board of directors in the management of the business and affairs of the corporation, and shall have power to authorize the seal of the corporation to be affixed to all papers which may require it.

The board of directors from time to time shall determine whether and to what extent, and at what times and places, and under what conditions and regulations, the accounts and books of the corporation, or any of them, shall be open to the inspection of the stockholders; and no stockholder shall have any right of inspecting any account or book or document of the corporation except as conferred by statute or authorized by the board of directors or by a resolution of the stockholders.

The board of directors shall have power to hold its meetings, to have one or more offices, and to keep the books of the corporation (except the stock and transfer books) outside of the State, at such places as may be from time to time designated by them.

I certify that the above resolution was adopted by the board of directors of the Standard Oil Company at a meeting held on the 26th day of May, A. D. 1899, a majority of directors being present and voting in favor thereof. Witness the seal of said corporation.

[CORPORATE SEAL.]

L. D. CLARKE, *Secretary.*

BY-LAWS OF THE STANDARD OIL COMPANY OF NEW JERSEY.

ARTICLE I.—*Meeting of stockholders.*

The annual meeting of stockholders and the election of directors shall be held at the office of the company in Bayonne, New Jersey, on the second Tuesday in January in each year, and said meeting may be adjourned from day to day until its business is completed.

Special meetings of the stockholders may be called by a majority of all the directors at such times and places as they may appoint.

The directors shall also call a meeting of stockholders within ten days after a written request so to do signed by a majority of the stockholders.

The business of such special meetings shall be confined to the subject specified in the notice therefor.

Notice of the time and place of all meetings of stockholders shall be signed by the secretary and be given to each stockholder in person or be mailed to his proper post-office address at least ten days previous to the time of meeting.

At all meetings stockholders who may be registered as such on the books of the company may vote in person, by agent, or by proxy, and shall have one vote for each and every share of stock standing in their names, but no shareholder shall be entitled to vote upon any stock which has not stood in his name ten days prior to the day appointed for the election.

The transfer books may be closed for ten days previous to the annual election.

At all elections the directors shall be the judges of the qualifications of voters, shall prescribe rules and regulations for voting, appoint inspectors to collect and count the votes, and cause the result of the election to be entered in full on their minutes.

The board may commit its powers in this matter to a committee of its own members.

The election shall be held on the day designated for that purpose unless prevented by accident, in which case the board shall designate another day for the election.

A majority of the stockholders present at any meeting shall constitute a quorum.

ARTICLE II.—*Board of directors.*

The board of directors shall consist of thirteen persons, who shall hold their office one year and until their successors are elected.

The board of directors at their first meeting after every annual election shall elect a president, four vice-presidents, a treasurer, and secretary, and such officers shall hold their offices during the pleasure of the board. One person may be both secretary and treasurer.

In case of any vacancy in the board of directors by death, resignation, or otherwise, the board shall have the power to fill for the unexpired term such vacancy by ballot.

The board may also appoint one assistant treasurer, one assistant secretary, and such additional officers and agents as they may deem advisable, and remove the same at their pleasure.

In the absence of the president and vice-president, they may appoint a chairman pro tempore.

During a prolonged absence or inability of the president, or any other officer, they may appoint substitutes pro tempore, and on the death or resignation of the president, or other officer, they shall fill the vacancy.

Five of the directors shall be required to constitute a quorum for the transaction of business; but less than a quorum may adjourn from time to time and from place to place.

The board of directors may at their option hold their meeting at any place outside of the State.

Dividends upon the capital stock of the company, when earned, shall be declared by the board of directors on the first Tuesday of February, May, August, and November in each year, the same to be payable on the 15th of the succeeding month. The board shall have power to fix the amount to be reserved as working capital.

ARTICLE III.—*President.*

The president shall preside at all meetings of the stockholders or directors, if present; sign all certificates of stock and have a general care, supervision, and direction of the affairs of the company. He shall have power to call meetings of the board from time to time when he shall think proper, or when requested by a majority of the board.

In the event of the death, absence, or inability of the president to perform any duties imposed upon him by these by-laws and the order of the board of directors, the vice-president may exercise his powers and perform his duties, subject to the control of the board of directors.

ARTICLE IV.—*Secretary.*

It shall be the duty of the secretary to notify the members thereof of all meetings of the board of directors when required by the president, or when required by a majority of the directors in writing; to attend such meetings when practicable; keep true records of the votes at elections and all other proceedings; attest such records after every meeting by his signature; safely keep all documents and papers which shall come into his possession, and truly keep the books and accounts of the company appertaining to his office; and shall present statements thereof when required by the board. He shall keep books upon which transfer of stock may be made by any stockholder, or his attorney duly constituted in writing. He shall prepare new certificates upon the transfer of shares and surrender of the old certificates and keep a register of all certificates issued. The assistant secretary shall perform such of these duties as the directors may require.

ARTICLE V.—*Treasurer.*

It shall be the duty of the treasurer to keep and account for all monies, funds, and property of the company which shall come into his hands, and he shall render such accounts and present such statements to the directors as may be required of him. He shall deposit all funds of the company which may come into his hands in such bank or banks as the directors may designate; he shall keep his bank account in the name of the company, and shall exhibit his books and accounts to any director upon application at the office during ordinary business hours; he shall indorse for collection the bills, notes, checks, and other negotiable instruments received by the company; he shall sign all bills, notes, checks, and other negotiable instruments of the company; and shall pay out money on the business as the corporation may require, taking proper vouchers therefor, provided, however, that the directors shall have power by resolution to delegate any of the duties of the treasurer to other officers, and to provide by what officers all bills, notes, checks, vouchers, orders, or other instruments shall be signed. The assistant secretary shall perform such of these duties as the directors may require.

ARTICLE VI.—*Corporate seal.*

A corporate seal shall be prepared and shall be kept by the secretary in the office of the company.

The impression of the seal may be made and attested by either the secretary or an assistant secretary for the authentication of contracts and other papers requiring the seal and bearing the signature of the president or one of the vice-presidents.

ARTICLE VII.—*Fiscal year.*

The fiscal year of this corporation shall be the calendar year.

ARTICLE VIII.—*Amendments.*

These by-laws may be altered or amended by a vote of the directors at any meeting.

CERTIFICATE OF INCORPORATION OF FEDERAL STEEL COMPANY.

[Internal-revenue stamp, 10 cents, canceled.]

[Registered office with the Corporation Trust Company of New Jersey, 60 Grand street, Jersey City, N. J.]

First. The name of the corporation is Federal Steel Company.

Second. The location of its principal office in the State of New Jersey is at No. 60, Grand street, in the city of Jersey City, county of Hudson. Said office is to be registered with the Corporation Trust Company of New Jersey. The name of the agent therein and in charge thereof, and upon whom process against this corporation may be served, is the Corporation Trust Company of New Jersey.

Third. The objects for which, and for any of which, the corporation is formed, are to do any or all of the things herein set forth, to the same extent as natural persons might or could do, and in any part of the world, viz:

Mining of all kinds; manufacturing of all kinds; transportation of goods, merchandise, or passengers, upon land or water; building houses, structures, vessels, ships, boats, railroads, engines, cars or other equipment, wharves or docks; constructing, maintaining, and operating railroads (other than railroads within the State of New Jersey), steamship lines, vessel lines, or other lines for transportation; the purchase, improvement, or sale of lands;

To manufacture, purchase, or otherwise acquire, to hold, own, mortgage, pledge, sell, assign and transfer, or otherwise dispose of, to invest, trade, deal in and deal with goods, wares, and merchandise, and property of every class and description;

To acquire and undertake all or any part of the business, assets, and liabilities of any person, firm, association, or corporation;

To apply for, purchase, or otherwise acquire, and to hold, own, use, operate, and to sell, assign, or to otherwise dispose of, to grant licenses in respect of or otherwise turn to account any and all inventions, improvements, and processes used in connection with, or secured under letters patent of the United States or elsewhere, or otherwise; and, with a view to the working and development of the same, to carry

on any business, whether manufacturing or otherwise, which the corporation may think calculated directly or indirectly to effectuate these objects;

To enter into, make, perform, and carry out contracts of every kind with any person, firm, association, or corporation;

To have one or more offices; to carry on all or any of its operations and business; and unlimitedly and without restriction to hold, purchase, mortgage, lease, and convey real and personal property in any State or Territory of the United States, and in any foreign country or place.

In general to carry on any other business in connection therewith, whether manufacturing or otherwise, with all the powers conferred by the laws of New Jersey upon corporations under the act hereinafter referred to.

Fourth. The total authorized capital stock of the corporation is two hundred million dollars (\$200,000,000), divided into two million (2,000,000) shares of the par value of one hundred dollars (\$100) each.

Of such total authorized capital stock, one million shares, amounting to \$100,000,000, shall be preferred stock, and one million shares, amounting to \$100,000,000, shall be common stock.

From time to time the preferred stock and the common stock shall be issued in such amounts and proportion as shall be determined by the board of directors, and as may be permitted by law.

The preferred stock shall be entitled, out of any and all surplus net profits, whenever declared by the board of directors, to noncumulative dividends at the rate of, but not exceeding, six per cent per annum for the fiscal year beginning on the first day of January, 1899, and for each and every fiscal year thereafter, payable in preference and priority to any payment of any dividend on the common stock for such fiscal year. In addition thereto, in the event of the dissolution of the corporation, the holders of the preferred stock shall be entitled to receive the par value of their preferred shares out of the surplus funds of the corporation before anything shall be paid therefrom to the holders of the common stock.

The common stock shall be subject to the prior rights of the holders of the preferred stock, as herein declared. If, after providing for the payment of full dividends for any fiscal year on the preferred stock, there shall remain any surplus net profits of such year, any and all such surplus net profits of such year, and of any other fiscal year for which full dividends shall have been paid on the preferred stock, shall be applicable to dividends upon the common stock, when and as from time to time the same shall be declared by the board of directors and out of any such surplus net profits, after the close of any fiscal year, the board of directors may pay dividends upon the common stock of the corporation for such fiscal year, but not until after the dividends upon the preferred stock for such fiscal year shall have been actually paid or provided and set apart.

Fifth. The names of the incorporators (the post-office address of each is No. 60 Grand street, Jersey City, N. J.) and the number of shares of common stock (ten) subscribed for by each, the aggregate of which being three thousand dollars (\$3,000), is the amount of capital stock with which the corporation will commence business, are as follows:

Name.

Charles C. Cluff.....	Ten shares common stock.
Charles MacVeagh.....	Ten shares common stock.
Benjamin C. Van Dyke.....	Ten shares common stock.

Sixth. The duration of the corporation shall be unlimited.

Seventh. The corporation may use and apply its surplus earnings, or accumulated profits authorized by law to be reserved, to the purchase or acquisition of property, and to the purchase or acquisition of its own capital stock from time to time, to such extent and in such manner and upon such terms as its board of directors shall determine; and neither the property nor the capital stock so purchased and acquired, nor any of its capital stock taken in payment or satisfaction of any debt due to the corporation, shall be regarded as profits for the purposes of declaration or payment of dividends, unless otherwise determined by a majority of the board of directors or a majority of the stockholders.

The corporation in its by-laws may prescribe the number necessary to constitute a quorum of the board of directors, which number may be less than a majority of the whole number.

The number of directors at any time may be increased by a vote of the board of directors, and in case of any such increase the board of directors shall have power to elect such additional directors, to hold office until the next meeting of stockholders, or until their successors shall be elected.

The board of directors shall have power without the assent or vote of the stockholders to make, alter, amend, and rescind the by-laws of the corporation, to fix the amount to be reserved as working capital, to authorize and to cause to be executed mortgages and liens upon the real and personal property of the corporation; and from time to time to sell, assign, transfer, or otherwise dispose of any or all of the property of the corporation, but no such sale of all of the property shall be made except pursuant to the vote of at least two-thirds of the board of directors.

The board of directors, by resolution passed by a majority of the whole board, may designate three or more directors to constitute an executive committee, which committee, to the extent provided in said resolution or in the by-laws of the corporation, shall have, and may exercise, the power of the board of directors in the management of the business and affairs of the corporation, and shall have power to authorize the seal of the corporation to be affixed to all papers which may require it.

The board of directors from time to time shall determine whether and to what extent, and at what times and places, and under what conditions and regulations, the accounts and books of the corporation, or any of them, shall be open to the inspection of the stockholders; and no stockholder shall have any right of inspecting any account or book or document of the corporation, except as conferred by statute or authorized by the board of directors, or by a resolution of the stockholders.

The board of directors shall have power to hold its meetings, to have one or more offices, and to keep the books of the corporation (except the stock and transfer books) outside of this State at such places as may be from time to time designated by them.

It is the intention that the objects above specified in article third, except where otherwise expressed in said article, shall be nowise limited or restricted by reference to or inference from the terms of any other article, clause, or paragraph in this certificate.

The undersigned, for the purpose of forming a corporation in pursuance of an act of the legislature of the State of New Jersey, entitled "An act concerning corporations" (Revision of 1898), and the various acts amendatory thereof and supplemental thereto, do make, record, and file this certificate, and do respectively agree to take the number of shares of stock hereinbefore set forth, and accordingly hereunto have set our hands and seals.

Dated Jersey City, N. J., September 9, 1898.

CHAS. C. CLUFF. [SEAL.]
CHARLES MACVEAGH. [SEAL.]
BENJAMIN C. VAN DYKE. [SEAL.]

In presence of—

JAMES B. DILL.

E. H. GARY.

FRANCIS LYNDE STETSON.

STATE OF NEW JERSEY, *County of Hudson, ss:*

Be it remembered that on this ninth day of September, A. D. eighteen hundred and ninety-eight, before the undersigned personally appeared Charles C. Cluff, Charles MacVeagh, and Benjamin C. Van Dyke, who, I am satisfied, are the persons named in and who executed the foregoing certificate, and I, having first made known to them, and each of them, the contents thereof, they did each acknowledge that they signed, sealed, and delivered the same as their voluntary act and deed.

JAMES B. DILL,

Master in Chancery of New Jersey.

[10c. internal-revenue stamp cancelled.]

Received in the Hudson County, N. J., clerk's office September 9th, 1898, and recorded in clerk's record No. —, on page —.

JOHN G. FISHER, *Clerk.*

(Endorsed:) "Filed September 9, 1898. George Wurts, Secretary of State."

FEDERAL STEEL COMPANY—BY-LAWS—SEPTEMBER 9, 1898.

I.

1. The title of the corporation is Federal Steel Company.
2. The principal office is at 60 Grand street, Jersey City, New Jersey.
3. The corporate seal of the company shall have inscribed thereon the name of the corporation, the State (New Jersey), and the month and year of its creation (September, 1898).

II.

DIRECTORS.

4. The property and business of the corporation shall be managed and controlled by a board of directors, who shall at all times be stockholders. They shall hold office for one year, and until others are elected and qualified in their stead. The number of the first board of directors shall be three; but at any time the number may be increased by vote of the board of directors, and, in case of any such increase, the board of directors shall have power to elect such additional directors to hold office until the next meeting of stockholders, or until their successors shall be elected. If the office of any director becomes or is vacant by reason of death, resignation, disqualification, increase in number, or otherwise, the remaining directors, by a majority vote, may elect a successor, who shall hold office for the unexpired term or until his successor is elected.

III.

MEETINGS OF STOCKHOLDERS.

5. The annual meeting of stockholders shall be held on the first Monday of April in each year if not a legal holiday, and, if a legal holiday, then on the day following, at the registered office of the company in the State of New Jersey, commencing at 11 o'clock a. m., when they shall elect by a plurality vote by ballot the full board of directors to serve for one year, and until their successors are elected or chosen and qualified, each stockholder being entitled to one vote in person or by proxy for each share of stock standing registered in his name on the 10th day of the month preceding the election; provided, no stock shall be voted which has been transferred within twenty days of the time of the election.

A majority in amount of the stock outstanding shall be requisite to constitute a quorum for an election of directors or the transaction of other business.

The polls for such election shall be open at twelve o'clock noon and closed at one o'clock in the afternoon.

Notice of the annual meeting may be published in a newspaper in the city of New York once each week during the calendar month next preceding the meeting; but a failure to publish such notice or any irregularity in the publication or notice shall not affect the validity of the said meeting or the proceedings therein.

Special meetings of stockholders shall be called by the secretary by mailing a notice at least five days prior to the date of meeting to each stockholder of record at his last-known post-office address, on the request in writing, or by vote, of a majority of the board of directors or executive committee, or on demand in writing by stockholders of record owning a majority in amount of the entire issued capital stock of the company.

IV.

MEETINGS OF DIRECTORS.

6. The board of directors shall meet at the office of the company in New York immediately after the adjournment of the annual meeting of stockholders and elect the officers of the corporation for the ensuing year.

Regular meetings of the directors shall be held at the office of the company in New York, or by order of the directors elsewhere, on a day and at an hour to be fixed by resolution of the board.

Notice of regular meetings shall be mailed to each director at his last-known post office address by the secretary at least three days previous to the time fixed for the meeting.

While the number of directors remains at three, a majority shall be necessary to constitute a quorum for the transaction of business; but if the number of directors shall be increased to fifteen, then six shall constitute a quorum for the transaction of business.

Special meetings of the board may be called by the president on one day's notice to each director, delivered to him personally or left at his residence or usual place of business; or such special meetings may be called in like manner on the written request of three members.

COMPENSATION OF DIRECTORS AND EXECUTIVE COMMITTEE.

7. Directors and members of the executive committee as such shall not receive any stated salary for their services, but may be allowed \$10 each for attendance at each regular or special meeting if present at roll call, and until adjournment, unless excused.

- VI.

INSPECTORS OF ELECTION.

9. The board of directors, at a meeting held prior to the annual meeting of the stockholders, shall appoint two stockholders to act as inspectors and conduct the election of directors at the ensuing annual meeting of stockholders. Inspectors of election shall not be eligible to the office of director. If any inspector of election fails to attend the election, a successor may be appointed by the stockholders in attendance.

VII.

ORDER OF BUSINESS.

10. The order of business at the meetings of the board of directors shall be as follows:

- (1) A quorum being present, the chairman shall call the board to order.
- (2) The minutes of the last meeting shall be read and considered as approved if there be no amendments.
- (3) Reports of officers of the company.
- (4) Reports of committees.
- (5) Unfinished business.
- (6) Miscellaneous business.
- (7) New business.

VIII.

OFFICERS OF THE COMPANY.

11. The officers of the company shall consist of a chairman of the board, president, first vice-president, second vice-president, secretary, general counsel, treasurer, auditor, and such other officers as may from time to time be elected or appointed by the board of directors.

One person may hold more than one office.

IX.

12. The directors shall elect from among their own number a chairman of the board, a president, a first vice-president, and a second vice-president; and shall also appoint a secretary, treasurer, auditor, and general counsel.

X.

DUTIES OF THE CHAIRMAN.

13. It shall be the duty of the chairman to preside at all meetings of the board of directors and to give such counsel and advice as from time to time may by him be deemed essential to the best interests of the corporation to the executive committee or to the president.

XI.

DUTIES OF THE PRESIDENT.

14. It shall be the duty of the president, in the absence of the chairman of the board, to preside at all meetings of the board of directors; to have general and active management of the business of the company; to see that all orders and resolutions of the board are carried into effect; to execute all contracts and agreements authorized by the board; to keep in safe custody the seal of the company, and when

authorized by the board or executive committee, to affix the seal to any instrument requiring the same, which seal shall always be attested by the signature of the president and of the secretary or the treasurer. He may sign certificates of stock.

He shall have the general superintendence and direction of all the other officers of the company, except the chairman of the board, and shall see that their duties are properly performed.

He shall submit a complete report of the operations of the company for the year and the state of its affairs on the 31st day of December to the directors at their regular meeting in April and to the stockholders at their annual meeting in April of each year, and from time to time shall report to the directors all matters within his knowledge which the interests of the company may require to be brought to their notice.

He shall be *ex officio* a member of all standing committees, and shall have the general powers and duties of supervision and management usually vested in the office of the president of a corporation.

He shall in a general way be familiar with and exercise supervision over the affairs of the other corporations in which this corporation may be interested.

He shall freely consult and advise with the chairman of the board and also the executive committee in relation to the business and interests of the corporation.

XII.

FIRST VICE-PRESIDENT.

15. The first vice-president shall be vested with all the powers and required to perform all the duties of the president in his absence. He may sign certificates of stock; and he shall perform such other duties as may be prescribed by the board of directors.

XIII.

16. The second vice-president shall be vested with all the powers and required to perform all the duties of the president in the absence of both the president and the first vice-president; he may sign certificates of stock, and he shall perform such other duties as may be prescribed by the board of directors.

XIV.

PRESIDENT PRO TEM.

17. In the absence of the president and first vice-president and second vice-president, the board may appoint a president *pro tem*.

XV.

SECRETARY.

18. The secretary shall be *ex officio* secretary of the board of directors and of the standing committees; he shall attend all sessions of the board; shall act as clerk thereof, and record all votes and the minutes of all proceedings in a book to be kept for that purpose.

He shall perform like duties for the standing committees when required.

He shall give notice of all calls for installments to be paid by the stockholders, and shall see that proper notice is given of all meetings of the stockholders of the company and of the board of directors, and shall perform such other duties as may be prescribed by the board of directors or president.

He shall be sworn to the faithful discharge of his duty, and shall give such bond as may be required by the board of directors.

The assistant secretary, if one is appointed, shall be vested with all the powers and required to perform all the duties of the secretary in his absence, inability, refusal, or neglect to act.

XVI.

TREASURER.

19. The treasurer shall keep full and accurate accounts of receipts and disbursements in books belonging to the company, and shall deposit all moneys and other valuable effects in the name and to the credit of the company in such depositories as may be designated by the board of directors or executive committee.

He shall disburse the funds of the company as may be ordered by the board, taking proper vouchers for such disbursements, and shall render to the president and directors at the regular meetings of the board, or whenever they may require it, an account of all his transactions as treasurer and of the financial condition of the company, and at the regular meeting of the board in April annually a like report for the preceding year.

He shall give the company a bond in form and in a sum and with security satisfactory to the board of directors or the executive committee for the faithful performance of the duties of his office and the restoration to the company, in case of his death, resignation, or removal from office, of all books, papers, vouchers, money, or other property of whatever kind in his possession belonging to the corporation, and containing such other provisions as the board of directors or executive committee may require.

Certificates of stock, when signed by the president or first vice-president or second vice-president, shall be countersigned by the treasurer. He shall keep the accounts of stock registered and transferred in such form and manner and under such regulations as the board of directors may prescribe.

The assistant treasurer, if one is appointed, shall be vested with all the powers and required to perform all the duties of the treasurer in his absence, inability, refusal, or neglect to act.

XVII.

AUDITOR.

20. The auditor shall have supervision over all the accounts and account books of the company and see that the system of keeping the same is enforced and maintained.

He shall direct as to forms and blanks relating to books and accounts in all departments, and no change shall be made without his consent or the consent of the president or executive committee.

He shall see that there is kept in the bookkeeping department a set of books containing a complete record of all business transactions of the company pertaining to accounts.

He shall, when requested, furnish the executive committee or president a statement of the earnings and expenses of the corporation or any other company in which this corporation may be interested for any given time, and shall keep books and records for the purpose of furnishing such statistics.

He shall verify the assets reported by the treasurer or his assistant at least twice a year and make report of the same to the executive committee.

He shall cause the books and accounts of all officers and agents charged with the receipt or disbursement of money to be examined as often as practicable, or when requested by the president or executive committee, and shall ascertain whether or not the cash and vouchers covering the balance are actually on hand.

He shall render such assistance and advice as the president or executive committee may desire concerning the books and accounts and system of financial transactions of all other corporations in which this corporation is interested and furnish to the president or executive committee such statements concerning the same as may be requested by them.

In case of a default within his information at any time he shall at once notify the president and chairman.

XVIII.

GENERAL COUNSEL.

21. The general counsel shall be the legal adviser of the company and shall perform such services and receive such compensation as may be determined by the board of directors or the executive committee.

XIX.

DUTIES OF OFFICERS MAY BE DELEGATED.

22. In case of the absence of any officer of the company, the board of directors or the executive committee may delegate his powers or duties to any other officer or to any director for the time being.

XX.

STANDING COMMITTEE.

23. There shall be an executive committee of five directors, selected by the board, who shall meet at regular periods, or on notice to all by any of their own number. They shall advise with and aid the officers of the company in all matters concerning its interests and the management of its business; and when the board of directors is not in session the executive committee shall have and may exercise all the powers of the board of directors.

The executive committee, unless otherwise provided by the board of directors, shall fix the salaries or compensation of all officers.

The executive committee shall keep regular minutes, and cause them to be recorded in a book kept in the office of the company for that purpose, and report the same to the board of directors whenever required by them.

XXI.

TERM OF OFFICE.

24. Each officer shall hold his office only during the pleasure of the board of directors, unless otherwise provided by special agreement in writing signed by a majority of the executive committee.

XXII.

TRANSFER OF STOCK.

25. All transfers of the stock of the corporation shall be made upon the books of the company by the holder of the shares in person or by his legal representative; but no transfer of stock shall be made within 10 days next preceding the day appointed for paying a dividend.

XXIII.

CERTIFICATES TO BE CANCELED.

26. Certificates of stock surrendered shall be canceled by the transfer agent at the time of transfer.

XXIV.

LOSS OF CERTIFICATE.

27. Any person claiming a certificate or evidence of stock to be issued in place of one lost or destroyed shall make an affidavit or affirmation of that fact and advertise the same in such newspaper and for such space of time as the board of directors may require, describing the certificate, and shall furnish the company with proof of publication by the affidavit of the publisher of the newspaper, and shall give the board a bond of indemnity in form approved by the board, with one or more sureties, if required, in double the par value of such certificate, whereupon the president and treasurer may, one month after the termination of the advertisement, issue a new certificate of the same tenor with the one alleged to be lost or destroyed, but always subject to the approval of the board of directors.

XXV.

CONTRACTS AND AGREEMENTS.

28. No agreement, contract, or obligation (other than a cheque) involving the payment of money or the credit or liability of the company, for more than \$5,000, shall be made without the approval of the board of directors or of the executive committee.

XXVI.

CHEQUES FOR MONEY.

29. All cheques, drafts, or orders for the payment of money shall be signed by the treasurer and countersigned by the chairman of the board or president or first or second vice-president.

No cheque shall be signed by both the treasurer and chairman or president or a vice-president in blank.

XXVII.

30. The books, accounts, and records of the company shall be open to inspection by any member of the board of directors at all times; and stockholders may inspect the books of the company at such times only as the executive committee or board of directors may by resolution designate.

XXVIII.

ALTERATION OF BY-LAWS.

31. The board of directors, by a vote of a majority of the members present at any meeting, may alter or amend these by-laws, but no alteration shall be made unless proposed at a meeting of the board and considered at subsequent meetings.

XXIX.

None of the shares of the capital stock of the Minnesota Iron Company, the Illinois Steel Company, the Lorain Steel Company, or the Elgin, Joliet and Eastern Railway Company shall hereafter at any time or times be sold, assigned, transferred, pledged, mortgaged, or incumbered by the directors of the Federal Steel Company without making at least sixty days' previous publication in two prominent daily newspapers published in the city of New York of the intention to make such sale, transfer, assignment, pledge, mortgage, or incumbrance; and also, at the date of the first publication, filing a similar written notice with the chairman and secretary, respectively, of the said committee on stock lists; and also obtaining the consent of those holding a majority in amount of the shares of stock of the Federal Steel Company, by vote at a meeting regularly called and notice mailed to each stockholder at his usual or last known place of business or residence at least thirty days before the time of meeting.

The shares of the capital stock of the said Minnesota Iron Company, Illinois Steel Company, Lorain Steel Company, and Elgin, Joliet and Eastern Railway Company shall be placed and held in the name of some person or persons designated by vote of the directors of the Federal Steel Company to act as trustee therefor, and the certificates for said shares shall provide by endorsement thereon that they are issued and can be transferred only in pursuance of the provisions of this by-law.

This by-law shall never be repealed, amended, or modified except by consent of a majority of the stockholders of the Federal Steel Company obtained by vote at a meeting held pursuant to notice, stating the time, place, and object of the meeting, and mailed to each stockholder at his usual or last known place of business or residence at least thirty days before the time of meeting.

This first board of directors of the Federal Steel Company hereby distinctly waives, abrogates, and relinquishes, both for themselves and their successors, all rights and powers conferred by the articles of incorporation of Federal Steel Company which may not be in accordance herewith, either as to amendment of by-laws or disposition of above-named property.

XXX.

The following specific days are hereby fixed for declaring dividends upon the common and preferred stock of the Federal Steel Company, namely: The second Tuesdays in January, February, March, April, May, June, July, August, September, October, November and December in each and every year, providing, however, that no dividends shall be declared except as permitted by law and by the provisions of the certificate of incorporation of the company; and provided further, that no dividends shall be declared or paid except from accumulated profits excluding the sum or sums reserved as working capital.

AMERICAN TIN PLATE COMPANY.

[10-cent internal-revenue stamp, canceled.]

CERTIFICATE OF INCORPORATION.

[Registered office with the New Jersey Registration and Trust Company, East Orange, N. J.]

First. The name of the corporation is the "American Tin Plate Company."

Second. The location of its principal office in the State of New Jersey is at No. 525 Main street, in East Orange, county of Essex, and is to be registered with the New Jersey Registration and Trust Company. The said trust company is the agent herein and in charge thereof, and upon whom process against this corporation may be served.

The corporation shall have power to conduct its business in all its branches and have one or more offices, and unlimitedly to hold, purchase, and convey real and personal property, both within and without the State of New Jersey, and in all other States, Territories, and colonies of the United States, and in all foreign countries and places.

The officers of the corporation shall have no power to mortgage its real property except upon the consent in writing first obtained of the holders of a majority of the issued preferred stock hereinafter described, or upon the affirmative vote of a majority of the holders of the said preferred stock at a meeting duly called for that purpose, and upon such consent so obtained, or upon such affirmative vote so had, and not otherwise, the corporation shall have like power to mortgage its real property to secure an issue of bonds or otherwise.

Third. That the objects for which, and for each of which, this corporation is formed are:

To manufacture, buy, sell, deal in and deal with tin, terne, black plates, steel sheets, and all like or kindred products; to mine, manufacture, prepare for market, market, and sell the same and any articles or product in the manufacture or composition of which metal is a factor, including the acquisition, by purchase, mining, manufacture, or otherwise, of all materials, supplies, and other articles necessary or convenient for use in connection with and in carrying on the business herein mentioned, or any part thereof.

In furtherance, and not in limitation, of the general powers conferred by the laws of the State of New Jersey it is hereby expressly provided that the company shall have also the following powers, that is to say:

(a) To manufacture, purchase, or otherwise acquire, hold, own, sell, assign and transfer, invest, trade, deal in and deal with goods, wares, and merchandise and property of every class and description, and to do both mining and manufacturing of any kind.

(b) To the same extent as natural persons might or could do, to purchase or otherwise acquire, to hold, own, maintain, work, mine, develop, to sell, convey, or otherwise dispose of, without limit as to amount, within or without the State of New Jersey, and in any part of the world, real estate and real property, and any interest and rights therein.

(c) To acquire the good will, rights, and property of all kinds, and to undertake the whole or any part of the assets and liabilities of any person, firm, association, or corporation, and to pay for the same in cash, stock of this corporation, bonds, or otherwise.

(d) To apply for, obtain, register, purchase, lease, or otherwise acquire, and to hold, own, use, operate, introduce and sell, assign, or otherwise dispose of, any and all trade-marks, trade names, and distinctive marks, and all inventions, improvements, and processes used in connection with or secured under letters patent of the United States or elsewhere, or otherwise, and to use, exercise, develop, grant licenses in respect of, or otherwise turn to account any such trade-marks, patents, licenses, concessions, processes, and the like, or any such property, rights, and information so acquired, and with a view to the working and development of the same; to carry on any business, whether mining, manufacturing, or otherwise, which the corporation may think calculated directly or indirectly to effectuate these objects.

(e) To make and enter into contracts of every sort and kind with any individual, firm, association, corporation, private, public, or municipal, body politic, and with the Government of the United States, or any State, Territory, or colony thereof.

(f) To do all and everything necessary, suitable, or proper for the accomplishment of any of the purposes or attainment of any one or more of the objects herein

enumerated, or which shall at any time appear conducive or expedient for the protection or benefit of the corporation, either as holders of or interested in any property, and in general to carry on any business, whether manufacturing, mining, or otherwise.

(g) To do any or all of the things herein set forth to the same extent as natural persons might or could do, and in any part of world, as principals, agents, contractors, trustees, or otherwise.

It is the intention that the objects specified and causes contained in this third paragraph shall, except where otherwise expressed in said paragraph, be nowise limited or restricted by reference to or inference from the terms of any other clause of this or any other paragraph in this charter, but that the objects specified in each of the clauses of this paragraph shall be regarded as independent objects.

Fourth. The total amount of the capital stock of said corporation is to be fifty million dollars (\$50,000,000), divided into five hundred thousand (500,000) shares of one hundred dollars (\$100) each. Of the said stock two hundred thousand (200,000) shares, amounting at par to twenty million dollars (\$20,000,000), are to be preferred stock, and three hundred thousand (300,000) shares, amounting to thirty million dollars (\$30,000,000), are to be common stock.

The rights, privileges, and conditions following shall attach to the shares aforesaid, that is to say:

(1) The common stock shall be subordinate to the rights of the preferred stock, except that both preferred and common stock shall have equal voting powers.

(2) The corporation shall not be at liberty—

(a) To create or issue any other or further shares ranking in any respect *pari passu* with or in priority to the aforesaid issue of two hundred thousand (200,000) preference shares;

(b) Nor to create any charge, except as herein provided, upon the net profits of the corporation which shall not be subordinate to the rights of the preference shares;

(c) Nor to reserve a surplus fund which shall not be chargeable with the payment of the accrued dividends on the preference shares.

(3) The said preference shares shall carry a fixed cumulative preferential dividend at the rate of, but never exceeding, seven per cent. (7%) per annum on the par value thereof, and such dividends shall be declared quarterly on the second days of January, April, July, and October in each year, or at such other time as the board of directors or the executive committee shall see fit and determine.

If in any year dividends amounting to seven per cent. (7%) per annum shall not be paid on such preferred stock, the deficiency shall be a charge on the net profits and be payable, but without interest, before any dividends shall be paid upon or set apart for the common stock.

(4) The balance of the net profits of the corporation, after the payment of said cumulative dividend at the rate of seven per cent. (7%) per annum to the holders of the preferred stock, may be distributed as dividends among the holders of the general or common stock, as and when the board of directors or the executive committee shall in their discretion determine.

(5) In the event of the liquidation or dissolution of the corporation the surplus assets and funds thereof shall be applied in the first place in repaying to the holders of the aforesaid cumulative preference shares the full amount of the principal thereof, and the accrued dividends, if any, charged before any amount shall be paid upon the common stock, and after such payment in full to the holders of said cumulative preference shares the surplus assets and funds shall belong to and be divided among the holders of the other shares.

From time to time the preferred and common stock shall be issued in such amount and proportion as shall be determined by the board of directors, in accordance with the laws of the State of New Jersey.

Fifth. The directors of the corporation shall be divided into five classes, equal in number, in respect to the time for which they shall severally hold office. The first class shall be elected for a period of five years, the second class for a period of four years, the third class for a period of three years, the fourth class for a period of two years, and the fifth class for a period of one year; and at each annual election after 1898 the successors to the class of directors whose terms expire in such year shall be elected to hold office for five years, so that the term of office of at least one class shall expire in each year.

If the number of directors be increased, the directorships thus created shall be and be construed as vacancies to be filled by the board.

Sixth. The names and the post-office address of the incorporators, and the number of shares of common stock subscribed for by each, the aggregate of which (\$10,000)

is the amount of capital stock with which this corporation shall commence business, are as follows:

Name.	Post-office address.	Number of shares of common stock.
James B. Dill.....	27 Pine street, New York	90
Howard K. Wood	525 Main street, East Orange, N. J.	5
Duncan T. McLaren.....	525 Main street, East Orange, N. J.	5

Seventh. The duration of the corporation is to be perpetual.

Eighth. 1. The board of directors shall have power without the assent or vote of the stockholders to make, alter, amend, and rescind the by-laws of this corporation, and, subject always to the payment of the dividends on the preferred stock, to fix the amount to be reserved as working capital.

2. With the assent in writing or pursuant to the vote of the holders of two-thirds of all the stock, irrespective of class, issued and outstanding, the directors shall have power and authority to sell, assign, transfer, convey, or otherwise dispose of the property and assets of this corporation as an entirety on such terms and conditions as the directors shall deem fit, right, and just.

3. The board of directors, and, when the board is not in session, the executive committee, in addition to the powers and authorities by statute and by the by-laws expressly conferred upon them, are hereby empowered to exercise all such powers and do all such acts and things as may be exercised or done by the corporation, but subject, nevertheless, to the provisions of the statute, of the charter, and to any regulations that may from time to time be made by the stockholders: *Provided*, That no regulations so made shall invalidate any provisions of this charter, or any prior acts of the directors or executive committee which would have been valid if such regulations had not been made.

4. There shall be an executive committee of five members, who shall be elected by the stockholders from the directors and hold office as hereinafter provided. The said committee shall have and exercise all the powers expressly conferred upon it by this certificate of incorporation, and also all the powers of the board of directors whenever a quorum shall fail to be present at any stated or other meeting of the board, and as well at all times whenever the board shall not be in session, and shall have power to affix the seal of the corporation to all papers which they may deem to require it.

The committee shall have power to make rules and regulations for the conduct of its business, and to determine how many members thereof shall constitute a quorum.

The officers of the committee shall be a chairman, a vice-chairman, and a secretary, who shall hold office during the term of their office as members of the committee, and shall be elected by the stockholders.

At all meetings of the committee all questions shall be decided by a majority of votes, and in case of an equality of votes the chairman, and, in his absence, the vice-chairman, and, in the absence of both, the secretary, shall have a second and deciding vote.

The stockholders shall, at their first meeting, elect by ballot the said committee of five members from the directors elected at such meeting, and the said officers thereof.

The stockholders shall determine and fix the compensation to be paid to the members of the committee and to any of the officers thereof as such.

At every annual meeting after the first meeting, whenever the term of office of any member or officer of the committee shall expire, the stockholders shall elect a successor. Any member of the committee may be elected to succeed himself.

Any director, irrespective of class, is eligible to election as a member of the executive committee.

The term of office of each member of the committee shall be coextensive with the term of his office as director, unless the stockholders at the time of his election shall fix a shorter period or term of office, which they shall have power to do. Any member of the committee who shall cease to be a director of the company shall *ipso facto* cease to be a member of the committee. Members of the executive committee shall not be subject to removal for any cause by the board of directors or otherwise, and shall hold office until their successors are elected and qualify.

All vacancies in the executive committee shall be filled for the unexpired term from the directors by the remaining members of the committee.

5. The directors shall from time to time determine whether, and to what extent,

and at what times and places, and under what conditions and regulations, the accounts and books of the corporation, or any of them, shall be open to the inspection of the stockholders; and no stockholder shall have any right to inspect any account or book or document of the corporation except as conferred by statute of New Jersey, or authorized by the directors.

8. The directors shall have

of the legislature of New Jersey entitled, "An act concerning corporations (Revision of 1896)," and the various acts amendatory thereof and supplemental thereto, do make, record, and file this certificate, and do respectively agree to take the number of shares of stock hereinbefore set forth, and accordingly hereunto set our hands and seals.

Dated East Orange, N. J., December 8th, 1898.

In the presence of:

JOHN R. TURNER.

JAMES B. DILL.

HOWARD K. WOOD.

DUNCAN T. McLAREN.

JAMES B. DILL,

Solicitor, 27 Pine street, New York City.

STATE OF NEW JERSEY, *County of Essex, ss:*

Be it remembered that on this eighth day of December, A. D. eighteen hundred and ninety-eight, before the undersigned personally appeared James B. Dill, Howard K. Wood, and Duncan T. McLaren, who, I am satisfied, are the persons named in and who executed the foregoing certificate, and I, having first made known to them, and each of them, the contents thereof, they did each acknowledge that they signed, sealed, and delivered the same as their voluntary act and deed.

FRED'K SEYMOUR,

Master in Chancery of New Jersey.

[10-cent internal-revenue stamp, canceled.]

Received in the clerk's office of the county of Essex, on the thirteenth day of December, A. D. eighteen hundred and ninety-eight, and recorded in Book No. 15 of incorporated business companies for said county, page 164.

WILLIAM O. KUEBLER, *Clerk.*

Endorsed: "Filed December 14, 1898.

"GEORGE WURTS, *Secretary of State.*"

AMERICAN TIN PLATE COMPANY—BY-LAWS.

[Adopted by the stockholders December 15, 1898.]

TITLE—LOCATION.

1. The title of the corporation is the "American Tin Plate Company."
2. The principal office in New Jersey shall be and be registered with the New Jersey Registration and Trust Company, 525 Main street, East Orange, New Jersey. The corporation may also have an office in the cities of New York, New York; Pittsburg, Pennsylvania; Chicago, Illinois, and also offices at such other places as the board of directors may appoint or the business of the corporation may require.

DIRECTORS.

3. The property and business of the corporation shall be managed by a board of directors, fifteen in number. They shall be divided into five classes, equal in number, in respect to the time for which they shall severally hold office. At the first election of the corporation the first class shall be elected for a period of five years, the second class for a period of four years, the third class for a period of three years, the fourth class for a period of two years, and the fifth class for a period of one year, and at each annual election thereafter the successors to the class of directors whose

terms expire in such year shall be elected to hold office for five years, so that the term of office of at least one class shall expire each year.

The number of directors may be increased or decreased by amendment of this provision of the by-laws.

4. If the office of any director, or of the president, vice-presidents, secretary, treasurer, assistant secretary, assistant treasurer, or auditor, one or more, become vacant by reason of death, resignation, disqualification, removal or otherwise, the remaining directors, although less than a quorum, by a majority vote, may elect a successor or successors, who shall hold office for the unexpired term: Provided, however, That until the first day of January, 1899, the power to fill any vacancy or vacancies in the board of directors shall be vested exclusively in the stockholders, who shall exercise such power at a special meeting held for the purpose.

5. Any director, or other elected officer, may resign his office at any time. The acceptance of a resignation shall not be required to make it valid.

STOCKHOLDERS.

General provisions.

6. All meetings of stockholders shall be held at the principal office of the company at East Orange, New Jersey.

7. A majority of the stock issued and outstanding, irrespective of class, shall be requisite at all meetings of the stockholders to constitute a quorum.

8. There shall be an annual meeting of stockholders, beginning in the year 1900, to be held on the third Tuesday of January in each year, at the principal office of the corporation in East Orange, New Jersey, at ten o'clock a. m., when they shall elect, by plurality vote of the stock present, irrespective of class, a class of directors to succeed the class whose term shall expire at that time, which directors, thus elected, shall hold office for five years, and until their successors are elected, or chosen and qualified, each stockholder being entitled to one vote, in person or by proxy, for each share of stock, irrespective of class, standing registered in his or her name on the thirtieth day preceding the election, exclusive of the day of such election.

Notice of the annual meeting shall be published in a newspaper in the county in New Jersey where the principal office is located, and also in a newspaper published in the city of Chicago, and in a newspaper published in the city of New York, once a week for three weeks during the month of December next preceding the meeting.

9. Such election shall be conducted by two inspectors appointed by the presiding officer of the meeting, which inspectors shall be duly sworn, and shall in writing certify to the returns.

10. The inspectors, or the stockholders, by a majority vote of those present, may require any proxy to be permanently filed with the secretary before being voted upon.

11. Special meetings of the stockholders to be held at the principal office of the company at East Orange shall, on a vote of the majority of the board of directors, be called by the secretary by mailing a notice stating the object of and business to be transacted at such special meeting, at least ten days prior to the date of meeting, to each stockholder of record at his post-office address, as the same appears on the records of the corporation.

12. Upon the adjournment of the annual meeting of the stockholders for the election of directors, the board as constituted after such election shall forthwith convene without notice, and if a quorum of the the board be present the said board shall proceed to elect by ballot the officers for the ensuing year. If a quorum be not present, then at the first meeting thereafter when there shall be a quorum, the said election shall take place.

The officers to be chosen shall be as follows: A president and one or more vice-presidents, to be designated first vice-president, second vice-president, and the like, and who shall rank in such order, from the board of directors, who shall hold office for one year and until their successors are elected and qualified.

The board of directors shall also annually choose a secretary and a treasurer, and may choose an assistant secretary and an assistant treasurer, who need not be members of the board, or one person to act in more than one capacity, and an auditor, who shall hold office for one year and until their successors are elected, unless sooner removed by the board, which the board shall have the power at any time to do with or without cause.

MEETINGS OF DIRECTORS.

13. Stated meetings of the directors shall be held quarterly, without notice, on the 2d day of January, April, July, and October in each year, at the office of the corpo-

session in the city of Chicago, at ten o'clock in the forenoon, or by order of the board elsewhere, at a time and place to be fixed by the board, and of which time and place this changed notice of at least ten days shall be given to each director.

A majority of the directors in office shall be necessary to constitute a quorum, and a majority vote of the entire board shall be necessary to transact any business or to effectuate any resolution or order, except to adjourn, and except where otherwise expressly provided in these by-laws.

14. Special meetings of the board may be called by the executive committee on three days' notice to each director.

15. The directors may hold their meetings and have an office and keep the books of the corporation (except the stock and transfer books) outside of the State of New Jersey, at the cities of New York, Chicago, Pittsburg, or such other place or places as they may fix upon.

POWERS OF THE DIRECTORS.

16. The board of directors shall have management of the business of the corporation, and in addition to the powers and authorities, by these by-laws expressly conferred upon them, may exercise all such powers and do all such acts and things, as may be exercised or done by the corporation, but subject, nevertheless, to the provisions of the statute of the charter and of these by-laws, and to any regulations from time to time made by the stockholders, provided that no regulations so made shall invalidate any prior act of the directors which would have been valid if such regulation had not been made.

17. Without prejudice to the general powers conferred by the last preceding clause and the other powers conferred by these by-laws, it is hereby expressly declared that the board of directors shall have the following powers, that is to say:

To purchase or otherwise acquire, for the corporation, any property, rights, or privileges which the corporation is authorized to acquire, at such prices, and on such terms and conditions and for such consideration as they think fit.

At their discretion to pay for any property or rights acquired by the corporation, either wholly or partially in money or in stock or in other securities of the corporation.

To appoint any person or persons to accept and hold in trust for the corporation any property belonging to the corporation or in which it is interested, or for any other purpose, and to execute and to do all such duties and things as may be requisite in relation to any such trusts.

From time to time to provide for the management of the affairs of the corporation at home or abroad in such manner as they think fit, and in particular from time to time to delegate any of the powers of the board of directors to any committee, officer, or agent, and to appoint any persons to be the agents of the corporation, with such powers (including the power to subdelegate) and upon such terms as may be thought fit.

STANDING COMMITTEES.

18. There shall be an executive committee of five directors elected by the stockholders as provided in the certificate of incorporation, who shall meet at regular periods or on notice to all, by any of their own number; they shall advise with and aid the officers of the company in all matters concerning its interests and the management of its business, and generally exercise the powers conferred by the certificate of incorporation.

The committee shall also have the power:

To appoint and at their discretion remove or suspend such managers, officers, subordinates, assistants, or otherwise, and clerks, agents, and servants, permanently or temporarily, as they may from time to time think fit; and to determine their duties and fix, and from time to time change, their salaries or emoluments, and to require security in such instances and in such amounts as they think fit.

To confer, by resolution, upon any officer of the corporation the right to choose, remove, or suspend such subordinate officer, agents, or factors.

To determine who shall be authorized to sign, on the corporation's behalf, bills, notes, receipts, acceptances, indorsements, checks, releases, contracts, and documents.

Power is hereby given to the executive committee to act by the written consent of a quorum thereof, although not formally convened.

In case of a vacancy in the executive committee, or in the office of the chairman, vice-chairman, or secretary thereof, the vacancy shall be filled by the remaining members of the committee.

The chairman, vice-chairman, and secretary of the executive committee shall be elected as provided in the certificate of incorporation, and shall perform such duties as shall be prescribed by the committee.

There may be a finance committee of three directors appointed by the board, who shall, under the direction of the executive committee, examine and audit all accounts of the corporation at the close of each fiscal year, and at such other times as they may deem necessary.

The standing committee shall keep regular minutes of their transactions, and to cause them to be recorded in a book kept in the office of the corporation for that purpose, and to report the same to the board of directors whenever required.

ORDER OF BUSINESS, DIRECTORS' MEETING.

19. The order of business at the meetings of the board shall be as follows:

- (1) A quorum being present, the president shall call the board to order.
- (2) The minutes of the last meeting shall be read and considered as approved if there be no amendments.

Reports of officers of the company.

Reports of committees.

Unfinished business.

Miscellaneous business.

New business.

PRESIDENT.

20. The president shall preside at all meetings of the board of directors, and he, or one of the vice-presidents, shall, with the treasurer or assistant treasurer, in the company's behalf, sign all certificates of stock. He shall make annual reports showing the condition of the affairs of the corporation, and make such recommendations as he thinks proper, and submit the same to the board of directors at the meeting next preceding the annual meeting of stockholders, and he shall from time to time bring before the directors and the executive committee such information as may be required touching the business and property of the corporation.

THE VICE-PRESIDENTS.

21. The vice-presidents shall, in the order of their rank, be vested with all the powers and be required to perform all the duties of the president in his absence.

THE SECRETARY.

22. The secretary shall be ex officio secretary of the board of directors and of such committees as shall request him so to act, and shall attend all sessions of the board, and shall record all votes and the minutes of all proceedings of the stockholders and of the directors in a book to be kept for that purpose.

THE TREASURER.

23. The treasurer shall cause to be kept full and accurate accounts of receipts and disbursements in books belonging to the corporation, and shall deposit all moneys and other valuable effects, in the name and to the credit of the corporation, in such depositories as may be designated by the executive committee.

He shall disburse the funds of the corporation as may be ordered by the board of directors or executive committee, taking proper vouchers for such disbursements, and shall render to the president and directors, at the stated meetings of the board or whenever they may require it, an account of all his transactions as treasurer and of the financial condition of the corporation.

He shall give the corporation a bond in a sum, and with one or more sureties, satisfactory to the board, for the faithful performance of the duties of his office and the restoration to the company, in case of his death, resignation, or removal from office, of all books, papers, vouchers, money, or other property at whatsoever time in his possession belonging to the corporation.

AUDITOR.

24. The auditor shall have supervision over all the accounts and account books of the corporation, and see that the system of keeping the same is enforced and maintained. He shall direct as to forms and blanks relating to books and accounts in all departments, and no change shall be made without his consent or the consent of the president or executive committee. He shall see that there is kept in the bookkeeping department a set of books containing a complete record of all business transactions of the corporation pertaining to accounts.

He shall, when requested, furnish the executive committee or president a statement

of earnings and expenses of the corporation or any other corporation in which this corporation may be interested for any given time, and shall keep books and records for the purpose of furnishing such statistics.

He shall verify the assets reported by the treasurer or his assistant at least twice a year and make reports of the same to the executive committee.

He shall cause the books and accounts of all officers and agents charged with the receipt or disbursement of money to be examined as often as practicable, or when requested by the president or executive committee, and shall ascertain whether or not the cash and vouchers covering the balances are actually on hand.

He shall render such assistance and advice as the president or executive committee may desire concerning the books and accounts and system of financial transactions of all other corporations in which this corporation is interested, and furnish to the president or executive committee such statements concerning the same as may be requested by them.

In case of a default within his information at any time he shall at once notify the president and the chairman.

DUTIES OF OFFICERS MAY BE DELEGATED.

25. In case of the absence of the president, vice-presidents, secretary, treasurer, assistant secretary, assistant treasurer, or auditor of the corporation, or for any other reason that may seem sufficient to the board, the board of directors may delegate his powers and duties to any other officer or to any director for the time being.

CERTIFICATES OF STOCK.

26. All certificates of stock shall be signed by the president or one of the vice-presidents and by the treasurer or assistant treasurer, and shall have affixed thereto the corporate seal.

TRANSFERS OF STOCK.

27. Shares of the stock of the corporation shall be transferable only on the books of the corporation by the holder thereof in person, or by his or her attorney duly authorized thereto in writing, and upon the surrender and cancellation of the certificate therefor duly indorsed.

The corporation shall have the right to require the endorsement of the stockholder to be proved or acknowledged in the same manner as required by the statutes of New Jersey for deeds of real estate as a condition precedent to transfer.

Whenever any transfer shall be made for collateral security, and not absolutely, the fact shall be so expressed in the entry of said transfer.

The corporation shall not be bound by or recognize any equitable or partial interests in a share or shares, or any interests except the absolute right of the person registered as the owner thereof. The corporation shall not be bound to recognize trusts.

In case of the alleged loss or destruction of a certificate of stock, a new certificate may be issued in its place upon proof of such loss or destruction and the giving of a bond by the owner of such lost or destroyed certificate or his legal representatives in such sum, and with one or more surety or sureties, as the directors shall direct or require, as indemnity against any claim that may be made against the corporation; a new certificate may be given without requiring any bond when in the judgment of the directors it is proper to do, but in no case shall such new certificate be issued except pursuant to resolution or order of the board of directors.

FISCAL YEAR.

28. The fiscal year of the corporation shall begin the first day of January and terminate on the 31st day of December in each year, beginning in 1899.

DIVIDENDS.

29. Dividends upon the capital stock of the corporation, when earned, shall be declared quarterly on the 2nd days of January, April, July, and October of each year, beginning in 1899, or at such other times as the board of directors or the executive committee shall see fit and determine.

DIRECTORS' ANNUAL STATEMENT.

30. The board of directors shall present at each annual meeting, and when called for by the stockholders at any special meeting of the stockholders, a full and clear statement of the business and condition of the corporation.

CONTRACTS AND AGREEMENTS.

31. No agreement, contract, or obligation, other than a check, involving the payment of money or the credit of the company for more than one thousand dollars, shall be made without the order of the board of directors or of the executive committee, duly entered in the minutes.

NOTICE.

32. Any stockholder, officer, or director may waive any notice required to be given under these by-laws.

33. Wherever under the provisions of these by-laws notice is required to be given to any director, officer, or stockholder, it shall not be construed to mean personal notice, but such notice shall, except where provision is made in these by-laws for the giving of such notice by publication in a newspaper or newspapers, be given in writing by depositing the same in the post-office or letter box in a post-paid sealed wrapper, addressed to such director, officer, or stockholder at his or her address as the same appears on the books of the corporation, and the time of the giving of such notices shall be deemed to be the time when the same shall be thus mailed.

ALTERATION OF BY-LAWS.

34. The stockholders, by vote of a majority of the stock issued and outstanding, irrespective of class, may, at any stated meeting of the stockholders, amend these by-laws, provided notice in writing of the proposed amendment shall be sent at least thirty days in advance of the aforesaid stated meeting to every stockholder of record.

The board of directors by a vote of eleven of the members may alter or amend these by-laws, but no alteration shall be made unless proposed at a stated meeting of the board and considered at a subsequent stated meeting.

[Internal-revenue 10-cent stamp—canceled.]

THE AMERICAN STEEL AND WIRE COMPANY OF NEW JERSEY.

CERTIFICATE OF INCORPORATION.

STATE OF NEW JERSEY, ss:

This certifies that we, Joseph R. Ellicott, Robert S. Green, and Theodore S. Beecher, do hereby associate ourselves into a corporation under and by virtue of the provisions of an act of the legislature of the State of New Jersey, entitled "An act concerning corporations," approved April 21st, 1896, and the acts supplementary thereto and amendatory thereof, for the purposes hereinafter mentioned, and to that end we do by this our certificate set forth:

First. The name of such corporation is "The American Steel and Wire Company of New Jersey."

Second. The location of its principal office in the State of New Jersey is at No. 60 Grand street, in Jersey City, county of Hudson, and the company is to be registered with the Corporation Trust Company of New Jersey. The said trust company will be the agent in said principal office and in charge thereof, upon whom process against the corporation may be served.

Third. The objects for which the corporation is formed are to manufacture and trade in steel, iron, and other metals; to make, purchase, and sell manufactured articles made partly or wholly from metals of any kind and all like or kindred products; to acquire and dispose of rights to make and use the same; to make, purchase, and sell such other products or merchandise as may be conveniently or advantageously used or sold in connection with said metals and businesses; and to apply for, purchase, or otherwise acquire, and hold, own, use, operate, sell, assign, or otherwise dispose of any and all inventions, improvements, and processes used in connection with or secured under letters patent of the United States, or other countries, or otherwise, and grant licenses and rights in respect thereof, or otherwise. The corporation shall have power to purchase, hold, sell, assign, transfer, mortgage, pledge, or otherwise dispose of the shares of the capital stock of, or any bonds, securities, or evidences of

indebtedness created by any other corporation or corporations of this or any other State, and while owner of such stock may exercise all the rights, powers, and privileges of ownership, including the right to vote thereon. The corporation shall also have power to have one or more offices outside of this State, and to carry on any part of its operations and business, and hold, purchase, mortgage, lease, or convey real or personal property in any State or Territory of the United States and in any foreign country or place.

Fourth. The total authorized capital stock of the corporation is ninety million dollars (\$90,000,000), divided into nine hundred thousand (900,000) shares of the par value of one hundred dollars (\$100) each. The amount of capital stock with which it will commence business is two hundred and fifty thousand dollars (\$250,000). Of such total authorized capital stock, four hundred thousand (400,000) shares, amounting to forty million dollars (\$40,000,000), par value, shall be preferred capital stock, and five hundred thousand (500,000) shares, amounting to fifty million dollars (\$50,000,000), par value, shall be common stock. The holders of preferred stock shall be entitled to receive in each year out of the surplus net profits of the corporation a fixed yearly dividend of seven per centum, payable quarterly, before any dividend shall be set apart or paid on the common stock, but shall not be entitled to any further dividend or share of profits. The dividends upon the preferred stock shall be cumulative, so that, if in any year dividends amounting to seven per centum are not paid on the preferred stock, the deficiency is payable subsequently, before any dividends are set apart or paid upon the common stock. In case of liquidation or dissolution of the corporation, the holders of preferred stock will be entitled to be paid in full both the principal of their shares and the accrued dividend charge before any amount is paid to the holders of common stock; but after the payment on any such liquidation or dissolution to the holders of the common stock of its par value, the remaining assets and funds shall be divided *pro rata* among the holders of both classes of said capital stock.

Fifth. The names and post-office addresses of the incorporators and the number of shares subscribed for by each, the aggregate of such subscriptions being the amount of capital stock with which the corporation will commence business, are as follows:

Name	Post-office address.	No. shares.
Joseph R. Ellicott.....	Nyack, N. Y.	1,000
Robert S. Green.....	Elizabeth, N.	1,000
Theodore S. Beecher.....	Irrington, N.	500

Sixth. The existence of the corporation shall begin on the fourteenth day of January, 1899, and shall be perpetual.

Seventh. The business of the corporation shall be managed by its directors, who shall respectively be shareholders therein and one of whom shall be an actual resident of this State. Directors of the corporation shall be divided into three classes, equal in number, in respect to the time for which they shall severally hold office. The first class shall be elected for a term of three years, the second class for a term of two years, the third class for a term of one year; and at each annual election after 1899 the successors to the class of directors whose terms expire in such year shall be elected to hold office for three years, so that the term of office of at least one class shall expire in each year. The power to make and alter by-laws shall be in the directors, but any by-law may be altered or repealed by the stockholders. The by-laws shall prescribe the number of directors necessary to constitute a quorum of the board of directors, which may be less than a majority. In case of an increase in the number of directors between the annual elections by the stockholders, the board of directors may elect the additional directors, who shall hold office until the next meeting of stockholders or until their successors shall be elected. The directors shall have power to hold their meetings, to have one or more offices and to keep the books of the corporation (except the stock and transfer books) outside of this State at such places as may from time to time be designated by them.

With the assent in writing or pursuant to the vote of the holders of two-thirds of the capital stock issued and outstanding, the directors shall have power and authority to sell, assign, transfer, convey, or otherwise dispose of the property and assets of this corporation as an entirety on such terms and conditions as the directors shall deem fit, right, and just.

The directors shall, from time to time, determine whether, and to what extent, and at what times and places, and under what conditions and regulations, the accounts and books of the corporation, or any of them, shall be open to the inspection of the

stockholders, and no stockholder shall have any right to inspect any account or book or document of the corporation, except as conferred by statute of New Jersey or authorized by the directors.

In witness whereof we have hereunto set our hands and seals the twelfth day of January, 1899.

JOS. R. ELLICOTT.	[L. s.]
ROBT. S. GREEN.	[L. s.]
THEODORE S. BEECHER.	[L. s.]

Signed and sealed in the presence of—
ALBERT C. WALL.

STATE OF NEW JERSEY, *county of Hudson, ss.*

Be it remembered that on this twelfth day of January, 1899, before me, the subscriber, a master in chancery of New Jersey, personally appeared Joseph R. Ellicott, Robert S. Green, and Theodore S. Beecher, who, I am satisfied, are the persons named in and who executed the foregoing certificate of incorporation; and I having first made known to them the contents thereof, they did each acknowledge that they signed, sealed, and delivered the same as their voluntary act and deed for the uses and purposes therein expressed

ALBERT C. WALL,
Master in Chancery of New Jersey.

[Internal-revenue 10-cent stamp—canceled.]

BY-LAWS OF THE AMERICAN STEEL AND WIRE COMPANY OF NEW JERSEY.

[Incorporated under the laws of the State of New Jersey.]

ARTICLE I.

MEETINGS OF STOCKHOLDERS.

SECTION 1. A regular annual meeting of the stockholders shall be held at the principal office of the company at Jersey City, Hudson County, State of New Jersey, at 11 o'clock a. m. on the third Tuesday of February in each year, beginning with the year 1900, for the election of directors and the transaction of such other business as may come before the stockholders for action.

SEC. 2. Special meetings of the stockholders may be called by the chairman or president or by order of the executive committee or board of directors whenever they deem it necessary, and it shall be their duty to order and call such meetings whenever persons holding one-fourth of the capital stock of the company outstanding shall in writing request the same. Such special meetings shall be held at the principal office of the company in the same manner as the annual meeting.

SEC. 3. At all meetings of the stockholders, each stockholder shall be entitled to one vote for each share held by him, which vote may be given personally or by proxy authorized in writing. The instrument authorizing a proxy to act shall be exhibited to the secretary and inspectors of election at the meeting, and shall be lodged with the secretary if he shall so request. No share or shares of stock which have been transferred on the books of the company within twenty days next preceding any election shall be voted on at any such election.

SEC. 4. The holders for the time being of a majority of the stock issued and outstanding, represented in person or by proxy, shall constitute a quorum for the transaction of business; and, in the absence of a quorum, the stockholders attending or represented at the time and place for which a meeting shall have been called may adjourn the meeting for a period not exceeding twenty days.

SEC. 5. Notice of the annual and of any special meeting of the stockholders shall be given to each stockholder by posting the same in a postage-prepaid letter addressed to each stockholder at the address left with the secretary of the company, or by delivering the same personally at least ten days before such meeting, in addition to any publication or notice that may be required by law. The notice of a special meeting shall state briefly the object of the meeting, and no other business shall be transacted at such meeting. A failure to give the notice for the regular annual meeting shall not invalidate the proceedings of the meeting.

SEC. 6. The stockholders may at each annual meeting choose by ballot two persons (who need not be stockholders) to act as inspectors of election at all meetings of the stockholders until the close of the next annual meeting. In case of a failure to elect

inspectors, or in case an inspector shall fail to attend or refuse to serve, the stockholders at any meeting may choose an inspector or inspectors to act at such meeting.

SEC. 7. The order of business at all meetings of the stockholders shall be as follows:

1. Proof of notice of meeting and report as to stockholders present in person or by proxy.
2. Reading of minutes of previous meeting and action thereon.
3. Appointment of inspectors of election, if the inspectors elected at the preceding annual meeting be not present and ready to serve.
4. Reports of officers.
5. Election of directors.
6. Election of inspectors of election to serve until the close of the next annual meeting.
7. Unfinished business.
8. New business.

The election of inspectors of election to serve until the close of the next annual meeting may be held at the same time as the election of directors and by the same ballot.

The order of business to be followed at any meeting may be changed by vote of the majority in interest of those present at the meeting.

ARTICLE II.

BOARD OF DIRECTORS.

SEC. 1. The property and business of the company shall be managed and controlled by a board of directors, who must at all times be stockholders. The board shall consist of fifteen members and shall be divided into three classes of five members each. The first class shall hold office for three years, the second class for two years, and the third for one year. At all regular annual elections the directors, except when chosen to fill a vacancy, shall be chosen for a term of three years. In case of vacancy in the board resulting from death, resignation, disqualification, or other cause the board shall have power to appoint the members necessary to make up the full number of fifteen, but such appointment shall continue only until the next regular meeting of the stockholders. All directors shall hold their offices until their successors are elected and qualified.

SEC. 2. The directors shall act only as a board, and the individual directors shall have no power as such. Eight directors at a meeting duly called shall constitute a quorum for the transaction of business; but any less number may adjourn any meeting from time to time until a quorum shall be present.

SEC. 3. Regular meetings of the directors may be held at the office of the company in the city of New York, in the State of New York, or elsewhere in that or any other State, as the board of directors may from time to time determine. Notice of regular meetings shall be mailed by the secretary to each director at his last known post-office address at least three days previous to the time fixed for the meeting. Special meetings of the board may be called by the chairman, president, or executive committee, or by request of any three members, made in writing on at least one day's notice to each director, delivered to him personally, or mailed to him or sent by telegraph, or left at his residence or usual place of business.

SEC. 4. The directors may without notice meet at the office of the company in Jersey City at 1 o'clock p. m., or at the office in the city of New York at 2 o'clock p. m., of the day of the regular annual meeting of the stockholders or the next day, and elect the officers of the company for the ensuing year. They shall also at such meeting appoint the executive committee.

SEC. 5. Directors as such shall not receive any stated salary for their services, but shall be allowed ten dollars for attendance at each regular or special meeting of the board, if present at roll call.

ARTICLE III.

EXECUTIVE COMMITTEE.

SEC. 1. The board of directors shall appoint an executive committee of three directors, who shall serve during the pleasure of the board. Vacancies in such executive committee shall be filled by the board of directors.

SEC. 2. The executive committee shall have and exercise, subject to the control of the board of directors, all the powers of the board requisite for the conduct, management, and development of the company's business; and when the board is not in session the executive committee shall have and may exercise all the powers of the

board. The executive committee shall fix the salaries or compensation of all the officers of the company drawing \$2,500 per year or more. It may fill vacancies among the officers of the company, but any officer appointed by the executive committee may be removed by a vote of the board of directors. A majority of the executive committee shall be a quorum for the transaction of business, and the committee shall at all times act by the vote of a majority. If a member of the committee be absent from any meeting, the remaining members of the committee shall have the power to appoint any director to act as a member of the committee for that meeting. The executive committee may hold its meetings at any office of the company or at any place which they may deem proper, and may prescribe and regulate what, if any, notice shall be given of meetings of the committee. The executive committee shall keep minutes of its proceedings, and report the same to the board of directors at each ensuing meeting of the board.

ARTICLE IV.

SEC. 1. The board of directors shall annually elect or appoint the following permanent officers: A chairman of the company, a president, four vice-presidents, a general manager, a treasurer, an assistant treasurer in New York, an assistant treasurer in Chicago, a secretary, an assistant secretary in New York, an assistant secretary in Chicago, an auditor, an assistant auditor, and general counsel. The board or executive committee may also from time to time appoint such other officers, committees, agents, or employees as it may deem proper.

SEC. 2. If any vacancy shall occur among the officers of the company, such vacancy shall be filled by the board of directors or the executive committee, except as to the chairman or president, vacancies in which offices shall be filled by the board.

SEC. 3. The board of directors, the executive committee, the chairman, or the president may from time to time prescribe the duties of the other officers, agents, and employees of the company.

THE CHAIRMAN.

SEC. 4. It shall be the duty of the chairman to preside at all meetings of the board of directors and stockholders. He shall have general supervision of the entire business of the company and of its several officers, subject to the control of the board of directors or executive committee. He shall see that all orders and resolutions of the board and executive committee are carried into effect, and he shall execute all contracts and agreements authorized by the board or executive committee. The chairman shall submit a complete report of the operations of the company for the year, and of the state of its affairs on the 31st day of December, to the directors at their regular meeting in February of each year, and to the stockholders at their annual meetings, and from time to time shall report to the directors all matters within his knowledge which the interests of the company may require to be brought to their notice.

THE PRESIDENT.

SEC. 5. It shall be the duty of the president, in the absence of the chairman, to preside at all meetings of the board of directors and stockholders, and, subject to the powers of the chairman and executive committee, the president shall have general and active management of the business of the company. The president may sign and seal certificates of stock. He shall, subject to the above powers of the chairman and executive committee, have the general superintendence and direction of all the other officers of the company and shall see that their duties are properly performed. He shall, subject to the powers of the chairman and executive committee, have the general powers and duties usually vested in the office of the president of a corporation. He shall freely consult and advise with the chairman and also with the executive committee in relation to the business and interests of the company, and act under their instructions.

THE VICE-PRESIDENTS.

SEC. 6. The vice-presidents shall, in their order, be vested with all the powers and required to perform all the duties of the president in his absence. Each may sign certificates of stock, and shall perform such duties as may be prescribed from time to time by the board of directors or the executive committee.

PRESIDENT PRO TEM.

SEC. 7. In the absence of the president and the vice-presidents the board may appoint a president *pro tem*.

THE GENERAL MANAGER.

SEC. 8. The general manager shall have general superintendence of the conduct of the business of the company, other than its financial affairs, under the direction and control of the chairman, president, executive committee, and board of directors.

THE TREASURER.

SEC. 9. The treasurer shall have charge of the funds, receipts, and disbursements of the company. He shall deposit all moneys and other valuable effects in the name and to the credit of the company in such banks and with such depositaries as may be designated by the board of directors or executive committee. He shall disburse the funds of the company as may be ordered by the board or executive committee, taking proper vouchers for such disbursements, and shall render to the chairman, president, or executive committee, and to the directors at the regular meetings of the board or whenever they may require it, an account of all his transactions as treasurer and of the financial condition of the company, and at the regular meeting of the board in February annually he shall make a like report for the preceding year. He shall keep full and accurate books of account. He shall give to the company a bond in the sum of \$100,000 for the faithful performance of the duties of his office and the restoration to the company, in case of his death, resignation, or removal from office, of all books, papers, vouchers, money, or other property of whatever kind in his possession belonging to the company, which bond shall be an undertaking of a surety company in such form and containing such provisions as the board of directors or executive committee may require. The fees of the surety company for furnishing the said bond shall be paid by the company. Certificates of stock, when signed by the president or a vice-president, shall be countersigned by the treasurer. He shall keep the accounts of stock registered and transferred in such form and manner and under such regulations as the board of directors or executive committee may prescribe.

THE ASSISTANT TREASURERS.

SEC. 10. The assistant treasurers in New York and Chicago shall have power to sign checks and drafts upon the banks and depositaries of the company, and to endorse checks and drafts for deposit with such banks or depositaries to the credit of the company. The assistant treasurer in New York shall also have power to act as a vice-treasurer, and as such to sign certificates of stock in the place and stead of the treasurer in his absence. The assistant treasurers shall perform such other duties as may be from time to time prescribed by the chairman, president, executive committee, or board of directors. They shall each furnish to the company a bond of a surety company in all respects similar in form and amount to that required of the treasurer, and the fees of the surety company for furnishing the said bonds shall be paid by the company.

THE AUDITOR.

SEC. 11. The auditor shall have supervision over all the accounts and account books of the company, and see that the system of keeping the same is enforced and maintained. He shall direct as to forms and blanks relating to books and accounts in all departments, and no change shall be made without his consent or the consent of the chairman, president, or executive committee. He shall see that there is kept in the bookkeeping department a set of books containing a complete record of all business transactions of the company pertaining to accounts, and shall, when requested, furnish to the board, executive committee, chairman, or president, a statement of the earnings and expenses of the company or of any other corporation in which this company may be interested, for any given time, and shall keep books and records for the purpose of furnishing such statistics. He shall verify the assets reported by the treasurer or his assistants at least twice a year, and make report of the same to the board or executive committee. He shall cause the books and accounts of all officers and agents charged with the receipt of or disbursement of money to be examined as often as practicable, or when requested by the chairman, president, or executive committee, and shall ascertain whether or not the cash and vouchers covering the balances are actually on hand. He shall render such assistance and

1254 HEARINGS BEFORE THE INDUSTRIAL COMMISSION.

advice as the chairman, president, executive committee, or board may desire concerning the books, accounts, and system of financial transactions of all other corporations in which this company is interested, and furnish to the chairman, president, executive committee, or board such statements concerning the same as may be requested by them. In case of a default coming to his knowledge at any time, he shall at once notify the chairman and president, as well as the executive committee.

THE ASSISTANT AUDITOR.

SEC. 12. The assistant auditor shall perform all the duties of the auditor in his absence, as directed from time to time by the chairman, president, executive committee, or board of directors, and such other duties as they may prescribe.

THE SECRETARY.

SEC. 13. The secretary shall record all the votes and proceedings of the stockholders and of the directors in a book kept for that purpose. He shall keep in safe custody the seal of the company, and, when authorized by the board or executive committee, affix it to any instrument requiring the same, which seal shall always be attested by the signatures of the chairman, president, or a vice-president, or of the secretary or an assistant secretary. He shall perform such other duties as pertain to his office, or as the chairman, the president, the board of directors, or the executive committee may require. In the absence of the secretary from any meeting of the stockholders or directors the record of the proceedings shall be kept and authenticated by an assistant secretary, or by such other person as may be appointed for that purpose at the meeting.

[Amendment to section 13, Article IV. Adopted at directors' meeting of June 24, 1899.]

SEC. 13. The secretary shall record all the votes and proceedings of the stockholders and of the directors in a book kept for that purpose. He shall keep in safe custody the seal of the company, and may affix it to any instrument requiring the same when authorized or directed so to do by the board of directors, the executive committee, the chairman, the president, or any vice-president discharging the duties of the president, pursuant to the by-laws. Said seal shall always be attested by the signature of the chairman, president, or a vice-president, or of the secretary, or an assistant secretary. He shall perform such other duties as pertain to his office, or as the chairman, the president, the board of directors, or the executive committee may require. In the absence of the secretary from any meeting of the stockholders or directors a record of the proceedings shall be kept and authenticated by an assistant secretary, or by such other person as may be appointed for that purpose at the meeting.

THE ASSISTANT SECRETARIES.

SEC. 14. The assistant secretaries shall be vested with all the powers and required to perform all the duties of the secretary in his absence. They shall perform such other duties as may be prescribed by the chairman, president, executive committee, or board of directors.

THE GENERAL COUNSEL.

SEC. 15. The general counsel shall advise the board of directors, executive committee, and officers of the company upon all points of law arising in the conduct of the company's business, and it shall be the duty of such counsel to advise the board from time to time as to all reports required by law.

TENURE OF OFFICE.

SEC. 16. Each officer shall hold his office during the pleasure of the board of directors; provided that with respect to all officers, except the chairman, president, and vice-presidents, an agreement in writing may be entered into with authority of the board or the unanimous approval of the executive committee fixing a definite term.

ARTICLE V.

CONTRACTS AND AGREEMENTS.

SEC. 1. No agreement, contract, or obligation (other than a check) involving the payment of money, or the credit or liability of the company, shall be made without

the approval of the board of directors or of the executive committee, except that the chairman or the president may in the ordinary course of the business of the company make contracts not involving an obligation or liability in excess of \$50,000.

BANKS, DEPOSITARIES, CHECKS, AND DRAFTS.

SEC. 2. All checks and drafts and all funds of the company shall be deposited from time to time in such banks, trust companies, and with such bankers or other depositaries, as the board of directors or executive committee may designate. All checks shall be drawn out of the regular check books of the company, and upon the stubs of such checks the purpose for which they are drawn shall be specified. All checks, drafts, or orders for the payment of money shall be signed by the treasurer or one of the assistant treasurers, and shall be countersigned by the chairman, or the president, or a vice-president. No checks shall be drawn or funds used for any purpose other than for the corporate objects of the company.

[Amendment to section 2, Article V. Adopted at directors' meeting of June 24, 1899.]

SEC. 2. All checks and drafts and all funds of the company shall be deposited from time to time in such banks, trust companies, and with such bankers or other depositaries as the board of directors or executive committee may designate. All checks shall be drawn out of the regular check books of the company, and upon the stubs of such checks the purpose for which they are drawn shall be specified. All checks, drafts, or orders for the payment of money shall be signed by the treasurer or one of the assistant treasurers, and shall be countersigned by the chairman or the president or a vice-president, or by such other officer or officers as the executive committee may designate. No checks shall be drawn or funds used for any purpose other than for the corporate objects of the company.

ARTICLE VI.

SHARES AND THEIR TRANSFER.

SEC. 1. Each holder of stock shall be entitled to a stock certificate signed by the president or one of the vice-presidents and the treasurer or vice-treasurer of the company and countersigned by the transfer agent of the company, certifying the number of shares owned by him. All such certificates shall be issued in consecutive order from certificate books, and shall be numbered and registered in the order in which they are issued, and on the stub of each certificate issued shall be entered the name of the person owning the shares represented by such certificate, with the number of shares and of which class and the date of such certificate, and in case of cancellation, the date of cancellation. The person receiving any such certificate shall personally or by agent sign on such stub a receipt for the certificate issued to him. Every certificate returned to the company for the exchange or transfer of shares shall be canceled, and pasted in its original place in the stock certificate book, and no new certificate shall be issued until the old certificate has been thus canceled and returned to its original place in such book, except in the case provided for in section 5 of this article.

SEC. 2. The board of directors or executive committee may appoint a registrar of transfers of stock in the city of New York or elsewhere, and after the appointment of such registrar of transfers no certificate for stock shall be binding upon the company or have any validity unless countersigned by such registrar of transfers.

SEC. 3. Transfers of shares shall be made only upon the books of the company by the holder in person or by power of attorney duly executed and filed with the secretary of the company, and on the surrender of the certificate or certificates for such shares; but the board of directors or executive committee may appoint some suitable bank or trust company or agent in the city of New York or elsewhere to facilitate transfers by stockholders under such regulations as the board may from time to time prescribe. Such transfer books shall be closed for such a period as the board shall direct previous to and on the day of the annual or any special meeting of the stockholders. The transfer books may also be closed by the board for such period as may be deemed advisable for dividend purposes.

SEC. 4. Every stockholder shall furnish the secretary with an address at which notices of meetings and all other notices may be served upon or mailed to him, and in default thereof notices may be addressed to him at the office of the company in Jersey City, New Jersey.

SEC. 5. The board of directors may direct a new certificate or certificates of stock to be issued in the place of any certificate or certificates theretofore issued by the

company alleged to have been lost or destroyed, and the board, when authorizing such issue of a new certificate or certificates, may, in their discretion, require the owner of the lost or destroyed certificate, or his legal representatives, to give the company a bond, in such sum as they may direct, as indemnity against any claim that may be made against the company; but a new certificate may be issued without requiring any such bond when, in the judgment of the directors, it is proper so to do. The directors, however, may refuse to issue any new certificate except upon the institution of legal proceedings, as provided in the statute in such case made and provided.

ARTICLE VII.

DIVIDENDS.

Dividends may be declared by the board of directors, from time to time, out of the surplus or net profits of the company, and payable at such times as the board shall determine. The dividend on the preferred stock shall be payable quarterly, if from time to time so declared by the board, and the dividends on the preferred stock shall be payable before any dividends shall be set apart or paid on the common stock, as provided in the company's certificate of incorporation. Any surplus remaining after providing the quarterly dividend on the preferred stock may be set apart and paid on the common stock.

[Amendment to Article VII, adopted at directors' meeting of December 11, 1899.]

Dividends may be declared by the board of directors, from time to time, out of the surplus or net profits of the company, as hereinafter stated, or at such other times as the board shall determine.

The dividends on the preferred stock shall be payable quarterly, viz: On the second days of January, April, July, and October, in each year, if, from time to time, or otherwise, so declared by the board, and the dividend on the preferred stock shall be payable before any dividend shall be set apart or paid on the common stock, as provided in the certificate of incorporation of this company.

After all dividends on the preferred stock for the current dividend year have been paid, or after sufficient of the surplus or net profits of the company shall have been provided or set apart for the payment of all dividends on the preferred stock for the current dividend year, the directors may, in their discretion, from time to time, apply any further surplus or net profits of the company towards the payment of dividends on the common stock.

All dividends on the capital stock of this company may be declared and payable as above set forth, and as the board may, from time to time, direct; provided, however, that no dividend shall be declared except as permitted by law and by the certificate of incorporation of this company.

ARTICLE VIII.

The common corporate seal is, and, until otherwise ordered by the board of directors, shall be, an impression upon paper or wax bearing the words, "The American Steel & Wire Company of New Jersey, Incorporated 1899."

ARTICLE IX.

AMENDMENT OF BY-LAWS.

The board, by a vote of a majority of the directors of the company, may alter or amend these by-laws, but no alteration shall be made unless first proposed at a previous meeting of the board. The stockholders may amend the by-laws at any general or special meeting.

[Article X of by-laws, adopted at directors' meeting of December 11, 1899.]

SEC. 1. The board of directors shall have power, at any regular or special meeting, to fix the sum or amount to be reserved as a working capital of the company, over and above the capital stock paid in.

SEC. 2. The board may fix the amount of such working capital quarterly, viz: For each ensuing quarter beginning, respectively, with the months of January, April, July, and October, or otherwise, as the board may hereafter determine.

SEC. 3. The board may, at its discretion, at any regular or special meeting, either increase or reduce the amount of working capital previously fixed and reserved.

AMERICAN SUGAR REFINING COMPANY--CERTIFICATE OF INCORPORATION.¹

This is to certify that we, F. O. Matthiessen, Jno. E. Searles, jr., H. O. Havemeyer, Wm. Dick, and Theo. A. Havemeyer, do hereby associate ourselves into a company under and by virtue of the provisions of an act of the legislature of New Jersey, entitled "An act concerning corporations," approved April 7, 1875, and the several supplements thereto and acts amendatory thereof, for the purposes hereinafter mentioned, and to that end we do by this our certificate set forth:

First. That the name we have assumed to designate such company and to be used in its business and dealings is "The American Sugar Refining Company."

Second. That the place in this State where the business of such company is to be conducted is Jersey City, in the county of Hudson, in which the principal part of the business of such company within this State is to be transacted; that the principal place of business out of this State is to be situated in the city of Brooklyn, in the county of Kings, in the State of New York; that the States of Maine, Massachusetts, Connecticut, New York, Pennsylvania, Louisiana, Missouri, California, and Maryland are the other States of the United States in which it proposes to carry on operations, and that the objects for which said company is formed are the purchase, manufacture, refining, and sale of sugar, molasses, and melads, and all lawful business incidental thereto.

That the business which is to be carried on out of this State is a part of the purchase, manufacture, refining, and sale of sugar, molasses, and melads, and all lawful business incidental thereto.

Third. That the total amount of the capital stock of said company is fifty million dollars; the number of shares into which the same is divided is five hundred thousand, and the par value of each share is one hundred dollars.

That of this amount one-half will be general stock and one-half preferred stock, and that the holders of such preferred stock shall be entitled to receive from the surplus or net profits arising from the business of the corporation a fixed yearly dividend of seven per centum, payable semiannually on the 2nd days of January and July in each year before any dividend shall be set apart or paid on the said general stock.

Should the surplus or net profits arising from the business of the corporation prior to any dividend day be insufficient to pay the dividend upon preferred stock, such dividends shall be payable from future profits, and no dividends shall at any time be paid upon general stock until the full amount of seven per centum per annum up to that time upon all the preferred stock shall have been paid or set apart. The holders of preferred stock shall be entitled to no dividends beyond the seven per centum aforesaid.

The amount with which said company will commence business is eleven thousand dollars, all of which shall be general stock and which is divided into shares of the par value of one hundred dollars each.

Fourth. The names and residences of the stockholders and the amount of shares held by each are as follows, viz:

Names.	Residences.	Number of shares.
Theo. A. Havemeyer.....	Mahwah, N. J.	(Twenty) 20.
William Dick.....	Brooklyn, N. Y.	(Twenty) 20.
Jos. B. Thomas.....	Boston, Mass.	(Twenty) 20.
F. O. Matthiessen.....	New York, N. Y.	(Twenty) 20.
Jno. E. Searles, jr.....	Brooklyn, N. Y.	(Ten) 10.
H. O. Havemeyer.....	Greenwich, Conn.	(Ten) 10.
Geo. C. Magoun.....	New York, N. Y.	(Ten) 10.

Fifth. The period at which said company shall commence is the tenth day of January, 1891, and the period at which it shall terminate is the tenth day of January, 1941.

Sixth. The directors of said company shall be classified in respect to the time for which they shall severally hold office in three classes. Each class shall contain as near as may be one-third of the whole number of directors. At the first election of directors the first class shall be elected for a term of one year, the second class for a term of two years, and the third class for a term of three years, and at each annual election after the first the successors to the class of directors whose term expires in

¹ A letter accompanying the copy of the certificate of incorporation states that the by-laws can not be sent on request without special vote of the board of directors.

1258 HEARINGS BEFORE THE INDUSTRIAL COMMISSION.

that year shall be elected to hold office for the term of three years, so that the term of office of at least one class shall expire in each year.

In witness whereof we have hereunto set our hands and seals the ninth day of January, 1891.

F. O. MATTHIESSEN. s.)
JNO. E. SEARLES, JR. s.)
H. O. HAVEMEYER.
WM. DICK.
THEO. A. HAVEMEYER.

STATE OF NEW YORK, *City and County of New York*, ss:

Be it remembered that on this ninth day of January, A. D. 1891, before me, Frank K. Runyon, personally appeared Francis O. Matthiessen, John E. Searles, jr., Henry O. Havemeyer, Theodore A. Havemeyer, and William Dick, who I am satisfied are the persons named in, and who acknowledged, the foregoing certificate, and I having first made known to them the contents thereof they did each acknowledge that they signed, sealed, and delivered the same as their voluntary act and deed.

In witness whereof I have hereunto set my hand and affixed my official seal this 9th day of January, A. D. 1891.

FRANK K. RUNYON,
Master in Chancery of New Jersey.

[Endorsed:] "Recorded in Hudson Co., N. J., clerk's office, Jany. 9th, 1891, in Book 11 of clerk's record.

"DENNIS McLAUGHLIN, *Clerk.*"

[Endorsed:] "Filed January 10, 1891.

"HENRY C. KELSEY,
"Secretary of State."

STATE OF NEW JERSEY.

DEPARTMENT OF STATE.

I, George Wurts, secretary of state of the State of New Jersey, do hereby certify that the foregoing is a true copy of the certificate of incorporation of "The American Sugar Refining Company," and the endorsements thereon, as the same is taken from and compared with the original filed in my office on the 10th day of January, A. D. 1891, and now remaining on file therein.

In testimony whereof I have hereunto set my hand and affixed my official seal, at Trenton, this 19th day of August, A. D. 1899.

[SEAL.]

GEORGE WURTS,
Secretary of State.

UNITED STATES DYE-WOOD AND EXTRACT COMPANY.

[10-cent internal revenue stamp, cancelled.]

CERTIFICATE OF INCORPORATION.

[Registered office with the New Jersey Corporation Guarantee and Trust Company, Camden, N. J.]

First. The name of the corporation is the "UNITED STATES DYE-WOOD AND EXTRACT COMPANY."

Second. The principal office in New Jersey is at No. 419 Market street, Camden, New Jersey. The New Jersey Corporation Guarantee and Trust Company is the agent therein and in charge thereof, and upon whom process against this corporation may be served.

Third. That the objects for which and for each of which this corporation is formed are:

To manufacture, buy, sell, deal in and deal with dyewood, extracts, chemicals, and all like or kindred products; to manufacture, prepare for market, market and sell the same and any articles or product in the manufacture or composition of which they, or either of them, are a factor;

To buy, sell, manufacture, refine, manipulate, import, export, and deal in all such substances, chemical or otherwise, apparatus, products and things capable of being

used in any such business as aforesaid or required by any customers of or persons having dealings with the company.

In furtherance, and not in limitation, of the general powers conferred by the laws of the State of New Jersey, and of the objects and purposes as herein above stated, it is hereby expressly provided that the company shall have also the following powers; that is to say:

(a) To do any or all of the things herein set forth as objects, purposes, powers or otherwise, to the same extent and as fully as natural persons might, or could do, and in any part of the world, as principals, agents, contractors, trustees or otherwise.

(b) To conduct its business in all its branches and have one or more offices, and unlimitedly to hold, purchase, and convey real and personal property, both within and without the State of New Jersey, and in all other States, Territories, and colonies of the United States, and in all foreign countries and places, subject always, however, to the laws of the respective States, Territories, colonies, and foreign countries.

(c) To manufacture, purchase, or otherwise acquire, hold, own, sell, assign, and transfer, invest, trade, deal in and deal with goods, wares, and merchandise of every class and description, and to do manufacturing of any kind.

(d) To purchase, or otherwise acquire, to hold, own, maintain, work, mine, develop, to sell, or otherwise dispose of, without limit as to amount, within or without the State of New Jersey, and in any part of the world, real estate and real property and any interest and rights therein.

(e) To acquire the good will, rights, and property of all kinds, and to undertake the whole or any part of the assets and liabilities of any person, firm, association, or corporation, and to pay for the same in cash, stock of this corporation, bonds, or otherwise.

(f) To hold, purchase, or otherwise acquire, to sell, assign, transfer, mortgage, pledge and otherwise dispose of shares of the capital stock, bonds, or other evidences of indebtedness created by other corporation or corporations, and while the holder of such stock to exercise all the rights and privileges of ownership, including the right to vote thereon, to the same extent as a natural person might or could do.

(g) To guarantee the payment of dividends or interest on any shares, stocks, debentures or other securities issued by, or any other contract or obligation of, any corporation.

(h) To make and enter into contracts of every sort and kind with any individual, firm, association, corporation, private, public or municipal, body politic, and with the Government of the United States, or any State, territory, or colony thereof.

It is the intention that the objects, purposes, and powers specified and clauses contained in this third paragraph shall, except where otherwise expressed in said paragraph, be nowise limited or restricted by reference to or inference from the terms of any other clause of this or any other paragraph in this charter, but that the objects, purposes, and powers specified in each of the clauses of this paragraph shall be regarded as independent objects, purposes, and powers.

Fourth. The total amount of the capital stock of said corporation is to be ten million dollars (\$10,000,000), divided into one hundred thousand (100,000) shares of one hundred dollars (\$100) each. Of the said stock sixty thousand (60,000) shares, amounting at par to six million dollars (\$6,000,000), are to be preferred stock, and forty thousand (40,000) shares, amounting at par to four million dollars (\$4,000,000), are to be common stock.

Upon the vote of a majority of the preferred and common stock issued and outstanding, irrespective of class, the directors shall have the power to create deferred-stock debentures which shall be subordinate to the common and preferred stock, both as to dividends and the principal, so that the said deferred-stock debentures shall not be entitled to any dividend or interest whatever until after both preferred and common stock shall have in any one year received, or had set apart for payment, a dividend at the rate of six per cent per annum, and after the payment of a dividend of six per cent in any year to the stock, preferred and common, a dividend at the rate of, but not exceeding, six per cent shall be paid to the holders of the said deferred-stock debentures, but it shall not be entitled in any one year to any further dividend or interest. In the event of liquidation or dissolution of the company, the common and preferred stock shall be paid in full before any payment shall be made upon the said deferred-stock debentures. Said deferred-stock debentures shall have no voting power. The deferred-stock debentures shall always be subordinate also to the claims of general creditors of the company.

The rights, privileges, and conditions following shall attach to the shares aforesaid; that is to say:

(1) The common stock shall be subordinate to the rights of the preferred stock, except that both preferred and common stock shall have equal voting powers.

(2) The corporation shall not be at liberty, without the consent in writing first obtained of the holders of two-thirds in amount of the preferred stock issued and outstanding—

(a) To create or issue any other or further shares ranking in any respect *pari passu* with or in priority to the aforesaid issue of \$6,000,000 of preference shares;

(b) Nor to create any charge, except as herein provided, upon the net profits of the corporation which shall not be subordinate to the dividend rights of the preference shares;

(c) Nor to reserve a surplus fund which shall not be chargeable with the payment of the accrued dividends on the preference shares.

(3) The said preference shares shall carry a fixed cumulative preferential dividend at the rate of, but not exceeding, six per cent (6%) per annum on the par value thereof, and such dividends shall be declared quarterly on the second days of January, April, July, and October in each year, or at such other times as the board of directors or the executive committee shall see fit and determine.

If in any year dividends amounting to six per cent (6%) per annum shall not be paid on such preferred stock, the deficiency shall be a charge on the net profits, and be payable, but without interest, before any dividends shall be paid upon or set apart for the common stock.

(4) The balance of the net profits of the corporation, after the payment of said cumulative dividend at the rate of six per cent (6%) per annum to the holders of the preferred stock, may be distributed as dividends among the holders of the general or common stock as and when the board of directors or executive committee shall in their discretion determine.

(5) In the event of the liquidation or dissolution of the corporation the surplus assets and funds thereof shall be applied in the first place in repaying to the holders of the aforesaid cumulated preference shares the full amount of the principal thereof, and the accrued dividends, if any, charged, but without interest, before any amount shall be paid upon the common stock, and after such payment in full to the holders of said cumulative preference shares the surplus assets and funds shall be devoted to the payment of the principal in full of the common stock, and thereafter to the payment of the principal of any deferred-stock debentures issued and outstanding. Thereafter the surplus funds and assets shall belong to and be divided among the holders of the common shares.

From time to time the preferred and common stock may be issued in such amount and proportion as shall be determined by the board of directors, in accordance with the laws of the State of New Jersey.

Fifth. The directors of the corporation shall be divided in respect to the time for which they shall severally hold office into five classes, equal in number. The first class shall be elected for a period of five years; the second class for a period of four years; the third class for a period of three years; the fourth class for a period of two years, and the fifth class for a period of one year; and at each annual election after 1899 the successors to the class of directors whose terms expire in such year shall be elected to hold office for five years, so that the term of office of at least one class shall expire in each year.

In case of an increase in the board of directors between the annual election by the stockholders, the newly created directorships shall be and be construed as vacancies until the next annual election, to be filled forthwith by the board.

Sixth. The names and post-office address of the incorporators and the number of shares of common stock subscribed for by each, the aggregate of which \$1,000 is the amount of capital stock with which this corporation will commence business, are as follows:

Name.	P. O. address.	Number of shares of common stock.
James B. Dill	27 Pine street, New York City	3
Henry T. Willis	Boston, Mass	4
Frederick W. Garvin	27 Pine street, New York City	3

Seventh. The duration of the corporation is to be perpetual.

Eighth. 1. The corporation shall have no power to mortgage its real property, except upon the assent in writing first obtained of the holders of two-thirds of the issued preferred stock hereinbefore described, or upon the affirmative vote of the holders of a majority of the said preferred stock at a meeting of the preferred stockholders duly called for that purpose, and upon such assent so obtained, or upon such

affirmative vote so had, and not otherwise, the corporation shall have power to mortgage its real property to secure an issue of bonds or otherwise: *Provided, however,* This limitation shall apply only to mortgages other than purchase-money mortgages on the acquisition of property, which purchase-money mortgages shall cover only the property acquired.

2. The board of directors shall have power without the assent or vote of the stockholders to make, alter, amend, and rescind the by-laws of this corporation, and, subject always to the payment of the dividends on the preferred stock, to fix the amount to be reserved as working capital.

3. With the assent in writing or pursuant to the vote of the holders of two-thirds of all the stock, irrespective of class, issued and outstanding, the directors shall have power and authority to sell, assign, transfer, convey, or otherwise dispose of the property and assets of this corporation as an entirety on such terms and conditions and for such consideration as the directors shall deem fit, right, and just.

4. The board of directors, and when the board is not in session the executive committee, in addition to the powers and authorities by statute and by the by-laws expressly conferred upon them, are hereby empowered to exercise all such powers and to do all such acts and things as may be exercised or done by the corporation, but subject, nevertheless, to the provisions of the statute, of the charter, and to any regulations that may from time to time be made by the stockholders: *Provided,* That no regulations so made shall invalidate any provisions of this charter, or any prior acts of the directors or the executive committee which would have been valid if such regulations had not been made.

5. There shall be an executive committee of five members, who shall be elected by the stockholders from the directors, and hold office as hereinafter provided. The said committee shall have and exercise all the powers expressly conferred upon it by this certificate of incorporation, and also all the powers of the board of directors whenever a quorum shall fail to be present at any stated or other meeting of the board, and as well at all times whenever the board shall not be in session, and shall have power to affix the seal of the corporation to all papers which they may deem to require it.

The committee shall have power to make rules and regulations for the conduct of its business and to determine how many members thereof shall constitute a quorum.

The officers of the committee shall be a chairman, a vice-chairman, and a secretary, who shall hold office during the term of their office as members of the committee, and shall be elected by the stockholders.

At all meetings of the committee all questions shall be decided by a majority of votes, and in case of an equality of votes the chairman, and in his absence the vice-chairman, and in the absence of both the secretary, shall have a second and deciding vote.

The stockholders shall, at their first meeting, elect by ballot the said committee of five members from the directors elected at such meeting, and the said officers thereof.

The stockholders shall determine and fix the compensation to be paid to the members of the committee and to any of the officers thereof as such, and the compensation of any member or officer of the committee so fixed shall not be diminished during his tenure.

At every annual meeting after the first meeting, whenever the term of office of any member or officer of the committee shall expire, the stockholders shall elect a successor. Any member of the committee may be elected to succeed himself.

Any director, irrespective of class, is eligible to election as a member of the executive committee.

The term of office of each member of the committee shall be coextensive with the term of his office as director, unless the stockholders, at the time of his election, shall fix a shorter period or term of office, which they shall have power to do. Any member of the committee who shall cease to be a director of the company shall *ipso facto* cease to be a member of the committee.

Neither the directors nor the members of the executive committee nor the president nor the vice-president shall be subject to removal during their respective terms of office, nor shall their terms of office be diminished during their tenure.

All vacancies in the executive committee shall be filled for the unexpired term from the directors by the remaining members of the committee.

6. The directors shall, from time to time, determine whether, and to what extent, and at what times and places, and under what conditions and regulations, the accounts and books of the corporation, or any of them, shall be open to the inspection of the stockholders; and no stockholder shall have any right to inspect any account, or book, or document of the corporation, except as conferred by statute of New Jersey or authorized by the directors.

1262 HEARINGS BEFORE THE INDUSTRIAL COMMISSION

7. The directors shall have power to hold their meetings, to have one or more offices, and to keep the books of the corporation (except the stock and transfer books) outside of this State, at such places as may from time to time be designated by them.

The undersigned, for the purpose of forming a corporation in pursuance of an act of the legislature of New Jersey entitled "An act concerning corporations" (Revision of 1896) and the various acts amendatory thereof and supplemental thereto, do make, record, and file this certificate, and do respectively agree to take the number of shares of stock hereinbefore set forth, and accordingly hereunto set our hands and

Dated Camden, N. J., March 3, 1899.

JAMES B. DILL.	L. S.
HENRY T. WILLS.	L. S.
FREDERICK W. GARVIN.	L. S.

In the presence of—

GEO. W. MARK.

JAMES B. DILL,

Solicitor, 27 Pine St., New York City.

STATE OF NEW YORK, *County of New York*, ss.:

Be it remembered that on this third day of March, A. D. eighteen hundred and ninety-nine, before me, a commissioner of deeds for the State of New Jersey, residing in New York, personally appeared James B. Dill, Henry T. Wills, and Frederick W. Garvin, who I am satisfied are the persons named in and who executed the foregoing certificate, and I having first made known to them, and each of them, the contents thereof, they did each acknowledge that they signed, sealed, and delivered the same as their voluntary act and deed.

GEO. W. MARK,

A Commissioner of Deeds for the State of New Jersey, residing in New York.

[10-cent I. R. stamp, canceled.]

LIST OF WITNESSES.

	Page.
General aspects of combinations:	
Thurber, F. B., president United States Export Association.....	3
Dowe, P. E., president Commercial Travelers' National League.....	25
Sugar combinations:	
Bynitsky, Stephen N., assistant chief customs division of the Treasury Department.....	43
Smith, G. Waldo, president Wholesale Grocers' Association of New York City.....	55
Mas, Ernest, former chemical engineer Glucose Sugar Refining Company..	72
Doscher, Claus, independent sugar refiner.....	87
Havemeyer, Henry O., president American Sugar Refining Company....	101
Jarvie, James N., member firm of Arbuckle Brothers.....	138
Post, James H., commission merchant in sugar.....	147
Whisky combinations:	
Clarke, Charles C., independent distiller, Peoria, Ill.....	167
McNulta, John, receiver Distilling and Cattle Feeding Company.....	192
Cook, Martin R., wholesale liquor dealer and distiller.....	240
Luyties, Henry E. G., wholesale liquor dealer and distiller.....	250
Standard Oil Company:	
Lee, J. W., president of three independent pipe-line organizations.....	261
Monnett, F. S., attorney-general of Ohio.....	297
Clark, W. H., former agent of Standard Oil Company.....	330
Davis, T. F., independent producer and refiner, Marietta, Ohio.....	351
Westgate, T. B., independent refiner and officer in independent oil organizations.....	365
Lockwood, M. L., independent producer of oil.....	383
Boyle, P. C., editor and proprietor, Oil City Derrick.....	404
Mathews, B. A., selling agent of Standard Oil Company.....	491
Archbold, John D., vice-president Standard Oil Company of New York..	506
Phillips, Thomas W., independent producer and officer in independent oil organizations.....	589
Emery, Lewis, independent refiner and officer in independent oil organizations.....	602
Gall, Andrew D., manager Gall-Schneider Oil Company, Montreal.....	672
Rice, George, independent producer and refiner.....	686, 793
Page, Howard, vice-president Union Tank Line Company.....	755
Rockefeller, John D., president Standard Oil Company.....	794
Dodd, S. C. T., solicitor Standard Oil Company.....	798
Sugar combinations (resumed):	
Atkins, Edwin F., manufacturer and importer of sugar.....	801
Whisky combinations (resumed):	
Bradley, Edson, vice-president Distilling Company of America.....	813
Rice, Samuel M., president Distilling Company of America.....	831
Tin-plate combination:	
Graham, W. T., second vice-president American Tin Plate Company....	849
Wheeler, F. S., treasurer American Tin Plate Company.....	863
Reid, Daniel G., president American Tin Plate Company.....	865
Griffiths, William, manufacturer of tin plate.....	887
Going, H. F., retired canner and manufacturer of tin cans.....	915
Greer, George, district manager American Tin Plate Company.....	922
Taylor, Nathan A., independent tin-plate manufacturer.....	931
National Steel Company:	
Reis, William E., president National Steel Company.....	943

1264 THE INDUSTRIAL COMMISSION:—INDUSTRIAL COMBINATIONS.

American Steel Hoop Company :	Page.
Guthrie, Charles S., president American Steel Hoop Company	953
Tin-plate and steel companies :	
Moore, William H., promoter of American Tin Plate Company, etc.....	959
Federal Steel Company:	
Stetson, Francis L., counselor at law	969
Gary, Elbert H., president Federal Steel Company	982
American Steel and Wire Company:	
Gates, John W., chairman American Steel and Wire Company	1005
Pam, Max, attorney at law	1034
National Shear Company:	
Pearson, James C., private banker	1041
Wiss, F. C. J., vice-president National Shear Company	1043
International Silver Company:	
Dodd, Samuel, president International Silver Company	1049
Watrous, William H., director International Silver Company	1062
Rogers, N. Burton, vice-president of C. Rogers & Bros	1066
State corporation laws and transfer companies:	
Dill, James B., attorney at law	1077
Wood, Howard K., assistant secretary Corporation Trust Company of New Jersey	1089
Hansell, Frank R., secretary New Jersey Guarantee and Trust Company	1094
Marwick, James, auditor Corporation Trust Company of New Jersey	1096
Garvin, James S., assistant secretary New Jersey Registration and Trust Company	1098
Ryan, Dennis B., attorney at law	1099
King, Charles N., secretary New Jersey Corporations Agency	1106
Nevins, Andrew P., attorney at law	1111
Smith, J. Ernest, attorney at law	1119
Edgerton, Charles E., Ithaca, N. Y.	1123
Sawyer, W. L., secretary Corporation Trust Company of Delaware	1125
Myers, James J., member of the legislature of Massachusetts	1127
Legislation—Public control:	
Dos Passos, John R., attorney at law	1139
Allen, Charles C., attorney at law	1177
Huffcut, Ernest W., professor at Cornell University Law School	1211
APPENDIX—Charters and By-Laws	1221

GENERAL INDEX OF TESTIMONY.

(See, also, special index for Standard Oil Company).

Addyston Pipe Company:

Page.

Decision concerning, discussed. Dos PARSON, 1175; Allen, 1186, 1196; Huffcut, 1214

Adulteration:

Corn flour, mixture with wheat Mas, 73, 77, 79

Corn oil, mixture with various other oils Mas, 73, 74

Government regulation, advocated Havemeyer, 128

Whiskies, no injurious articles used... Clarke, 171, 180, 185; McNulta, 230, 231

Advantages of combinations. (See *Effects, Economies.*)

Advertising:

Economy in, by combination..... Bradley, 829; Rogers, 1070

Monopoly due to, legitimate..... Smith, 70, 71

Agents of corporations:

Provisions concerning maintenance in State, New Jersey..... Dill, 1077, 1076

West Virginia..... Nevins, 1112-1115, 1118, 1119

Number of corporations represented by, New Jersey..... King, 1106

Methods of appointment, business, etc., New Jersey Ryan, 1100-1105;

King, 1106, 1107, 1111

Methods of business, Delaware..... Sawyer, 1125-1127

Trust companies, New Jersey, description of business..... Wood, 1089-1094;

Hansell, 1094-1096; Marwick, 1096, 1097; Garvin, 1098, 1099

Aggregation of capital. (See *Capital.*)

Agricultural products:

Prices fixed by foreign markets Thurber, 11

Alcohol:

Manufacturing and arts, desirability of increased use..... McNulta, 227, 234;

Rice, 846

Taxation McNulta, 225-227; Bradley, 829; Rice, 846

American Spirits Manufacturing Company. (See *Whisky combinations.*)

American Steel and Wire Company, of New Jersey (sole witness,

GATES):

American Steamship Company, relation to 1007

American Steel and Wire Company of Illinois, relation to..... 1019-1021

Plants and output controlled by..... 1005, 1028

Barbed wire—

Practical monopoly of output through patents 1009, 1010, 1033

Prices 1009, 1033

Capitalization—

Amount and classes of stock..... 1020, 1021

Bonded debt of constituent companies..... 922, 923

Cost of plants, working capital, etc 1020, 1021, 1032

Trade-marks, good will, etc., value of..... 1021, 1022

Carnegie Steel Company, no direct relation to..... 1023

Cause of combination not excessive competition 1033

Coal mines, ownership of..... 1005, 1023

Competition and competing establishments—

Advantage of combination in securing large buyers..... 1024

Excessive, not cause of combination..... 1033

No attempt to prevent..... 1022, 1023

Strength of..... 1015, 1016, 1022

Independent plants, offer to sell out to combination..... 1024

Purchase of material from combination..... 1024

No agreement with 1010, 1011, 1022

Wire fencing, no agreement as to prices 1022, 1031

American Steel and Wire Company, of New Jersey—Continued.

	Page.
Cost of production, reduction during past twenty years	1008, 1033
Waste in rolling, amount of	1008
Debts, bad, reduction in, by combination	1030
Dividends, common stock, reasons for not paying on	1034
Economies of combination—	
Closing of plants, reasons for	1028, 1029
Combination of different branches of industry	1030
Debts, bad, reduction in	1030
Freights, saving by shipments from nearest plants	1030
Officers and salaries, savings in	1029
Superintendence, best former ability retained	1034
Traveling men dispensed with	1018, 1030
Exportation of product—	
Advantages of building up foreign market	1015
Conditions of competition with foreign producers	1013-1018
Combination, tendency of, to increase	1016
China and Japan, amount of trade with	1030
England, large exportation to	1015
Advantages of United States in manufacture	1014
Prices lower than domestic; reasons	1015
Federal Steel Company, no direct relation to	1023
Freights, no special rates or rebates	1031
Rail rates, Lake Erie to Pittsburgh	1007
Savings by shipments from nearest plant,	1030
Germany, conditions of production and exportation	1014, 1016, 1018
Syndicates in iron and steel industry	1017, 1018
International combination, attempt to form	1017, 1018, 1024
Iron and steel industries—	
Combinations, control by	1023
Combinations, relations between	1023, 1027
Export trade, conditions of	1014-1018
Iron ore, output, increase	1025
Prices, recent increase in	1006, 1025
Iron, pig, increase of output	1006
Labor (see also <i>Wages</i>)—	
Amalgamated Association not recognized	1011, 1012
Employees, number of	1012
Lake freights, cost of transportation, estimated	1007
Rates, increase of	1006, 1007
Mines, ownership of	1000, 1005, 1006, 1023
National Steel Company, no direct relation to	1023
Nails, wire—	
Independent manufacturers, no agreement with	1010, 1011, 1022
Output, proportion controlled by combination	1005, 1010
Prices, increase of	1010
Patents, few in manufacture of	1009, 1010
New Jersey, reasons for incorporating in (Pam)	1035
Organization, history and description—	
Certificate of incorporation and by-laws	1248-1256
American Steel and Wire Company of Illinois, relation to	1019-1021
History of movement	1019-1021
Method of acquiring plants	1028, 1032
Plants entering combination, list of	1028
Plants afterwards closed, reasons for buying	1028, 1029
Dissolution of independent companies	1028
Promoters' profits	1031
Stock, exchange of	1019-1021
Output of products—	
Closing of plants, reasons for	1027-1028
Increase during past twenty years	1008
Increase since combination	1028, 1029
Proportion controlled by combination	1005, 1009, 1010
Barbed wire, practical monopoly through patents	1009, 1010, 1033
Patents, control of	1009, 1010, 1033
Saving of law suits, concerning	1030

American Steel and Wire Company, of New Jersey—Continued.

Prices—	Page.
Barbed wire.....	1009, 1033
Decline during past twenty years.....	1008
Difference according to quantity purchased.....	1011
Increase since combination, amount and causes.....	1009, 1010
Iron ore, recent increase in.....	1006, 1025
Contract to purchase, at lower price.....	1006, 1025
Margin between raw and finished product deceptive.....	1008
Steel, high prices paid by Wire Company.....	1025
Reasons for high prices.....	1026, 1027
Products, description of, proportion of output.....	1005, 1010
Promoters, profits of.....	1031
Salesmen, dispensed with.....	1018, 1030
Steel—	
Combinations, control by.....	1023
Prices, high paid by Wire Company.....	1025
Prices, reasons for recent increase.....	1026, 1027
Purchase from other combinations by Wire Company.....	1026
Steel companies, no relation to other.....	1023, 1027
Tariff (see also <i>Exportation</i>)—	
Cost of living in America and Europe.....	1014
Germany, Government assistance to exportation.....	1018
Protection necessary, reasons.....	1013-1016
Transportation, relation to.....	1013
Wages, relative in America and Europe.....	1013, 1014
Transportation. (See <i>Freights, Lake Freights</i> .)	
Wages—	
Fixed by annual agreement.....	1012
Increase since combination.....	1011, 1012
Influences determining.....	1012
Sliding scale, increase under.....	1011, 1012
Wire, barbed. (See <i>Barbed Wire</i> .)	
Wire fencing, no agreement as to prices.....	1031
Wire nails. (See <i>Nails</i> .)	
Wire and wire rods—	
Growth of industry, described.....	1008
Proportion of output controlled, competition, etc.....	1005, 1009-1011, 1022-1024
Prices.....	1006, 1008-1011
Woven wire, control of output, prices, etc.....	1011, 1022
American Sugar Refining Company. (See <i>Sugar combination</i> .)	
American Steel Hoop Company (sole witness, GUTHRIE):	
Amalgamated Association, influence on wages.....	955
Capitalization, amount of common and preferred stock.....	953
Economies—	
Comparison of result in different mills.....	953, 954
Freight, saving of crossing.....	953
Management, younger and more competent men employed.....	953, 954
Office expenses, reduction.....	953
Selling expenses, reduction.....	954
Specialization of plants.....	953
Export trade, possibility of competition over entire world.....	956
National Steel Company, relation to.....	957
Organization and nature of business.....	953
Plants entering combination.....	954
Prices, increase, in comparison with raw materials.....	954
Products, description.....	953
Promotion, profits of, referred to.....	957
Steel, advantage of relation to steel companies.....	957
Steel, increase in prices.....	954
Tariff, necessity of.....	955, 956
Wages, increase under combination.....	954
Fixed by annual agreement, sliding scale.....	955
American Tin Plate Company:	
Black plate (see also <i>Dipping establishments, Jobbers, Machinery</i>)—	
Difference from other sheet iron.....	Griffiths, 890

American Tin Plate Company—Continued.

Page.

Buying of supplies in large quantities, saving.....	Reid, 877; Griffiths, 913, 914
Can manufacturers—	
Injurious effects of combination not yet felt.....	Going, 921
Shortage of tin plate, 1899.....	Going, 917, 918
Quality of tin plate, importance of.....	Going, 917, 921
Canned goods—	
Relation of tin-plate industry to.....	Going, 917-921
Combinations in manufacture of.....	Going, 918, 919
Labor, conditions, wages, unions, etc.....	Going, 919, 920
Competition of glass cans with tin cans.....	Going, 922
Capitalization (see also <i>Organization</i>)—	
Amount of stocks authorized and issued.....	Graham, 850; Reid, 866
Stock issue and disposition of.....	Graham, 857; Reid, 866; Moore, 960-962
Promotion, stocks issued for.....	Reid, 866; Griffiths, 911; Moore, 960, 963
Cost and value of plants, estimated.....	Reid, 886; Griffiths, 911
Preferred and common stock double cash value.....	Graham, 851, 862; Reid, 884; Moore, 963
Good will, relation to cost of plant.....	Wheeler, 864; Moore, 962; Graham, 851; Reid, 884
Price paid for plants, impossibility of statement.....	Moore, 962
Cost of reproducing plants, estimated.....	Graham, 862; Griffiths, 912
Ownership of stock by employees.....	Moore, 961
Running capital, amount necessary.....	Reid, 887
Stock, value of.....	Graham, 860
Causes of combination—	
Excessive competition and losses.....	Graham, 854; Reid, 866, 867, 885; Greer, 925; Taylor, 941
Purpose to restrict cutthroat competition.....	Greer, 929
Unprofitable business, denied.....	Griffiths, 897, 898, 901, 903
No necessity for combination.....	Griffiths, 901; Taylor, 941
Tariff not cause of combination.....	Reid, 881; Griffiths, 912
Closing of plants—	
Proportion of mills idle.....	Griffiths, 907
Dismantling of plants and reasons for.....	Graham, 853; Reid, 876
Irregular operation since combination.....	Griffiths, 899
Injurious effect on labor.....	Griffiths, 904, 906
Discrimination against certain plants.....	Griffiths, 904-906; Greer, 925, 926
Intended to facilitate reduction of wages.....	Griffiths, 906
Reasons for.....	Griffiths, 914; Greer, 924, 926, 927
Competing plants (see also <i>Dipping establishments</i>)—	
Purpose of combination to suppress.....	Griffiths, 896
Difficulty of securing machinery, discussed.....	Griffiths, 888-890; Graham, 852; Reid, 875; Taylor, 936, 939
Griffiths, William, erection of competing plant by.....	Griffiths, 887, 893, 896
Cost of production, relative.....	Reid, 885, 886; Griffiths, 899, 900
Wages not cut by.....	Reid, 886
Cost of plants. (See <i>Capitalization, Organization</i> .)	
Cost of production—	
Elements entering into.....	Greer, 928
Excessive when industry first established.....	Reid, 878
Early statistics, discussed.....	Griffiths, 902; Greer, 923, 924
Increase in cost of materials and labor.....	Graham, 853; Reid, 885; Griffiths, 902
Estimated at different prices of steel.....	Griffiths, 902
Prices of raw material, statistics of.....	Reid, 868, 869
Relative of combination and competitors.....	Graham, 857; Reid, 885; Griffiths, 899, 900
Wages, increase of.....	Graham, 853; Reid, 869-874
Waste in rolling steel.....	Reid, 867
Description of business.....	Graham, 849; Griffiths, 890
Boxes, contents, amount of steel, etc....	Graham, 849; Reid, 867; Greer, 930
Dipping establishments—	
Methods of business.....	Graham, 849
Number of independent plants.....	Graham, 852
Reasons for establishing dipping plant only.....	Taylor, 931
Relation to American Tin Plate Company.....	Taylor, 933, 937, 940

American Tin Plate Company—Continued.**Dipping establishments—Continued.**

	Page.
Attempt to suppress competition of, refusal to sell plates.....	Griffiths, 895
Denied	896, 899
Large sales recently made to, by combination.....	Graham, 850; Greer, 924, 928
Irresponsible, desirability of discouraging.....	Greer, 924, 928
Unable to obtain supply except from combination.....	Greer, 924
Contracts, existing, for supply of material	Griffiths, 894; Taylor, 933
Unable to sell as cheaply as combination	Taylor, 933
Prosperity of business, N. & G. Taylor Company	Greer, 928
Dismantling of plants.....	Taylor, 935
Dividends, number paid, and future prospects.....	Graham, 853; Reid, 876
Economies—	Graham, 856
General discussion.....	Graham, 855; Reid, 886; Greer, 929; Griffiths, 913
Consumer does not profit by.....	Griffiths, 910
Buying of supplies in large quantities.....	Reid, 877; Griffiths, 913, 914
Freights, shipment from nearest plant	Graham, 855, 856;
Reid, 877, 886; Griffiths, 913; Taylor, 942	
Labor, no reduction in amount per unit.....	Graham, 860;
Reid, 876; Griffiths, 899	
Large and improved plants.....	Graham, 855
Six mills limit of economy.....	Griffiths, 915
Patents, slight importance of.....	Graham, 861
Processes, few new methods of manufacture.....	Graham, 860
Selling of goods, agents, etc., saving.....	Graham, 855; Reid, 877
Specialization of manufacture in particular plants.....	Reid, 877
Superintendence, personal, by owner, superiority of.....	Griffiths, 899, 900;
Taylor, 941	
Previous managers chiefly retained.....	Reid, 877; Greer, 929
Exportation, not likely in immediate future.....	Reid, 882
Freights, shipment from nearest plant, economy of.....	Graham, 855, 856;
Reid, 877, 886; Taylor, 942	
Special rates, denied.....	Graham, 856
Good will. (See <i>Capitalization</i> .)	
Griffiths, William—	
Sale of plant and erection of new plant.....	Griffiths, 887, 893, 896
Position as tin-plate manufacturer, discussed	Greer, 923
Importation. (See <i>Tariff</i> .)	
Jobbers—	
Brands, manufacture under special	Graham, 852; Reid, 875
Must be assigned to the combination.....	Griffiths, 891-893
Form of contract concerning assignment and manufacture ...	Griffiths,
891, 892	
Exclusive purchase of goods from combination required	Griffiths,
890-893	
Denied	Graham, 852; Reid, 875
Refusal to sell plates, and discriminations, denied.....	Graham, 850, 851, 854;
Reid, 874, 875, 878	
Unable to obtain supply except from combination	Griffiths, 894
Labor (see also <i>Wages</i>)—	
Number of employees.....	Graham, 858
Unionizing of plants under combination	Greer, 928
Organization of tanners	Griffiths, 908
More idleness than ever before	Griffiths, 904, 905
Discontent and apprehension of employees	Griffiths, 904-906
No reduction in amount per unit....	Graham, 860; Reid, 876; Griffiths, 899
Monessen plant, conditions in	Griffiths, 905, 907
New Castle plant, output in excess of stipulation	Griffiths, 904
Denied	Greer, 924
Ownership of stock by employees.....	Graham, 854; Moore, 961
Dipping plants, union labor not employed	Taylor, 936
Wages and conditions of labor.....	Taylor, 932
Reid, 876; Griffiths, 907, 908	
Strikes, referred to	Reid, 880
Women, employment and wages	
Machinery—	
Contracts by combination for exclusive control, discussed....	Graham, 852;
Reid, 875; Griffiths, 888-890; Taylor, 939	

American Tin Plate Company—Continued.

	Page.
Machinery—Continued.	
No monopoly of tinning machinery	Taylor, 935
Recent patents on tinning machinery	Taylor, 936
Moore, William H., promotion by, described	Moore, 960-963
Companies promoted by	Moore, 959, 963
National Steel Company, relations with Tin Plate Company ..	Graham, 854, 863;
	Reid, 875; Griffiths, 894; Reis, 956
New Jersey, laws complied with	Graham, 857; Wheeler, 864; Reid, 865
Organization of combination (see also <i>Capitalization, Promotion</i>)—	
Certificate of incorporation and by-laws	1240-1248
Description of process	Reid, 866; Moore, 959-962
Early movements toward combination	Griffiths, 903
Plants bought outright for cash or stock	Graham, 850;
	Reid, 866; Griffiths, 887; Moore, 960
Each concern made its own bargain	Graham, 851, 860; Moore, 961
Prices paid increased by anticipated profits	Reid, 884
Plants sold for 25 per cent above cost	Griffiths, 909
Standard price, \$40,000 per mill	Griffiths, 909
Working capital, amount furnished by organizer	Reid, 885; Moore, 960
Stock, methods of allotment	Moore, 961
Mortgaging of property, restriction on	Moore, 961
Plants all free of debt	Moore, 961
Officers selected by promoter	Moore, 962
Output—	
Proportion controlled by combination	Reid, 882, 883
Number of independent plants	Graham, 858, 861
Dismantling of plants and reasons	Graham, 853; Reid, 876
Shortage of supply for cans, 1899	Going, 917
Large consumption of tin plate in United States	Reid, 882
Patents, relatively unimportant	Reid, 875
Prices—	
Statistics and general statements—	
Statistics, by months, American plate, 1888-1899	Reid, 868, 869
Movements since formation of combination	Reid, 867
Early high prices	Griffiths, 898
Brands, special, higher prices for	Griffiths, 898; Greer, 930
Reduction by establishing industry in United States	Graham, 858;
	Going, 916; Taylor, 935
Decline, former, cause of	Griffiths, 901
Changes, according to changes in tariff, etc.	Greer, 927
Sources of statistics	Graham, 859, 862; Griffiths, 908
Variations according to quality	Griffiths, 908; Greer, 930
Foreign product, increase in price	Reid, 869;
	Griffiths, 915; Taylor, 934, 938
Effect of combination—	
American Tin Plate Company practically fixes ..	Reid, 886; Taylor, 938
Increase due to increased cost	Graham, 853;
	Reid, 867, 874, 885; Taylor, 933, 934, 938
Increased demand, effect	Reid, 881; Griffiths, 914
Increase less than in other iron products	Greer, 930
Contracts for delivery at less than quoted prices	Reid, 867;
	Going, 917; Greer, 924
Increase greater than increase of costs	Griffiths, 902, 911
Profits under different prices	Griffiths, 897, 898, 903, 904; Greer, 923
Policy of American Tin Plate Company	Reid, 886; Greer, 930
Reduction not likely in immediate future	Reid, 881; Griffiths, 915
Increase can scarcely affect consumption of canned goods ..	Going, 918
Profits, reduction through increased cost of production ..	Graham, 859
Prices, rates under different	Griffiths, 897, 898, 903, 904; Greer, 923
Promoter's profits, amount of	Reid, 886; Griffiths, 911; Moore, 960-963
Working capital furnished by organizer	Reid, 885
Quality—	
Importance of good plate to can manufacturers	Going, 917, 921
Comparative of American and Welsh product	Graham, 861;
	Going, 916; Greer, 926; Taylor, 932
Decrease in amount of tin used, recent	Going, 916
Denied	Greer, 926
Combination, effect on	Going, 916; Greer, 925, 929

American Tin Plate Company—Continued.

Page.

Selling of goods, agents, etc., saving in..... Graham, 855; Reid, 877

Steel—

Prices by months, 1888-1899..... Reid, 868

Contracts with steel companies..... Griffiths, 894;

Graham, 854; Reid, 875; Reis, 947; Guthrie, 956

Stock. (See *Capitalization*.)

Stockholders, right to examine books properly guaranteed..... Graham, 857;

Reid, 865

Strikes referred to..... Reid, 876; Griffiths, 907, 908

Superintendence, personal, by owner, superiority of..... Griffiths, 899, 900;

Taylor, 941

Previous managers chiefly retained..... Reid, 877; Greer, 929

Tariff—

Amalgamated Association, influence in securing passage..... Taylor, 937

Rates, changes in..... Reid, 878

Effects of—

Beneficial in establishing industry..... Reid, 880; Taylor, 934, 935, 937

Reduction of price by American industry..... Graham, 858; Reid, 878

Early effect of McKinley Act..... Reid, 878; Taylor, 935

Large proportion of tin plate used in United States..... Reid, 882

Quality, comparative, American and Welsh..... Graham, 861;

Going, 916; Greer, 926; Taylor, 932

Combination not due to..... Reid, 881; Griffiths, 912

Need of protection—

Sufficiency of present rate..... Reid, 879, 880

Importation, small amount of.. Graham, 855; Griffiths, 915; Going, 921

Exportation, small amount of..... Graham, 855

Protection still necessary..... Reid, 878, 879, 882;

Griffiths, 909, 910; Taylor, 934

Margin between foreign and domestic prices..... Reid, 878

Removal would destroy tin-plate industry..... Graham, 854

Removal of protection, effects of..... Taylor, 939

Wages, Wales, compared with United States... Graham, 860; Reid, 880

Combinations in British tin trade..... Taylor, 940

Taylor, N. A., relation to American Tin Plate Company.... Taylor, 931, 933, 940

Tin—

Prices, variations, 1888-1899..... Reid, 868

Increase in price and causes..... Graham, 859; Taylor, 941

Sources of supply..... Graham, 859; Taylor, 940

Wages—

Fixed by annual agreement with Amalgamated Association..... Reid, 869

Sliding scale system, described..... Reid, 869

Amalgamated Association scales, 1897-1900..... Reid, 870-874

Output of workmen, limit of..... Reid, 871-873

Increase since formation of combination..... Graham, 853;

Reid, 869-874; Griffiths, 903

Earnings of different classes of labor..... Reid, 879

Tinnern, little skill required..... Reid, 879

Dipping establishment, conditions in..... Taylor, 932

Wages, compared with United States..... Graham, 860; Reid, 880

Antitrust laws (see also *Legislation*):

Desirability of definite application to conditions..... Allen, 1193, 1204

Existing statutes—

Sufficient..... Dos Passos, 1154, 1155

General character and effects.. Havemeyer, 105, 106, 114, 122; Monnett, 329

Ineffectiveness and evasion..... Dowe, 26; Clarke, 187

Illinois, interpretation and effect of act..... McNulta, 217; Pam, 1038

Missouri, act and its interpretation..... Allen, 1186, 1201, 1204

Not likely to interfere with business of corporations..... Moore, 966

Ohio laws, referred to..... Monnett, 329

Interference by, deprecated..... Smith, 69

State can not confiscate property..... Pam, 1038

"Strikes" in antitrust bills..... Thurber, 15, 16; Dos Passos, 1175

United States act—

Court interpretations, discussed..... Allen, 1185, 1188; Huffcutt, 1214, 1215

Railways, application to..... Dos Passos, 1158

Working beneficial to some extent..... Lee, 296

1272 THE INDUSTRIAL COMMISSION;—INDUSTRIAL COMBINATIONS.

Antitrust laws—Continued.

United States act—Continued.

	Page.
Sufficient protection when properly enforced.....	Rice, 728-730
Failure of Attorney-General to enforce.....	Rice, 728, 730

Arbuckle Brothers (see also *Sugar combinations*):

Competition with American Sugar Refining Company.....	Jarvie, 138-147
---	-----------------

Attorney-General:

Failure to enforce Sherman antitrust act.....	Rice, 728, 730
---	----------------

Baking-powder combination:

Commercial travelers, displacement by.....	Dowe, 29, 32
Monopoly of, due to advertising.....	Smith, 70
Rebate system.....	Smith, 59, 66

Barbed wire:

Control of output, prices, etc.....	Gates, 1009, 1033
-------------------------------------	-------------------

Beef combination:

Railway discriminations in favor of.....	Lockwood, 399, 400
--	--------------------

Beer:

Tax, increase advocated.....	McNulta, 225, 226
------------------------------	-------------------

Beet sugar: (See *Sugar combination*.)

Bicycles:

Commercial travelers, displacement by combination.....	Dowe, 29
--	----------

Bonds:

Advantages of corporate bond system.....	Dos Passos, 1148, 1149
--	------------------------

Brands:

Importance and value of, silver.....	Dodd, 1054, 1055, 1057, 1059
Sugar.....	Havemeyer, 111, 116
Whisky.....	Bradley, 829, 845

Brass ware:

Prices increased through combination.....	Dowe, 28
---	----------

Brewery trust:

Cleveland and Sandusky Brewing Company.....	Monnett, 328
Ohio, suit brought against.....	Monnett, 314

By-products:

Whisky.....	Clarke, 168; Luyties, 258
Oils. (See <i>Standard Oil combination</i> .)	

Canada (see also *Standard Oil combination*):

Combinations, few and strongly opposed by people.....	Gall, 685, 686
Reciprocity treaty, lobbying by lumber interests.....	Thurber, 15
Tariff, proposal to remove on all monopolistic articles.....	Gall, 686

Cans and canned goods:

Conditions of manufacture and labor.....	Going, 918-922
Effect of tin-plate combination.....	Going, 917, 918, 921
Relation of tin-plate industry to.....	Going, 917, 921

Capital, aggregation of (see also *Combinations, Corporations, Monopoly*):

Effects discussed generally.....	Dos Passos, 1142-1144
Not injurious in itself.....	Allen, 1179
Historical development of modern methods.....	Dos Passos, 1146, 1147
Individual compared with corporate ownership.....	Dos Passos, 1143
Limit of safe aggregation, impossibility of fixing.....	Dos Passos, 1143
Pernicious only when accompanied by monopoly.....	Dos Passos, 1144
Purposes of, impossibility of discriminating between.....	Dos Passos, 1143
Corporate stocks, held by small investors.....	Dos Passos, 1164, 1165
Wealth, importance of incentive to accumulate.....	Dos Passos, 1165

Capitalization:

Amount and value of plants—

American Steel and Wire Company.....	Gates, 1020-1022, 1032
American Steel Hoop Company.....	Guthrie, 953
American Tin Plate Company.....	Graham, 850, 851, 860, 861; Reid, 866, 884; Griffiths, 911; Moore, 960-963
Federal Steel Company.....	Gary, 986, 992, 993
Glucose Sugar Refining Company.....	Mas, 81
National Steel Company.....	Reis, 943-945, 949
National Shear Company.....	Wiss, 1041-1044, 1047
Standard Oil Company. (See <i>Standard Oil combination</i> .)	
Sugar combination.....	Doscher, 94, 100, 101; Havemeyer, 110, 111, 117, 123; Post, 152, 160

Whisky. (See *Whisky combinations*.)

Capitalization—Continued.

	Page.
Classes of stock.....	Dill, 1084
Preferred stock not allowed in Massachusetts.....	Myers, 1129
Common and preferred stock, relative quantities of.....	Monnett, 328
Delaware, laws regulating.....	Smith, 1121, 1122
Earnings, should be based on	Thurber, 6, 21; Havemeyer, 118; Gates, 1021
Good will, importance and justification of capitalizing.....	Havemeyer, 110, 111, 118; Rogers, 586; Moore, 962; Gates, 1021, 1022; Dill, 1084; Dos Passos, 1170
Good will, significance of term discussed.....	Dodd, 1054, 1055, 1059
Mortgages, advantages of corporate bond system.....	Dos Passos, 1148, 1149
Massachusetts, laws concerning.....	Myers, 1127-1138
New Jersey, provisions concerning payment, etc.....	Dill, 1080, 1082
Overcapitalization (see also <i>Amount</i>)—	
Instances of.....	Dill, 1080; Ryan, 1101
Common stock does not represent actual cost.....	Thurber, 17
Few large corporations overcapitalized.....	Dos Passos, 1166
Bonus of common stock, significance of.....	Dos Passos, 1170
Difficulty of estimating.....	Thurber, 6, 21; Dos Passos, 1149
Large capital intended to secure wide distribution of stock.....	Stetson, 976
No intention to make nominal capital represent value.....	Stetson, 976
Fairness of earning dividends on.....	Havemeyer, 118
Reasons for surplus value of stock.....	Moore, 967
Evils generally condemned.....	Dowe, 25, 31
Fraudulent purposes.....	McNulta, 237; Dill, 1080; Myers, 1133
Chief incentive to combination.....	Myers, 1133
Concealment of earnings by.....	Thurber, 7
Charges, excessive, fostered by.....	Lee, 295; Myers, 1135
Increase in view of anticipated profits.....	Dos Passos, 1170
Investors, injury to.....	Thurber, 19; Smith, 69
Massachusetts, agitation concerning.....	Myers, 1128, 1129
Paying in of stock—	
Limit and provision for paying, Delaware.....	Smith, 1121, 1122
New Jersey.....	Dill, 1080, 1082
West Virginia.....	Nevins, 1114-1116
Misrepresentation and concealment as to.....	Dill, 1080, 1082
Stock must be paid in in full, Massachusetts.....	Myers, 1128, 1129
Property and services—	
Law as to taking for stock, New Jersey.....	Stetson, 975
West Virginia.....	Nevins, 1116
Delaware.....	Smith, 1121
Public statement of stock issued for.....	King, 1110; Dos Passos, 1166, 1167
Stockholders liable for fraud in taking.....	Dill, 1081
Provisions concerning taking, etc., England.....	Dill, 1082, 1083
Evil of issuing stock for.....	Dill, 1080, 1081
Remedies and regulation—	
Advantages to the people of strict regulation.....	Myers, 1134
Regulation advocated.....	Clarke, 191
Restriction in proportion to earning capacity advocated.....	Thurber, 21
Remedies itself by failure to earn dividends.....	Rogers, 585, 587; Dos Passos, 1166
Investors should bear their own risks.....	Havemeyer, 123; Rogers, 586; Stetson, 975, 976; Myers, 1135, 1137
Difficulty of harmonious State action.....	Myers, 1138
Issue of stock, control of, advocated.....	Dos Passos, 1157
Issue of stock without nominal value advocated.....	Stetson, 976
Issue of stock controlled by State officers, Massachusetts.....	Myers, 1130
Issue of new stock at market value, Massachusetts.....	Myers, 1132
Limitation to \$1,000,000 advocated.....	Lee, 294, 295
Massachusetts, laws for preventing overcapitalization.....	Myers, 1129-1133
Companies overcapitalized as much as others.....	Moore, 966
Trusts, evasion of law by.....	Myers, 1121
Prospectuses, liability for statements in, England.....	Dill, 1082
Tax on organization, pro rata, tendency to check.....	Thurber, 21
West Virginia, laws regulating.....	Nevins, 1114-1116
Carnegie Steel Company:	
Referred to.....	Griffiths, 894; Gates, 1023, 1027

1274 THE INDUSTRIAL COMMISSION;—INDUSTRIAL COMBINATIONS.

Causes of combination :

	Page.
Competition, excessive—	
General statement	Smith, 71
American Steel and Wire Company	Gates, 1033
American Tin Plate Company	854, 866, 867, 897-906, 925, 928, 941
International Silver Company	Dodd, 1051; Rogers, 1067
National Shear Company	Wiss, 1044-1046
Sugar combination	Smith, 71; Havemeyer, 109, 123; Post, 165; Atkins, 811
Weak competitors, effect on industry	Griffiths, 901
Whisky combination	Luyties, 255; Bradley, 828
Evolution, natural and necessary	Thurber, 3, 10; Archbold, 565; Dos Passos, 1144-1148, 1152
Overcapitalization as incentive to combination	Myers, 1133
Railway discrimination the chief cause	Lockwood, 390; Emery, 643; Rice, 688; Allen, 1190, 1191
Survival of the fittest	Havemeyer, 135
Tariff, excessive protection by	Havemeyer, 101, 102, 113, 118, 133, 137
American Tin Plate Company, not caused by	Reid, 881; Griffiths, 912
Federal Steel Company	Gary, 999
National Shear Company	Wiss, 1046

Chair trust :

Prices, increase through combination	Dowe, 28
--	----------

Charters :

Monopolies granted by special	Dos Passos, 1145
Withholding from trusts, advocated	Dowe, 35; Monnett, 310; Rice, 730

Chicago trust conference:

Conclusions referred to	Dos Passos, 1157, 1158
-------------------------------	------------------------

Clocks:

Prices, increase through combination	Dowe, 28
--	----------

Coal:

Combinations, tendency to depress price	Lee, 278
Combinations of railways controlling	Allen, 1191
Railways, special rates to certain companies	Lockwood, 396

Coffee:

American Sugar Refining Company, competition, prices, etc	Thurber, 6, 22; Havemeyer, 113, 114, 126; Jarvie, 140
Varying qualities, profits due to	Smith, 67

Closing of plants:

American Tin Plate Company	Graham, 853; Reid, 876; Griffiths, 899, 904-907; Greer, 924-927
Sugar combination	Thurber, 5; Doscher, 99; Havemeyer, 110, 124
Whisky combination	Clarke, 170, 191; McNulta, 203

Combinations (see also *Anti-trust laws, Economies, Effects, Monopolies, etc.*):

Acquisition of stocks more common than of properties	Stetson, 970
Laws against, ineffective, early English	Dos Passos, 1152, 1153
Monopolistic intent must be shown to render illegal	Allen, 1200-1202, 1205
Number and importance of recent	Allen, 1189
Power to extend into other fields	Allen, 1191-1193
Railways, interest in	Rice, 743; Allen, 1191
Standard Oil Company, influence in forming other trusts	Rice, 688
Syndicates in Germany	Gates, 1017, 1018
Universality of tendency	Thurber, 8-10

Combs:

Prices, increase through combination	Dowe, 28
--	----------

Commercial travelers (see also *Selling*):

Associations, nature and membership	Dowe, 31, 40, 41
Displacement by combinations	Dowe, 28-33
Losses through	Dowe, 27, 28
Often works permanent injury	Dowe, 33
Opposition to trusts by	Dowe, 25, 33
Saving to combinations by displacement	Dowe, 33, 37
Travelers' Protective Association, resolutions concerning trusts	Dowe, 26, 39
Unnecessary under combination	Dowe, 36

Commercial Travelers' League:

Organization, membership, purposes	Dowe, 31, 40, 41
--	------------------

Common law:

Liability of promoters and officers for false statements	Dos Passos, 1163, 1176, 1177
--	------------------------------

Common law—Continued.**Monopoly—**

	Page.
Affords sufficient remedies for.....	Dos Passos, 1155, 1156
Statutes desirable to supplement.....	Allen, 1193, 1204
Early decisions against.....	Allen, 1183
Decisions of courts under, United States.....	Allen, 1184-1187
Attitude toward.....	McNulta, 217; Monnett, 313, 314
Partial restraint of trade against.....	Dos Passos, 1173
Illegality of restraint of trade.....	Gary, 1000
Publicity, sufficient protection under.....	Dos Passos, 1163, 1166, 1176

Competition:**Methods and policy of combinations—**

Advantages of great aggregations in competing..	Smith, 71; Havemeyer, 109
American Steel and Wire Company..	Gates, 1010-1015, 1022-1024, 1031, 1033
Business principles only should govern.....	Havemeyer, 120
Competing manufacturers and dealers driven out.....	Thurber, 13
Can crush competitors by cutting prices.....	Rice, 730
Destruction of, sought by trusts.....	Dowe, 35
Local markets, underselling in.....	Dowe, 37
Purpose of combination to reduce.....	Dodd, 1055; Rogers, 1067
Sugar combination.....	Doscher, 88, 89; Havemeyer, 107-109, 120
Tin plate combination.....	852, 875, 888-896, 924, 928, 936, 939

Possibility of, against combinations—

Where conditions are equal.....	Dowe, 37, 38; Lockwood, 392
Small traders have certain advantages.....	Clarke, 189

Remedy for combinations—

Abuses restrained or prevented by.....	Thurber, 6, 14; Smith, 68, 70; Clarke, 187; McNulta, 217, 237; Monnett, 329; Stetson, 980; Gary, 1001; Dos Passos, 1151
Impossibility of establishing where large capital required.....	McNulta, 237, 238
Increase of large scale competition likely.....	Clarke, 189
Cost of production must be made low to prevent.....	McNulta, 217, 237
Prices, necessity of low, to check.....	Havemeyer, 105

Unfair—

Should be prohibited.....	Lee, 294; Westgate, 383; Lockwood, 394; Emery, 671
Germany, prohibition in.....	Lee, 273, 276; Archbold, 532; Emery, 616, 617, 623

Congress (see, also, *National laws*):

Corporations, power to regulate, discussed.....	Stetson, 981; Dill, 1087, 1088; Gary, 1000, 1003; Allen, 1209; Huffcut, 1211-1219
Absence of power except as to interstate business.....	Huffcut, 1213
Charters, power to issue special.....	Pam, 1037

Interstate commerce—

Powers concerning, discussed.....	Gary, 1000, 1002, 1003; Myers, 1138; Dos Passos, 1160, 1173, 1174; Allen, 1195-1197, 1202, 1203, 1210; Huffcut, 1211-1219
Power limited to.....	Gary, 1000, 1002
Power to prohibit State corporations from engaging in..	Huffcut, 1218, 1219
Legislation by, deprecated.....	Dos Passos, 1159-1161
Mails, prohibition of use to combinations.....	Huffcut, 1217
Powers of, discussed.....	Stetson, 981; Dill, 1087, 1088; Dos Passos, 1159-1161, 1173, 1174; Huffcut, 1211-1219
Constitutional amendment to increase, discussed.....	Gary, 1002
Taxation, power to control corporations by.....	Huffcut, 1217, 1218

Corn:

Price, effect of whisky combination on.....	Thurber, 12; McNulta, 239
Relation to distilling business.....	McNulta, 225-229; Rice, 846
Glucose and other products from, discussed.....	Mas, 73-83

Corn flour:

Character and value, mixture with wheat flour.....	Mas, 73, 77, 79, 83
--	---------------------

Corn oil:

Adulteration and deception in sale.....	Mas, 73, 74, 79, 80
Price, increase through combination.....	Mas, 79, 80
Refining, discovery of process.....	Mas, 74, 75
Substitutes for rubber made from.....	Mas, 74, 77, 78, 80

1276 THE INDUSTRIAL COMMISSION:—INDUSTRIAL COMBINATIONS.

Corporation laws (see also <i>Legislation, National laws, Reports, Stock, etc.</i>):	Page.
Classification and limitation of powers, advocated	Allen, 1193
Delaware, described	Smith, 1119-1123
England, liberality and advantages of	Moore, 964, 966
Fraudulent incorporations, impossibility of preventing	Stetson, 975
Liberality, probable increase in various States	Moore, 964, 966
Necessity of	Pam, 1036
Absolute freedom of agreement, advocated	Stetson, 972, 973
Massachusetts, described	Myers, 1128
Corporations driven out of State by strict	Myers, 1133
New Jersey. (See <i>New Jersey</i> .)	
West Virginia, described	Nevins, 1111-1119
Uniformity, lack of, evils	Archbold, 565; Allen, 1209; Huffcut, 1215
Corporation Trust Company of Delaware:	
Methods of business, described	Sawyer, 1125-1127
Corporation Trust Company of New Jersey:	
Methods of business, described	Wood, 1089, 1094; Marwick, 1096, 1097
Corporation Trust Company of West Virginia:	
Methods of business, described	Nevins, 1114
Corporations:	
Advantages of corporate form of organization	Havemeyer, 105; Stetson, 980, 982; Dos Passos, 1148, 1149
Advantages to States in which located	Havemeyer, 103
Broad extent of modern corporate functions	Pam, 1036
Competition, advantages in	Dos Passos, 1172; Allen, 1189
Corporate form may itself constitute danger	Allen, 1189
Foreign—	
Powers of States concerning	Monnett, 330; Pam, 1035, 1036; Dill, 1085; Allen, 1187, 1188; Huffcut, 1211-1214
Exclusion unless conforming to State laws, discussed	Dos Passos, 1173, 1174; Allen, 1193, 1195, 1207
Prohibition of interstate commerce to monopolistic	Allen, 1194, 1196
Historical development of form of organization	Dos Passos, 1147
Hostility to, illogical and harmful	Havemeyer, 105
Monopolistic, prohibition of incorporation of, advocated	Allen, 1194
Monopolies granted by special charter	Dos Passos, 1145
Quasi-public character, how far applicable	Allen, 1200, 1201
Rights of—	
Not entitled to privileges of individuals	Allen, 1187
Right of State to control as its creatures	Dos Passos, 1171, 1172; Allen, 1189
Right of State to investigate corporate affairs	Dos Passos, 1162-1164, 1168, 1174; Allen, 1194
State lines disregarded by economic conditions	Pam, 1036
Tramp, definition and evil	Dill, 1077
Taxation. (See <i>Taxation</i> .)	
Cost of production. (See <i>Economies of Combination</i> .)	
Cotton spinning:	
Combination in Great Britain	Thurber, 9
Courts (see also <i>Standard Oil Company, under heading Suits</i>):	
Tendency to favor combinations	Lockwood, 389; Rice, 728, 736
Charges of favoritism unjustifiable	Archbold, 553
Decisions relating to monopolies summarized	Allen, 1184-1187
Leading decisions referred to—	
Addyston Pipe case	Dos Passos, 1175; Allen, 1188, 1196; Huffcut, 1214
Distilling and Cattle Feeding Company case	McNulta, 216
In re Rahrer	Allen, 1195
Knight, United States v.	Allen, 1185; Huffcut, 1214
Leisy v. Hardin	Allen, 1195
Munn v. Illinois	Allen, 1184, 1200
McCulloch v. Maryland	Allen, 1196
National Lead Company v. Grote	Allen, 1186
Original Package cases	Allen, 1195, 1196; Huffcut, 1212, 1215
State v. Standard Oil Trust	Allen, 1185
Cracker trust:	
Referred to	Monnett, 323, 329
Delaware:	
Agents of corporations, methods of doing business	Sawyer, 1125-1127

Delaware—Continued.**Annual reports—**

	Page.
Requirements concerning.....	Smith, 1121, 1122
Compliance with law.....	Sawyer, 1128
Capital, limit and provisions as to paying.....	Smith, 1121, 1122
Corporation law, described.....	Smith, 1119-1123
Reasons for passage of.....	Smith, 1120, 1123
Stock and transfer books, provisions concerning.....	Dill, 1079; Smith, 1120
Methods of keeping.....	Sawyer, 1125-1127
Taxation of corporations.....	Smith, 1122

Delaware Corporation Trust Company:

Methods of business described.....	Sawyer, 1125-1127
------------------------------------	-------------------

Department stores:

Great Britain, extensive development.....	Thurber, 9
---	------------

Depressions, industrial:

Productive capacity, excess of, chief cause.....	Thurber, 20
1893, railway losses, chief cause.....	Smith, 68

Diamond Match Company:

Organization, referred to.....	Moore, 959
Reduction of prices by.....	Moore, 965

Directors:

Duty toward stockholders limited by terms of trust.....	Stetson, 973
Number, increase by directors, justification.....	Stetson, 972
Powers, whatever agreed by stockholders, just.....	Stetson, 971, 972
Usually hold majority of stock of corporation.....	Stetson, 973
Usually faithful to interests of corporation.....	Stetson, 973, 974

Distilling Company of America. (See *Whisky combinations*.)**Distilling and Cattle Feeding Company.** (See *Whisky combinations*.)**Distillers and Cattle Feeders' Trust.** (See *Whisky combinations*.)**Economies of combinations:**

General statement.....	Buynitsky, 50; Smith, 68, 71, 72; Havemeyer, 105;
Archbold, 570; Rockefeller, 796; Gary, 1001; Dos Passos, 1151, 1152	
American Steel Hoop Company.....	Guthrie, 953, 954
American Steel and Wire Company.....	Gates, 1028, 1030, 1034
National Shear Company.....	Wiss, 1045
National Steel Company.....	Reis, 947
Sugar combination.....	5, 91, 99, 109, 110, 124, 151, 158, 811, 812
Tin-plate combination.....	Graham, 855; Reid, 888; Greer, 929
Whisky combination.....	Clarke, 183, 184, 186;
McNulta, 238; Luyties, 255; Bradley, 827	
Administration, saving in salaries, etc.....	37, 203, 953, 983, 991, 1029, 1049, 1069
Advertising, reduction in cost of.....	829, 1070
Buying, saving in... 12, 23, 107, 153, 184, 201, 829, 877, 913, 914, 984, 994, 1063, 1073	
Closing of plants.....	5, 99, 109, 110, 124, 169, 170, 203, 216, 1050
Continuous working at full capacity.....	99, 109, 110, 151, 162, 170, 191, 203, 254
Debts, bad, reduction in.....	1030
Freights, shipment from nearest plant.....	201,
254, 770, 855, 856, 877, 886, 942, 947, 953, 1030	
Labor, saving in.....	110, 190, 191, 860, 876, 899
Large capital, economy of generally.....	570, 1049
Large plants, advantage of.....	91, 109, 110, 151, 184, 203, 254, 294, 295, 855, 915
Location of plants (see also <i>Transportation</i>).....	170, 191, 201-203, 238
Management, superior ability in.....	110, 255, 957, 985
Personal, by owner, superiority of.....	899, 900, 941
Previous managers chiefly retained.....	877, 929, 954, 1034
Reduction of amount of superintendence.....	203
Patents.....	861, 1030
Processes, improvement in.....	186, 187, 202-205, 826, 855, 860, 984, 985
Raw materials, purchase of.....	12, 23,
107, 153, 184, 201, 829, 913, 947, 984, 994, 1063, 1073	
Selling of goods, traveling men, etc.....	33, 37,
829, 855, 877, 895, 953, 1018, 1030, 1050, 1063, 1068	
Specialization of manufacture at particular plants.....	877, 953
Trade-marks, common use of.....	1050, 1063, 1065
Transportation, saving in.....	201, 254, 770, 855, 856, 886, 942, 947, 953, 1030
Union of different branches of industry.....	947, 983, 984, 994

1278 THE INDUSTRIAL COMMISSION:—INDUSTRIAL COMBINATIONS.

Effects of combination (see also <i>Economies, Labor, Prices, etc.</i>):	Page.
Banking business, transfer to large cities.....	Clarke, 190
Beneficial, generally Thurber, 18; Smith, 68; Havemeyer, 134; Clarke, 186; Archbold, 565; Gary, 1001; Dos Passos, 1152	
Chicago trust conference, conclusions concerning.....	Dos Passos, 1157
Government, form of, influence of trusts discussed.....	Monnett, 326, 327
Danger of revolution.....	Rice, 746
Menace to democratic.....	McNulta, 240
Individuals injured, public benefited.....	Dos Passos, 1156
Individual character and enterprise 7, 8, 18, 25, 34, 135, 181, 190, 295, 911, 967	
Injurious effects, purely incidental.....	Dos Passos, 1158
Injurious and demoralizing, generally.....	Dowe, 25, 34-38; Griffiths, 910
Injury, possibility of, to general public.....	Smith, 49, 50
Injurious and dangerous where prices are controlled.....	McNulta, 237
Legislative and judicial corruption by combinations.....	Lockwood, 393; Emery, 671; Dos Passos, 1159
Privileged classes created.....	Rice, 741, 746
Small towns, transfer of business from.....	Clarke, 190
Socialism, tendency to foster.....	Dowe, 34, 36
Wealth, immense aggregation by.....	Rice, 742, 746
Subdivision of capital among stockholders.....	Thurber, 7, 18, 24; Dos Passos, 1164
Elections:	
Corporations should not influence.....	Gary, 997
Elevator combination:	
Combination of farmers, advocated.....	Havemeyer, 122
Railway discriminations in favor of.....	Havemeyer, 121; Lockwood, 400
Employment. (See <i>Labor</i> .)	
England:	
Combinations, tendency toward.....	Thurber, 9
Corporation laws, liberality and advantages.....	Moore, 964, 966
Provisions as to publicity, capital, etc.....	Dill, 1082, 1083
Monopoly, early decisions against.....	Allen, 1183
Trade unions, agreements with trust employers.....	Thurber, 9
Export trade:	
Agricultural products; prices, fixed by.....	Thurber, 11
Combinations, extension by means of.....	Clarke, 184; Archbold, 562; Guthrie, 956; Gates, 1016
Education of wants for American products.....	Thurber, 11, 12
Extension necessary.....	Thurber, 10, 11
Manufactures, greater profits than on agricultural products.....	Thurber, 11
Merchant marine, necessity of development.....	Thurber, 10, 11
Silverware.....	Rogers, 1074
Steel products, conditions in.... Guthrie, 956; Gary, 998, 1001; Gates, 1014-1018	
Subsidies to American vessels, advocated.....	Gates, 1016
Subsidies granted to foreign shipping.....	Gates, 1017
Tin plate.....	Graham, 855; Taylor, 934
Whisky, obstruction by Government regulation.....	McNulta, 227-235; Bradley, 824, 828; Rice, 846, 848
Farmers:	
Effect of trusts on, as producers of raw materials.....	Thurber, 22
Federal Steel Company (<i>chief witness, GARY</i>):	
Administration, advantages and economy in.....	983, 985, 991
Bonded debt of constituent companies.....	992, 993
Business, description of.....	982
Capitalization—	
Stock, authorized and issued.....	Stetson, 969; Gary, 986
Value of plants, estimated.....	986, 987
Mining lands, increase in value.....	987
Stock, additional issues must be at par.....	993
Bonded debt of constituent companies.....	992, 993
Coke, amount and proportion purchased by combination.....	985
Competition, no attempt to prevent.....	985, 986, 989
Directors—	
Authorized to increase their own number.....	Stetson, 972
Number, and ownership of stock by.....	994
Purchase of stocks by, discussed.....	987
Relation to constituent companies.....	994

Federal Steel Company—Continued.

	Page.
Dividends, payment on common stock enjoined	993, 994
Payment on preferred stock	993, 994
Sources of profit	994, 995
Economies—	
Diffusion of knowledge of different managers	985
Harmony between different branches of industry	983, 984, 994
Officers, reduction of number and salaries	983, 991
Processes, employment of best from different plants	984, 985
Export trade, amount and character of	998, 1001
Reasons for keeping up	1001
Elgin, Joliet and Eastern Railroad Company, exchange of stocks, etc.	986, 992
Illinois Steel Company, exchange of stocks, etc.	986, 988, 992
Properties owned by	982, 987
Iron, pig, production, amount and proportion by combination	982, 985
Ore, increased cost	990
Labor—	
Amalgamated Association, relations to	983
No political influence exercised upon	997
Number and wages of laborers increased	983, 991
Mines, ownership and value of	982, 987
Minnesota Iron Company, description of properties	982, 987
Purchase of stock, arrangements for	986, 988, 992
Monopoly, not sought by Federal Steel Company	983, 985, 989
Organization—	
History and methods	Stetson, 969, 970
Morgan, J. P. & Co., contract with	Stetson, 970; Gary, 986-989
Ownership of stocks of constituent companies	1003
Profits from promotion	986
Promotion, publicity of	987
Exchange of stocks, arrangements for	986-989
Certificate of incorporation and by-laws	1231-1239
Constituent companies, reasons for not merging	995
Control by election of directors	988
Relation between	984, 988
New Jersey, reasons for incorporating in	Stetson, 970; Gary, 996
Output, no attempt to monopolize	985
Proportion of different classes controlled	985
Politics, no influence exercised in	997
Prices—	
Increase in, of different products of combination	990
Ore, increase in	990
Profits, sources of	994, 995
Properties, description of	982, 987
Rails, steel, increase in price not greater than in raw materials	990
Proportion produced by Federal Steel Company	985
Railways, ownership of	982, 987
Speculation, directors not interested in	997
Suit to restrain payment of dividends intended for	997
Stock, corporation authorized to purchase its own	Stetson, 971, 972
Amount authorized and issued	Stetson, 969; Gary, 986
Additional issues must be at par	993
Tariff—	
Protection needed despite exports	997, 998
Germany, methods and labor in	998
Trust, Federal Steel Company is not a	994
Vessels, ownership by Federal Steel Company	982, 984
Wages, average daily, 1898, 1899	983, 991

Flour: Savings, production on large scale

Smith, 72

Foreign corporations:

Powers of States to regulate	Pam, 1035, 1036
As regards interstate commerce	Allen, 1187, 1188;
Huffcut, 1211-1214; Pam, 1035; Monnett, 330; Nevins, 1117	
Exclusion unless conforming to State laws, advocated	Allen, 1193, 1195, 1207
Discussed	Dos Passos, 1173, 1174
Overcapitalization, prevention of evasion of law, Massachusetts	Myers, 1131
Prohibition of interstate commerce to monopolistic, advocated	Allen, 1194, 1196
Retaliatory laws, justification of	Dill, 1065

Freights. (See also *Railways*):

Saving in by combination—		Page.
American Steel Hoop Company.....	Guthrie, 953	
American Steel and Wire Company	Gates, 1030	
American Tin Plate Company.....	Graham, 855;	
	Reid, 877, 886; Griffiths, 913; Taylor, 942	
National Steel Company.....	Reis, 947	
Sugar combination	Havemeyer, 110	
Whisky combination.....	McNulta, 201; Luyties, 254	

Gas:

New York, bills for reduction of price	Thurber, 16
New York City, combinations in.....	Allen, 1191-1193

Germany:

Combinations, supervision of government	Gates, 1018
Tendency toward	Thurber, 8; Gates, 1017, 1018
Iron and steel production, conditions of.....	Gates, 1014-1018
Competition, excessive, prohibited	Lee, 273, 276;
	Emery, 616, 617, 623; Archbold, 532
Protection of investors and taxpayers.....	Luyties, 257
Sugar, bounty on.....	Smith, 52

Glass:

Prices, increase by combination.....	Dowe, 28
--------------------------------------	----------

Glasgow:

Combination, tendency toward.....	Thurber, 8
-----------------------------------	------------

Glucose sugar:

Beer, use of, in manufacture	Mas, 83
Corn, products derived from, described.....	Mas, 73-81
Extensive use in sirups	Havemeyer, 114
Inferior quality	Mas, 82
Processes secret but not patented.....	Mas, 83
Prices of glucose and by-products.....	Mas, 78-80

Glucose Sugar Refining Company:

American Sugar Refining Company, relation to ...	Mas, 81, 82; Havemeyer, 114
Monopoly, extent of.....	Mas, 78, 84
Prices, effect on.....	Mas, 79, 80
Capitalization, excessive.....	Mas, 81
Contract with Ernest Mas as engineer.....	Mas, 75-78, 86
Formation of trust, referred to.....	Mas, 75, 86

Good will:

Value and capitalization of	110, 118,
	586, 851, 864, 884, 962, 1021, 1022, 1054, 1055, 1059, 1084, 1170

Government ownership (see also *Railways*):

Local monopolies, advocated.....	Monnett, 327; Myers, 1136
Civil service, injurious effect on	Monnett, 327

Great Britain. (See *England*.)**Grocers, wholesale** (see also *Rebate System*):

Competition, reduction of prices to unprofitable basis.....	Smith, 59-61, 65
Sugar Refining Company, relation to.....	Thurber, 13, 14

Grocers' Wholesale Association:

Organization and purposes.....	Smith, 55
Rebate system, movement to secure generally	Smith, 59-65

Hawaiian Islands:

Sugar, production, tariff, etc	-Buynitsky, 54; Havemeyer, 102, 136;
	Atkins, 801, 802, 810

Hotels:

Loss from displacement of commercial travelers by combination...	Dowe, 27, 32
--	--------------

Illinois:

Antitrust law and its interpretation.....	McNulta, 217; Pam, 1038
Taxation of corporation	Pam, 1036

Illinois Steel Company:

Property, relation to Federal Steel Company, etc.....	Gary, 982, 986-988, 992
---	-------------------------

Individual enterprise, effect of combinations:

Discouragement of.....	Lee, 295; Griffiths, 911
Efficient managers of plants retained	Guthrie, 954;
	Moore, 967; Reid, 877; Greer, 929; Gates, 1034

"Individualism," lessening of

Opportunity for advancement in official positions

Middlemen and small manufacturers, displacement.....

Dowe, 34,
Thurber, 7, 8, 18
Dowe, 25, 34, 80

Individual enterprise, effect of combinations—Continued.	Page.
Older men, desire to retire.....	Guthrie, 954; Moore, 967
Proprietors, displacement or reduction to salaried employees....	Clarke, 181, 190
Production by individuals is sure to cease.....	Havemeyer, 135
Insurance companies:	
Ohio, suits against combinations.....	Monnett, 297
International Paper Company:	
Organization, referred to.....	Stetson, 970
International Silver Company:	
Brands, Rogers, history of.....	Rogers, 1069, 1070
Importance and value of.....	Dodd, 1054, 1055, 1057, 1059
Capitalization—	
Bonds, amount issued.....	Dodd, 1053
Plants, cash value of, estimated.....	Dodd, 1055, 1057
Plants, method of paying for.....	Dodd, 1058, 1061
Stock, authorized and issued.....	Dodd, 1053; Watrous, 1063
Common, as bonus.....	Rogers, 1073
Common, decrease in value.....	Dodd, 1061
Common, pool of, described.....	Dodd, 1058, 1060, 1061; Rogers, 1070
Value of, anticipated.....	Rogers, 1068, 1073
Trade-marks and brands, value of.....	Dodd, 1054, 1055, 1057, 1059
Causes of combination, excessive competition.....	Dodd, 1051; Rogers, 1067
Competition—	
Number and importance of competitors.....	Dodd, 1054
Purpose of combination to reduce.....	Dodd, 1055; Rogers, 1067
Strength of, by International Silver Company.....	Rogers, 1072
Reduction of, through combination.....	Dodd, 1059; Watrous, 1063
Labor, interest of, in suppressing price cutting.....	Dodd, 1056
Speculative influence, danger of.....	Rogers, 1074, 1075
Profits of competitors, increased by increased demand.....	Rogers, 1071
C. Rogers & Bros., relation to combination.....	Rogers, 1067, 1069, 1070, 1072
Cost of production, increase since combination, causes.....	Dodd, 1052
Dividends, none paid, reasons.....	Dodd, 1061; Rogers, 1065
Economies—	
Capital required for advantageous production.....	Dodd, 1049
Combination of plants under single roof.....	Dodd, 1050
Advertising, reduction in cost of.....	Rogers, 1070
Administration, saving in cost of.....	Dodd, 1049; Rogers, 1069
Buying, saving in.....	Dodd, 1050; Watrous, 1063; Rogers, 1073
Selling, saving in.....	Dodd, 1050; Watrous, 1063; Rogers, 1068
Trade-marks, common use of.....	Watrous, 1063, 1065
Export trade, amount and character of.....	Rogers, 1074
Labor—	
Character and skill of.....	Watrous, 1064
Number of men employed.....	Dodd, 1051, 1056
Employees not organized.....	Dodd, 1052
Relations of employers and employees, satisfactory.....	Dodd, 1053;
Wages.....	Dodd, 1052, 1053, 1056; Watrous, 1064, 1065; Rogers, 1072, 1074
Women, employment of.....	Watrous, 1064, 1066
Interest in suppressing price cutting.....	Dodd, 1056
Managers, method of assigning, etc.....	Watrous, 1062
Officers, salary, amount and relation to dividend.....	Dodd, 1062;
	Watrous, 1066; Rogers, 1075
Organization—	
Description of process.....	Dodd, 1051, 1053, 1054
Negotiations preceding present organization.....	Rogers, 1067, 1068
Options given to irresponsible individuals.....	Rogers, 1067
Plants, part of, left out.....	Rogers, 1066
Plants, purchase outright.....	Dodd, 1053, 1054
Promotion, payment for, amount of.....	Rogers, 1068
C. Rogers & Bros., terms of sale.....	Rogers, 1068
Output—	
Description of products.....	Dodd, 1049
Proportion controlled by combination.....	Dodd, 1049
Increase since combination.....	Dodd, 1051
Pool of common stock, described.....	Dodd, 1058, 1060, 1061; Rogers, 1070

International Silver Company—Continued.

Prices—	Page.
Decrease prior to combination.....	Dodd, 1051; Rogers, 1071
Increase since combination, amount and reason	Dodd, 1052, 1056; Rogers, 1071
Cutting by International Silver Company	Rogers, 1071, 1072
Promotion, payment for, amount of	Rogers, 1068
Quality, improvement in, since combination.....	Dodd, 1060
Rogers Bros., history of brands	Rogers, 1069, 1070
Relation to combination, business, etc.....	Rogers, 1067-1075
Speculation, danger of influence on competition.....	Rogers, 1074, 1075
Stocks, amount and classes	Dodd, 1053
Pool of, described	Dodd, 1058, 1060, 1061; Rogers, 1070
Strikes, no difficulty from	Rogers, 1072
Trade-marks, importance and value of.....	Dodd, 1054, 1055, 1057, 1059
Rogers, history of	Rogers, 1069, 1070
Wages—	
Increase since combination.....	Dodd, 1052
C. Rogers & Bros., increase by	Rogers, 1071-1073
Method of determining.....	Dodd, 1052; Watrous, 1064, 1065; Rogers, 1072, 1074
Rates of	Watrous, 1064
Wilcox Silver Plate Company, terms of sale to combination.....	Dodd, 1058, 1061
Women, employment of	Watrous, 1064, 1066
Interstate commerce:	
Corporations, power of Congress to prohibit from	Huffcut, 1218, 1219
States, power as to	Huffcut, 1211-1213
Definition—	
Meaning of constitutional clause.....	Dos Passos, 1160; Allen, 1202, 1203
Difficulty of defining	Thurber, 16, 17; Gary, 1002, 1003
Desirability of definition by Congress.....	Allen, 1203
Foreign corporations, exclusion of, discussed.....	Dos Passos, 1174; Huffcut, 1211-1213
Prohibition to trusts violating law, deprecated.....	Thurber, 20
States, delegation of powers regarding to, by Congress.....	Huffcut, 1215, 1216
Police power, extent of	Huffcut, 1212, 1215, 1216
Interstate Commerce Act:	
Ineffectiveness to prevent discriminations.....	Rice, 729, 733
Supported and approved by Standard Oil Company.....	Archbold, 516, 517, 527
Working of, discussed	Huffcut, 1214
Interstate Commerce Commission:	
Disadvantage of giving ultimate power as now organized.....	Stetson, 979
Failure to enforce law	Rice, 729, 748
Judicial character and life tenure, advocated.....	Stetson, 980
Powers, increase, discussed.....	Stetson, 979, 980
Railway discriminations, admitted to exist by.....	Allen, 1190
Regulation of combinations by.....	Lee, 296
Unreasonable rates should be summarily abolished.....	Stetson, 979
Investors, protection of (see also Capitalization, Promotion):	
Combinations largely intended to fleece	McNulta, 237; Rogers, 586; Stetson, 975, 976
Common law, liability of promoters and officers.....	Dos Passos, 1163, 1176
Existing laws sufficient for protection.....	Dos Passos, 1176, 1177
False statements to secure	Luyties, 257
Government protection, deprecated	Havemeyer, 123
Impossibility of complete protection	Myers, 1185-1137
Regulation of capitalization, discussed.....	Stetson, 976; Myers, 1188; Dos Passos, 1157
Iron and steel industries:	
Advantages of United States in manufacture	Guthrie, 955; Gates, 1011
Combinations, relations between existing	Gates, 1023, 1027
Germany, conditions and competition of	Gates, 1014-1018
Syndicates in	Gates, 1017, 1018
Proportion controlled by great combinations.....	Gates, 1023
Tariff, protection, necessity of	Reis, 947; Guthrie, 955; Gary, 997, 998; Gates, 1014-1018
Iron mines:	
Failures in Lake Superior region	Reis, 950
Ownership of, by combinations.....	Reis, 944, 949; Gary, 982, 987; Gates, 1003, 1005, 1006, 1007
Proportion controlled by great combinations.....	Gates, 1003

	Page.
Iron ore:	
Output and prices	Gates, 1025
Iron, pig:	
Control by combinations	Gary, 982, 985; Gates, 1023
Furnaces all in operation at present	Reis, 951
Output, increase	Gates, 1006
Prices, average annual	Reis, 945
Iron pipe:	
Prices, increase through combination	Dowe, 28
Kentucky Distilleries and Warehouse Company. (See <i>Whisky combinations.</i>)	
Labor (see also <i>Wages</i>):	
Capital, relations with, constantly improving	Archbold, 543
Interests identical with	Thurber, 12; Smith, 69
Effects of combination—	
Generally, referred to	Mas, 85
American Steel and Wire Company	Gates, 1011, 1012
American Tin Plate Company	Graham, 853, 858, 860; Reid, 869-876, 879; Griffiths, 903-907; Greer, 924
Commercial travelers, displacement and consequent losses	Dowe, 26-33, 36; Bradley, 829; Gates, 1030; Dodd, 1050
Dependence upon single employer, disadvantages	Dowe, 35; Havemeyer, 121; Lee, 288
Displacement by	Thurber, 24; Havemeyer, 110; Clarke, 190, 191; Lee, 290
Expert chemists and investigators, displaced	Mas, 85, 86
Foremen, number not greatly reduced	Clarke, 190
Idleness, increase of	Griffiths, 904, 905
Improvement of conditions	Smith, 69
Increased employment through combination	Smith, 68
National Steel Company	Reis, 946
Office force, effect on	Guthrie, 953; Clarke, 190; Gary, 983
Smelters' trust, dispute as to hours	Havemeyer, 121
Stability of employment, effect on	Lee, 289, 290; Griffiths, 904, 905
Strikes, possibility of closing establishments during	Dowe, 35; Havemeyer, 121; Lee, 288
Standard Oil Company. (See <i>Standard Oil Company.</i>)	
Sugar combination	Havemeyer, 110, 122, 128, 129; Post, 158, 161
Superintendents and foremen, high salaries	Lee, 290
Whisky combinations	Clarke, 185, 190, 191; McNulta, 203; Cook, 249
Interest in combinations and legislation	Dos Passos, 1171
Organizations—	
Advocated	Archbold, 542
Agreements with trust employers, Great Britain	Thurber, 9
American Steel and Wire Company, does not recognize	Gates, 1011
American Tin Plate Company, relations to	Graham, 853; Reid, 869; Griffiths, 904-907; Greer, 928
Employers prefer to have men belong to	Going, 920
Federal Steel Company, relations to	Gary, 983
International Silver Company, nonunion	Dodd, 1052; Watrous, 1064
Monopolistic character of	Thurber, 6; Allen, 1198-1200
Necessary to meet combinations of capital	Lee, 289; Allen, 1199
Rapid progress and effects	Thurber, 5, 6
Legislation (see also <i>Antitrust laws; Capitalization; Corporation laws; National laws; New Jersey; Publicity; Railways; Stockholders</i>):	
Recommendations and discussion, general	Monnett, 329; Davis, 361; Archbold, 543; Allen, 1193-1197
Capitalization, limitation of, advocated	Lee, 294, 295
Charges, regulation of, quasi-public companies	Lee, 294; Myers, 1135
Charters, withholding or forfeiture of	Dowe, 35; Monnett, 310; Rice, 730
Chicago Trust Conference, conclusions concerning	Dos Passos, 1156, 1157
Common law, sufficiency as remedy, discussed	Monnett, 313, 314; Gary, 1000; Dos Passos, 1155, 1156, 1163, 1164, 1176; Allen, 1183-1187, 1193, 1204
Competition, destructive, prohibition of	Lee, 294; Westgate, 383; Lockwood, 394
Conspiracies, treatment of trusts as	Dowe, 28, 36
Suppression of combinations, advocated	McNulta, 237, 240
Corporations, right of State to control	Dos Passos, 1171, 1172; Allen, 1189, 1194
Quasi-public character, how far applicable	Allen, 1200, 1201

Legislation—Continued.

Page.

Desirability of study by commissioners.....	Dos Passos, 1139, 1140
Desirability of definite application to conditions.....	Allen, 1183, 1204
Existing statutes and their working—	
Sufficiency of.....	Gary, 1000; Dos Passos, 1154, 1155
Unsatisfactory character of.....	Dos Passos, 1139, 1140
Undue laxity of.....	Allen, 1189
Ineffectiveness of.....	Dowe, 26; Clarke, 187
Difficulty of enforcing.....	Monnett, 315, 324, 330
Failure of officials to enforce.....	Emery, 870, 871; Rice, 746
Early English laws against combination, ineffective.....	Dos Passos, 1153, 1154
Germany, supervision of combinations by Government.....	Gates, 1018
Justification, general discussion—	
Individual liberty, right to noninterference.....	Havemeyer, 114, 122; Dos Passos, 1140, 1141
Social compact, conditions of.....	Dos Passos, 1140, 1141
Impossibility of making strong individuals by.....	Stetson, 973
Interference by laws, deprecated.....	Smith, 69
Effects often different from those anticipated.....	Dos Passos, 1158
Increase cost to consumer.....	Havemeyer, 114
Natural laws superior to.....	Dos Passos, 1152-1154
Injurious to public welfare.....	Havemeyer, 105, 106, 114, 122
Penalties, cumulative fines, advocated.....	Thurber, 20
Practicability of enforcing.....	Lee, 296
Insufficiency of fines.....	Rice, 733
Prices, cutting below cost of production, prohibition of.....	Lee, 294; Westgate, 383; Lockwood, 394
Regulation, constitutionality doubtful.....	Havemeyer, 122
Promotion, regulation of.....	Luyties, 257, 258; Dill, 1182; Dos Passos, 1163, 1176, 1177
Tariff, repeal on articles, controlled by combinations.....	Buynitsky, 50; Rice, 730; Gary, 998-1000
Uniformity, desirability of.....	Dos Passos, 1157; Allen, 1209
Difficulty of securing.....	Allen, 1209, 1210; Huffcut, 1215
Legislatures:	
Control and corruption by combinations.....	Lockwood, 393; Emery, 671; Dos Passos, 1159
Trusts, lobbying by.....	Thurber, 15, 16
Whisky combination, funds for influencing.....	McNulta, 235
Liberty:	
Right of noninterference by legislation.....	Havemeyer, 114, 122; Dos Passos, 1140, 1141
Liberty of contract:	
Corporations should be allowed, in organization.....	Stetson, 972, 973
Linseed oil:	
Adulteration of.....	Mas, 74; Clark, 333; Matthews, 495
Number of mills combined.....	Dowe, 35
Machinery:	
Attempt to monopolize, tin plate.....	Graham, 852; Reid, 875; Griffiths, 888-890; Taylor, 935, 939
No monopoly of, wire nails, etc.....	Gates, 1009, 1010
Control of, barbed wire.....	Gates, 1009, 1033
Mails:	
Prohibition of use to illegal combinations.....	Huffcut, 1217
Massachusetts:	
Capitalization, provisions of law concerning.....	Myers, 1127-1138
Overcapitalization, not prevented by.....	Moore, 966
Corporations, supervision of, described.....	Myers, 1127
Corporations driven out of State by strict laws.....	Myers, 1134
Monopolies, municipal, restrictions as to capitalization.....	Myers, 1129-1133
Preferred stock, not allowed in.....	Myers, 1129
Railways and street railways, regulation of consolidation.....	Myers, 1131, 1132
Stock dividends, prohibited.....	Myers, 1129
Stock, issue of new, at market value.....	Myers, 1132
Stock must be paid in full.....	Myers, 1128, 1129
Merchant marine:	
Necessity of development.....	Thurber, 10, 11; Gates, 1016

- Middlemen** (see also *Individual enterprise*): Page.
 Displacement by trusts Dowe, 25, 34, 36
- Mining industries** (see also *Iron mines*):
 Effect of trusts on, as producers of raw material Thurber, 22
- Missouri**:
 Statutes and decisions concerning monopolies Allen, 1186, 1187, 1201, 1204
- Mollenhauer Refinery.** (See *Sugar combination.*)
- Monopoly** (see also *Antitrust laws, Legislation, etc.*):
 Advertising of special brands, may create Smith, 70, 71; Bradley, 829
 Antipathy toward Allen, 1182
 Charters, special, to corporations Dos Passos, 1145
 Common law, attitude toward Monnett, 313, 314;
 Gary, 1000; Dos Passos, 1155, 1156, 1173; Allen, 1183-1187
 Competition as remedy Thurber, 6, 14;
 Smith, 68-70; Havemeyer, 105; Clarke, 187; McNulta, 217, 237;
 Monnett, 329; Stetson, 980; Gary, 1001; Dos Passos, 1151.
 Danger of power in single hands Phillips, 597
 Definition of term Dos Passos, 1144, 1145; Allen, 1182
 Coke, Lord, definition by Monnett, 313, 314
 Intent, monopolistic, must be shown Allen, 1200-1202, 1205
 Character of evidence necessary Allen, 1201-1206
 Proportion of business controlled does not determine Allen, 1205
 Purpose of creating, evidence concerning Allen, 1181, 1182
 England, franchise grants, early Monnett, 314; Dos Passos, 1145
 Laws and decisions against Dos Passos, 1152, 1153; Allen, 1182-1184
 Laws against, early, ineffective Dos Passos, 1152, 1153
 Existence in United States, discussed Gary, 1000; Allen, 1181; Dos Passos, 1145
 Failure of pools and corners, universal Dos Passos, 1151
 Gas companies, New York, influence of Standard Oil Company Allen, 1191-1193
 Impossibility except as to advertised articles Smith, 68, 72
 Legal monopolies still exist in the United States Allen, 1184
 Municipal, characteristics of Myers, 1128; Allen, 1184
 Charges increased through overcapitalization Myers, 1135
 Charges, regulation of, Massachusetts Myers, 1135
 Public ownership, discussed Monnett, 327; Myers, 1136
 Restrictions as to capitalization, Massachusetts Myers, 1129-1133
 Natural, characteristics of Myers, 1128
 Natural laws, sufficient to prevent Dos Passos, 1150-1152, 1169
 Partial restraint of trade, against common law Dos Passos, 1173; Allen, 1182
 Quasi public, grants establishing Allen, 1184
 Patents, secured by Havemeyer, 105, 115; Dos Passos, 1145
 Tariff, high, protective, as cause Havemeyer, 102, 105, 118
 Tendency toward, though not complete, illegal Allen, 1182
 Trade unions, monopolistic character discussed Thurber, 6; Allen, 1198-1200
- Mortgages**:
 Advantages of corporate bond system Dos Passos, 1148, 1149
- Nails, wire**:
 Output, prices, competition, etc. Thurber, 22;
 Monnett, 321; Gates, 1005, 1009-1011, 1022
- National laws** (see also *Congress, Interstate commerce*):
 Corporations, organization and regulation by—
 Advocated Thurber, 16;
 Archbold, 565, 580; Rogers, 585; Rockefeller, 797;
 Gates, 1022; Pam, 1037; Dill, 1087, 1088.
 Referred to Emery, 623
 Necessity under modern conditions Allen, 1206, 1207
 Depreciated Moore, 965; Stetson, 981; Dos Passos, 1159-1161
 Congress, power of, discussed Stetson, 981;
 Gary, 1000, 1003; Dill, 1087, 1088; Dos Passos, 1159-1161;
 Allen, 1209; Huffcut, 1211-1219.
 Congress, power to issue special charters Pam, 1037
 Taxation for privileges, advocated Gates, 1022
 Reports and inspection by Federal Government, advocated Thurber, 16;
 Havemeyer, 136, 138; Archbold, 565, 580; Rogers, 585; Allen, 1194
 States, powers of, limited Huffcut, 1211-1218
 States, rights, importance of maintaining Dos Passos, 1161
 Tariff, reduction as remedy for combination Buynitsky, 50;
 Rice, 739; Gary, 998-1000
 Taxation, regulation of combinations by Allen, 1194; Huffcut, 1217

National Biscuit Company:	Page.
Organization referred to.....	Moore, 959
National Lead Company:	
Court decision concerning.....	Allen, 1186, 1187
National Refining Company. (See <i>Sugar combination</i> .)	
National Shear Company:	
Capitalization (see also <i>Organization</i>)—	
Amount authorized and issued.....	Pearson, 1041, 1042; Wiss, 1043
Value of plants, estimated.....	Wiss, 1044
Stock, value of.....	Wiss, 1047
Stock as bonus for loan.....	Pearson, 1041, 1042
Causes of combination—	
Competition, excessive.....	Wiss, 1044-1046
Tariff, excessive competition caused by.....	Wiss, 1046
Competition, excessive, cause of combination.....	Wiss, 1044-1046
Dividends, none paid as yet.....	Wiss, 1047
Economies, advantages of combination in securing.....	Wiss, 1045
Organization, history and method—	
History and description of process.....	Wiss, 1042, 1043, 1046
Each company made its own bargain.....	Wiss, 1044, 1046
Loan for working capital and buying plants, conditions.....	Pearson, 1041, 1042
Plants entering combination.....	Pearson, 1041; Wiss, 1044
Plants paid for in cash, stocks, and notes.....	Pearson, 1045, 1042; Wiss, 1044, 1047
Output, proportion controlled.....	Wiss, 1044
Pearson, James C., loan to National Shear Company.....	Pearson, 1041, 1042
Prices—	
Decrease before combination.....	Wiss, 1044, 1045
Increase since combination.....	Wiss, 1045
Raw material, increase of.....	Wiss, 1045
Promotion, history, profits, etc.....	Wiss, 1043-1047
Stock. (See <i>Capitalization</i> .)	
Tariff—	
Protection necessary.....	Wiss, 1046
Excessive competition caused by.....	Wiss, 1046
Importation of small-sized scissors.....	Wiss, 1046
Wages, increase since combination.....	Wiss, 1045
National Steel Company (sole witness, REIS):	
American Steel Company, relation to.....	948
American Tin Plate Company, relation to.....	944, 948
Capitalization—	
Amount and classes of stock.....	944
Cost of erecting plants, estimated.....	945
Plants bought for cash or stock.....	943
Promotion, expenses and profits of.....	949
Properties owned, description and value.....	944, 945, 949
Stock, preferred, represents cash value.....	944
Description of business.....	944, 945
Dividends, payment of.....	949
Economies—	
Supply of raw materials the chief advantage.....	947
Freights, saving by shipping from nearest point.....	947
Cost of production not reduced.....	947
Labor—	
Amalgamated Association, employees belong to.....	946
Number of employees increased.....	951
Puddling no longer practiced in Pennsylvania.....	951
Wages, annual scales, payment by.....	946
Wages, increase, recent.....	946
New Jersey, conformity of National Steel Company to law.....	943
Mines, failures in Lake Superior region.....	950
Ownership by National Steel Company.....	944, 949
Output, number and capacity of plants, proportion of output.....	945, 951
Pig iron, furnaces all in operation at present.....	951
Prices, average annual.....	945
Price of steel—	
Average annual.....	945
Increase due to added demand.....	949
Market quotations do not indicate actual selling prices.....	946

National Steel Company—Continued.	
Stocks, amount of	Page.
Value of	944
Stockholders, right to examine books	948
Increase in number by consolidation	943
Structural steel, increase in demand for	948
Tariff—	950
Steel, duty on, has no effect	
Effect of removal from other steel products	947
Vessels, ownership by combination	947
Wages	944
New Jersey corporation laws:	946
Advantages generally	Moore, 963, 964; Dill, 1077-1082
Advantages to corporations	Bradley, 823; Stetson, 971, 975; Gary, 996; Pam, 1035, 1036; Dill, 1081, 1082; King, 1108
Agents of corporations—	
Methods of appointment and record	Ryan, 1100, 1104, 1105; King, 1106, 1107, 1111
Number of corporations represented by	King, 1106
Compliance with laws by, discussed	Ryan, 1099-1106; King, 1106-1111; Edgerton, 1123-1125
American Tin Plate Company, compliance with	Graham, 857; Reid, 865; Wheeler, 864
Broader scope of laws	Pam, 1035, 1036
Capital, provisions concerning payment, etc	Dill, 1080, 1082
Distilling companies, compliance with	Bradley, 823, 824
National Steel Company, conformity to laws	Reis, 943
Principal office in State—	
Provisions concerning	Dill, 1077, 1078
Methods of maintaining	Ryan, 1099-1106; King, 1106-1111
Compliance with law, discussed	Edgerton, 1123-1125
Publicity—	
Provisions of law requiring	Dill, 1078-1084
Protection of public under	King, 1109
Violation of	Dill, 1079
Registration and trust companies, methods of business	Wood, 1089-1094; Hansell, 1094-1096; Marwick, 1096, 1097; Garvin, 1098, 1099
Reports, annual—	
Provisions of statute concerning	Dill, 1078; Wood, 1093
Fullness of	Pam, 1037
Compliance with law, discussed	Ryan, 1102; King, 1107; Edgerton, 1125
Trust companies, corporations represented required to furnish	Wood, 1092, 1093; Hansell, 1095; Garvin, 1098
Officers not liable for failure to make	Bradley, 823
Retaliatory laws, justification of	Dill, 1085
Stock and transfer books—	
Provisions concerning	Dill, 1078, 1083, 1084
Methods of registration companies	Wood, 1089-1094; Hansell, 1094, 1096; Marwick, 1096, 1097; Garvin, 1098, 1099
Methods of keeping at principal office	Ryan, 1103; King, 1107
Compliance with law, discussed	Edgerton, 1123-1125
Stockholders—	
Meetings must be in State	Dill, 1077
Liability of	Dill, 1086
Right to examine books	Dill, 1078, 1083, 1084
Not specially prejudiced by laws of	Gary, 996
List of, methods of keeping	Ryan, 1102, 1103
Taxation of corporations—	
Rates stated and discussed	Dill, 1086; King, 1108
Reasonableness, cause of organization of corporations in	Thurber, 21; Stetson, 975; Gary, 996; Dill, 1081; King, 1108
Revenue from	Moore, 965; King, 1111
Violation of laws	Dill, 1089; Ryan, 1099-1106; Edgerton, 1123-1125
New Jersey Corporations Agency:	
Description of business	King, 1106-1111
New Jersey Guarantee and Trust Company:	
Methods of business	Hansell, 1094-1096

1288 THE INDUSTRIAL COMMISSION:—INDUSTRIAL COMBINATIONS.

	Page.
New York :	
Stockholders, right to examine books.....	Dill, 1079
New York City :	
Gas companies, combinations among.....	Allen, 1191-1193
New York Sugar Refining Company. (See <i>Sugar combinations.</i>)	
Office, principal, of corporations :	
Delaware, provisions concerning.....	Smith, 1120; Sawyer, 1125
New Jersey, provisions concerning.....	Dill, 1077, 1078
Compliance with law, discussed.....	Edgerton, 1123-1125
Maintenance by registration and trust companies.....	Wood, 1089-1094;
Hansell, 1094-1096; Marwick, 1096, 1097;	
Garvin, 1098, 1099; King, 1106-1111	
Methods of attorneys in maintaining.....	Ryan, 1099-1106
West Virginia, requirements, concerning.....	Nevins, 1112, 1113
Officers. (See <i>Public officers.</i>)	
Oil. (See <i>Standard Oil combination</i> , p. 1307.)	
Output, control of. (See under separate combinations; also, <i>Competition</i> ; <i>Monopoly</i> ; <i>Prices.</i>)	
Overcapitalization. (See <i>Capitalization.</i>)	
Paper:	
International Paper Company, referred to.....	Stetson, 970
Prices, increase through combination.....	Dowe, 28, 38
Paper bags:	
Effect of combination.....	Dowe, 28, 29
Partnership:	
Disadvantage of form of combination.....	Stetson, 981; Dos Passos, 1146, 1147
History of system.....	Dos Passos, 1146
Patents:	
Control of, American Steel and Wire Company.....	Gates, 1009, 1010, 1033
American Tin Plate Company.....	Reid, 875
Standard Oil Company.....	Dodd, 798
Inventors seldom reap profit from.....	Dos Passos, 1170, 1171
Monopolies caused by.....	Havemeyer, 105, 115; Dos Passos, 1145
Removal of exclusive right, deprecated.....	Dos Passos, 1170
Politics (see also <i>Legislatures</i>):	
Campaign contributions by combinations.....	Havemeyer, 129; Monnett, 313
Corporations should not influence.....	Gary, 997
Effects of combinations, possible.....	McNulta, 240; Monnett, 326, 327; Rice, 746
Pools:	
Illegality and ineffectiveness.....	Allen, 1181
Railway, advocated.....	Thurber, 19; Stetson, 978
Interstate Commerce Commission, approval should be required.....	Stetson, 978, 979
Stock, International Silver Company.....	Dodd, 1058-1061; Rogers, 1070
Whisky, formation among distilleries.....	Clarke, 168, 169, 189; McNulta, 200, 241
Prices (see also under <i>specific combinations</i>):	
Cutting by combinations against competitors—	
Below cost of production should be prohibited.....	Lee, 294;
Westgate, 383; Lockwood, 394; Emery, 671	
Inequality in different places should be prohibited.....	Lockwood, 394
Germany, regulation of.....	Lee, 273, 276; Archbold, 532; Emery, 617, 623
International Silver Company.....	Rogers, 1071, 1072
Standard Oil Company. (See <i>Standard Oil Company.</i>)	
Sugar combination.....	14, 22, 57, 95, 96, 107, 108, 118, 135, 138, 142, 146, 147-149, 165
Policy regarding.....	Doscher, 88, 89; Havemeyer, 118, 120
Whisky combinations.....	170, 176, 178, 181-183, 208, 253, 815, 847
Present policy.....	Bradley, 815; Rice, 847
Effect of combinations generally—	
Business principles only should govern.....	Havemeyer, 118, 120
Consumers not injured by.....	Clarke, 186
Danger of control by.....	McNulta, 237
Excessive tendency toward, where no competition.....	Lee, 265, 266
Increase, instances of, reported by commercial travelers...	Dowe, 28, 34, 38
Monopoly, policy under.....	Gates, 1033
Possibility of raising above competitive rates.....	Archbold, 569, 570
Principles of determination by trusts.....	Havemeyer, 118-121, 134; Archbold, 569, 570; Rice, 847; Reid, 886; Gates, 1033

Prices—Continued.

Effect of combinations generally—Continued.		Page.
Raw materials, reduced by	Thurber, 12, 22, 23	
Reduction, tendency toward	Havemeyer, 135; Moore, 965	
Reduction by competition between large establishments, cases	Dowe, 28, 29	
Regulation by public authority	Thurber, 15; Havemeyer, 122; Lee, 294	
Stock manipulation, changes for purpose of	Dowe, 28; McNulta, 209; Rogers, 1074	
Specific articles, effect of combination—		
Glucose, increase by combination	Mas, 79	
Shears	Wiss, 1045	
Silverware	1051, 1052, 1056, 1071, 1072	
Steel products	868, 945, 950, 954, 990, 1026, 1027	
Sugar	2, 22, 70, 103, 118, 120, 126, 135, 136, 156, 165, 166	
Tin plate	853, 859, 862, 867-869, 874, 881, 885, 897, 902, 914, 930, 933-938	
Reduction by establishment of American industry	858, 918, 935	
Whisky	171, 186, 189, 207-211, 242, 248-250, 814, 827, 845, 847	
Wire, wire nails, etc.	22, 321, 1005, 1011, 1025-1027, 1033	

Principal office. (See *Office*.)**Production, cost of.** (See *Economies of combination*.)**Productive capacity:**

Excess above consuming power, United States	Thurber, 10
Industrial depression caused by excess of	Thurber, 20
Overproduction, outlook for	Smith, 69

Profits (see also *Prices; Competition; Standard Oil Company*):

Decrease of average during past decade	Thurber, 5
Excessive, lead to failure and competition	Thurber, 6
Legitimate when due to improvement in manufacture	Buynitsky, 50

Promotion of corporations (see also *Capitalization; Investors*):

False statements and their prevention	Luyties, 257, 258
Investors, combinations largely intended to fleece	McNulta, 237
Laws, existing, sufficient remedy for frauds in	Dos Passos, 1163, 1176, 1177
Overcapitalization and speculative purposes	Thurber, 19;
.....	Dowe, 25, 31; McNulta, 237; Dill,
.....	1080; Myers, 1133; Dos Passos, 1166
Practice described	Monnett, 328
Profits of, American Tin Plate Company	Reid, 866;
.....	Griffiths, 911; Moore, 960-963

American Steel and Wire Company

Distilling Company of America

Speculative purpose in certain cases

Dos Passos, 1166

Prosecutions of combinations:

Attorneys-general, duties of	Monnett, 324, 325
Difficulty and expense of	Monnett, 330
Difficulty of compelling testimony	Emery, 671
Witnesses, incrimination by testimony	Monnett, 315

Prospectuses:

Liability for statements in England	Dill, 1082
---	------------

Public officials (see also *Legislatures*):

Influence of combinations over	Emery, 671
--------------------------------------	------------

Publicity of corporate affairs:

Advocated	Thurber, 15, 16, 20;
.....	Havemeyer, 136-138; Luyties, 258; Dos
.....	Passos, 1157, 1158; Allen, 1193, 1194
Advocated, but not alone sufficient	Lee, 296
Common law, sufficient protection under	Dos Passos, 1163, 1176
Competitors, danger of giving advantage to	Havemeyer, 136;
.....	Stetson, 975, 980; King, 1109, 1110
Discussion generally	Clarke, 181; Stetson, 980;
.....	Dos Passos, 1162, 1164, 1167-1169, 1175; Havemeyer, 136-138
Desirability of general knowledge as to conditions	Gary, 996, 1001
Might be made advantageous to combinations	Havemeyer, 136, 138
England, laws concerning, summarized	Dill, 1062, 1063
Legislation, data for, furnished by	Havemeyer, 137
New Jersey, provisions of law requiring	Dill, 1078-1084
Railway companies, advocated	Stetson, 978

Reports—

Annual, to stockholders sufficient

Moore, 966; Stetson, 975, 980

To stockholders and public advocated

Dos Passos, 1152, 1168, 1175

1290 THE INDUSTRIAL COMMISSION:—INDUSTRIAL COMBINATIONS.

Publicity of corporate affairs—Continued.

Reports—Continued.

	Page.
Existing laws and their enforcement	1078,
1079, 1083-1088, 1102, 1107, 1113, 1115, 1121, 1122, 1125	
Financial statements in public deprecated	King, 1109, 1110
Right of public to know corporate affairs discussed	Havemeyer, 136-138;
Stetson, 980; Dos Passos, 1162, 1163, 1168, 1175; Allen, 1194	
State, power of, to require	Dos Passos, 1171; Allen, 1189, 1194, 1195
Stockholders—	
Necessary for protection of	Thurber, 6, 15, 16, 20
Right to examine books, and protection generally	257,
966, 971, 996, 1078-1084, 1164-1168, 1175	

Railways (see also *Freights*):

Antiscaling law, opposition of commercial travelers to	Dowe, 41, 42
Capitalization, amount of	Rice, 743
Justification of large	Dos Passos, 1149
Central Passenger Association, character	Monnett, 329
Combinations, interest in	Allen, 1191
Commercial travelers, loss from displacement by	Dowe, 27, 32
Consolidation of—	
Laws regulating capitalization	Myers, 1131, 1132
Rapid, during recent years	Rice, 742, 743
Reduction of rates by	Thurber, 4
Courts, subservieney to	Lockwood, 389
Danger of undertaking other forms of business	Allen, 1191
Government ownership advocated	Lockwood, 392, 393;
Emery, 670, 671; Rice, 730, 745, 755	
Disfranchisement of railway employees under	Rice, 745
Mileage books, Commercial Travelers' League, influence in securing	Dowe, 41
Monopolistic character of grants	Lockwood, 392; Allen, 1184
Officers, high ability	Stetson, 978
Political power exercised by, evils of	Lockwood, 391, 393; Emery, 671
Pooling, advocated	Thurber, 19
Advocated under due approval	Stetson, 978, 979
Traffic associations, existing, character	Rice, 743, 744
Public character of	Monnett, 310, 323-325; Lockwood, 392; Rice, 740
Publicity of accounts and business advocated	Stetson, 978
Rates—	
Excessive, instances of	Monnett, 325; Lockwood, 391
Ohio, proposed act regulating, described	Monnett, 322, 325
Reduction and causes	Thurber, 18, 19
State rates at interstate rates, advocated	Monnett, 323
Transportation by water, effects	Thurber, 19; Lee, 269
Unreasonable, not now existing	Stetson, 979, 980
Unreasonable, should be summarily abolished	Stetson, 979
Wheat, excessive charges for transporting	Monnett, 325
Reorganization—	
Cash brought in for improving properties	Stetson, 978
Interest charges usually reduced by	Stetson, 977
Necessary because of reduced rates and profits	Stetson, 977
Sherman antitrust act, applied to common carriers	Rice, 742; Dos Passos, 1158
Sugar combination, apportionment of freights among	Havemeyer, 113
Free storage, discussed	Doscher, 90; Havemeyer, 112
Traffic associations—	
Existing, number and character	Rice, 743, 744
Transcontinental association, contracts for maintaining rates	Rice, 744
Unlawful character	Rice, 743
Water lines associated with	Rice, 744
Railway discriminations and rebates:	
Atchison, Topeka and Santa Fé Railroad, rebates by	Lockwood, 390;
Rice, 733, 754	
Cities and towns, influence on growth	Lockwood, 390
Coal traffic	Monnett, 322, 326; Lockwood, 396
Combinations, harmony between, and railways	Rice, 743
Chief cause of	Emery, 643
Power and profits due to	Lockwood, 390, 391; Rice, 743; Allen, 1194, 1195
Commissions paid to secure freight	Rice, 743
Competition, chief cause of unfair	Westgate, 399

Railway discriminations and rebates—Continued.

Page.

Competition of small concerns possible, where no discrimination.	Lockwood, 392
Cooperative production possible, where no discrimination	Lockwood, 392
Existence of—	
Affect great body of railway traffic	Rice, 733
Baltimore and Ohio receivers' letter regarding	Emery, 637
Complaint, no cause for	Smith, 70
Despite interstate commerce act, asserted	Lockwood, 389; Allen, 1190
Relative rates from Chicago and Pittsburg to New York	Lockwood, 400
Grain, higher freight rates for domestic than export	Rice, 740
"Ghost trains," referred to	Rice, 740, 741
Gross amount, \$100,000,000 annually	Rice, 741
Interstate commerce act, disregard by railways and trusts	Lockwood, 389
Failure to enforce	Rice, 729, 730
Long and short haul, proposed regulation, Ohio	Monnett, 325
Instances of discrimination	Monnett, 322
Privileged classes created by	Rice, 741
Remedies—	
Charters, repeal of, as penalty	Monnett, 324
Compulsory examination of books, advocated	Westgate, 383; Emery, 643
Courts afford no sufficient	Lockwood, 389
Germany, equality of opportunities in	Lockwood, 393
Government ownership, advocated	Lockwood, 392, 393; Emery, 670; Rice, 730, 745, 755
Interstate Commerce Commission, increase of powers	Stetson, 979, 980
Pooling, as remedy, advocated	Thurber, 19; Dos Passos, 1175
Possibility of effectively preventing	Monnett, 310
Prohibition of, effect of, discussed	Monnett, 326
Seizure of goods unlawfully transported	Monnett, 324
Standard Oil Company, originator of system (see also <i>special index</i> , p. 1307)	Rice, 741
Steel and Wire Company, American, receipt by, denied	Gates, 1031
Sugar combination, receipt by, denied	Havemeyer, 110, 112; Jarvie, 142
Tin-plate combination, receipt by, denied	Graham, 856
Whisky combination, formerly received	Clarke, 184; McNulta, 201

Raw materials:

Prices reduced by combinations	Thurber, 12, 22, 23; McNulta, 239
--------------------------------	-----------------------------------

Rebate system (see also *Sugar combination, Whisky combinations*):

Contracts, proposed forms	Smith, 62
Enforcement of agreements, methods	Smith, 62-65
Grocers, Wholesale Association, movement to secure generally	Smith, 59-65
Instances of use	Smith, 55-59, 65, 66
Justice and advantageousness	Smith, 64, 68
Legality of agreements	Smith, 64, 65
Manufacturers, attitude toward, favorable	Smith, 61
Sugar, establishment, description, working	Smith, 55-58;
Uniform quality of goods essential	Smith, 67
	Havemeyer, 126-128; Post, 154, 157
	Post, 155, 156

Ohio, special system.

Registration and trust companies:**Methods of business—**

Delaware	Sawyer, 1126, 1127
New Jersey	Wood, 1089-1094;
	Hansell, 1094-1096; Marwick, 1096, 1097; Garvin, 1098, 1099
West Virginia	Nevins, 1114
Number of, New Jersey	Garvin, 1099
Number of corporations represented by	Wood, 1090;
	Hansell, 1094; Garvin, 1098

Reports of corporations (see also *Publicity, Stockholders*):

Annual statements to stockholders sufficient	Moore, 966; Stetson, 975, 980
Delaware, requirements concerning	Smith, 1121, 1122
Compliance with law	Sawyer, 1126
New Jersey—	
Provisions of statutes concerning	Dill, 1078; Wood, 1093
Compliance with law, discussed	Edgerton, 1125; King, 1107
Failure to file in principal office	Ryan, 1102
Trust companies, corporations represented	required to furnish. Wood, 1092,
	1093; Hansell, 1095; Garvin, 1096

1292 THE INDUSTRIAL COMMISSION:—INDUSTRIAL COMBINATIONS.

Reports of corporations—Continued.	Page.
Publicity to stockholders, advocated	Dos Passos, 1168, 1175
West Virginia, requirements concerning	Nevins, 1113, 1115
Rubber:	
Commercial travelers, displacement by combination	Dowe, 29
Corn oil, use as substitute	Mas, 74, 77, 78, 81
Prices, increase through combination	Dowe, 28
Salesmen. (See <i>Commercial travelers, Selling.</i>)	
School furniture:	
Prices, increase through combination	Dowe, 28
Selling of goods:	
Economy in, by combination	Dowe, 33, 37;
Bradley, 829; Graham, 855; Reid, 877; Griffiths, 895; Guthrie, 953;	
Gates, 1018, 1030; Dodd, 1050; Watrous, 1063; Rogers, 1068	
Silver and silverware. (See <i>International Silver Company.</i>)	
Smelters' trust:	
Hours of labor, dispute concerning, referred to	Havemeyer, 121
Soap:	
Prices, increase through combination	Dowe, 28
Rebate system in wholesale trade	Smith, 59, 62-65
Socialism:	
Attitude of socialists toward trusts	Monnett, 327
Speculation, stock:	
Combinations, promoted by	Thurber, 20; Dowe, 26
Evils of	Clarke, 186
Failure of combinations, chiefly caused by	Luyties, 257
Federal Steel Company	Gary, 997
Gold, prohibition, ineffective	Dos Passos, 1154
Inevitable character	Thurber, 19
International Silver Company, stock pool, described	Dodd, 1058, 1060, 1061;
Rogers, 1070	
Legislation can not correct evils	Clarke, 187
Manipulation by insiders, evils of	Clarke, 186; Rogers, 1070, 1074
Overcapitalization and deception of investors, evils of. Thurber, 19; Dowe, 25, 31;	
McNulta, 237; Dill, 1080; Myers, 1133; Dos Passos, 1166	
Prices, changes for purpose of affecting stock	Dowe, 28;
McNulta, 209; Rogers, 1074	
Whisky combination, described .. Clarke, 174, 175; McNulta, 209, 210; Rice, 832	
Spirits Distributing Company. (See <i>Whisky combinations.</i>)	
Standard Distilling Company. (See <i>Whisky combinations.</i>)	
Standard Oil Company. (See separate index, p. 1307.)	
Starch trust:	
Failure through excessive prices	Thurber, 6
Steel and iron products (see also <i>American Steel and Wire Company, Federal Steel Company, National Steel Company</i>):	
America, advantages in production	Guthrie, 956; Gates, 1014
Belgium, syndicates, high development of	Gary, 998
Combinations, control by	Reis, 945, 951; Gary, 985; Gates, 1005, 1023
Demand, increase and reasons	Reis, 950; Gates, 1026, 1027
Exportation of	Guthrie, 956; Gary, 998, 1001; Gates, 1014-1018
Germany, conditions as to methods, labor, etc	Gary, 998; Gates, 1014-1018
Prices—	
Average annual	Reid, 868; Reis, 945
Market quotations do not indicate actual selling prices	Reis, 946
Recent increase and its causes	Thurber, 22;
Reid, 868; Reis, 950; Gary, 990; Gates, 1026, 1027	
Structural steel, increase in demand for	Reis, 950
Tariff, need of protection, discussed	Havemeyer, 118;
Reis, 947; Guthrie, 955; Gary, 997, 998; Gates, 1013-1016	
Stock (see also <i>Capitalization, Speculation</i>):	
Banks, refusal to loan on as collateral	Dowe, 30
Issue, control of, advocated	Dos Passos, 1157
Massachusetts laws as to	Myers, 1130
Issue of new at market value, Massachusetts	Myers, 1132
Manipulation by false statements, restriction advocated	Clarke, 191
Paying in, provisions of laws concerning	Dill, 1080, 1082;
Smith, 1121, 1122; Nevins, 1114-1116; Myers, 1128, 1129	

Stock—Continued.

	Page.
Preferred, issue prohibited, Massachusetts	Myers, 1129
Property and services, issue for	Stetson, 975;
Dill, 1080-1083; King, 1110; Nevins, 1116; Dos Passos, 1166, 1167	
Purchase by corporation of its own stocks, justification	Stetson, 971, 972
Quasi-public companies, control of issue by Massachusetts	Myers, 1130
Transfers (see <i>Stock and transfer books</i>).	
Trusts of majority stockholders.....	Myers, 1131, 1134; Dos Passos, 1174, 1175
Uncertainty as investment.....	Thurber, 7, 19, 20

Stock and transfer books:

Delaware—	
Provisions of law concerning.....	Dill, 1079; Smith, 1120
Compliance with law.....	Sawyer, 1125-1127
Failure to keep at principal office, New Jersey.....	Ryan, 1103
Methods of keeping, registration and trust companies.....	Wood, 1090-1093;
Hansell, 1095; Marwick, 1096; Garvin, 1098; Sawyer, 1125-1127	
New Jersey Corporations' Agency	King, 1107
New Jersey—	
Provisions of law concerning.....	Dill, 1078, 1083, 1084
Compliance with law, discussed.....	Ryan, 1103; Edgerton, 1123-1125
Reasons for keeping.....	King, 1108

Stock dividends:

Prohibited in Massachusetts.....	Myers, 1129
----------------------------------	-------------

Stockholders:

Books, examination of, right to.....	Stetson, 971;
Moore, 966; Dos Passos, 1164-1168	
Examination of books sometimes annoying.....	Gary, 996
New York, regulations.....	Dill, 1079
New Jersey, regulations and their enforcement.....	1078-1099,
1103-1110, 1123-1125	
Inquiries by, as to holdings of stock	Dill, 1083; Wood, 1090, 1091
Liability—	
Abolition, advocated.....	Stetson, 974
New Jersey law	Dill, 1086
Lists of, alphabetical, required before annual meeting.....	Dill, 1078;
Hansell, 1095; Ryan, 1102; Sawyer, 1126	
Methods of keeping, New Jersey	Ryan, 1102, 1103
Meetings, must be held in State, New Jersey.....	Dill, 1077
May be held anywhere, West Virginia.....	Dill, 1079
Minority, possibility of opposing interests	Stetson, 974
Powers of	Dos Passos, 1167, 1168
Protection by law undesirable.....	Stetson, 974
Protection, German law.....	Luyties, 257
Protection of—	
Not specially prejudiced by laws of New Jersey.....	Gary, 996
Should ascertain condition of corporation before entering..	Stetson, 972, 973
Must investigate value of assets.....	Stetson, 975, 976
Undue, evils of	Stetson, 972
Rights guaranteed under existing laws.....	Dos Passos, 1164, 1167, 1168
Trusts of majority.....	Dos Passos, 1174, 1175; Myers, 1131, 1134

Strawboard trust:

Failure through excessive prices.....	Thurber, 6
---------------------------------------	------------

Street railways:

Consolidation, regulation of capitalization, Massachusetts	Myers, 1131, 1132
--	-------------------

Sugar combinations:

Advantages of combination. (See <i>Economies</i> .)	
---	--

Arbuckle Bros.—

Reasons for entering sugar business.....	Jarvie, 141
Packages, sale of sugar in	Jarvie, 141, 146
Capacity of refinery.....	Jarvie, 140
Competition and effect on prices of sugar.....	Thurber, 6, 14, 22;
Dowe, 28, 29; Smith, 57; Doscher, 95, 96; Jarvie, 138, 141, 142, 144	
Attempts to purchase refinery.....	Jarvie, 139, 140
Coffee, competition and prices of sugar company.....	Havemeyer, 113, 114;
Jarvie, 140	

Markets and freight rates

.....	Jarvie, 141, 142
-------	------------------

Sugar combinations—Continued.

	Page.
Best sugar—	
Cost of refining less.....	Jarvie, 142
Profit of manufacture.....	Dowe, 29
Product of United States.....	Post, 152, 164
Bounties by States.....	Post, 164
Future depends on tariff on cane sugar.....	Havemeyer, 128; Post, 164
Excessive protection under present tariff.....	Atkins, 805, 807, 809
Farmer receives little advantage from tariff.....	Atkins, 804
Cost of production in the United States.....	Atkins, 805
Drawbacks, rates of.....	Buynitsky, 44, 45
Bounties on exportation—	
Rates granted by different countries.....	Buynitsky, 52, 53
Countervailing duties.....	Buynitsky, 52-54
Germany, large production due to.....	Atkins, 810
Brands, value of.....	Havemeyer, 110, 111, 118
Brokers, employment in selling.....	Post, 149
Campaign funds, contributions to, referred to.....	Havemeyer, 129
Capitalization of combination (see also <i>Cost of refineries, Profits</i>)—	
Amount of and value of plant.....	Doscher, 100, 101; Havemeyer, 117, 118
Capital stock of constituent companies.....	Havemeyer, 123
Method of valuing and paying for plants.....	Doscher, 100, 101; Havemeyer, 110, 111, 123, 124
Preferred stock covers original cost.....	Thurber, 17
Good will and brands, value of.....	Havemeyer, 110, 111, 118
Fairness of earning dividend on watered stock.....	Havemeyer, 118
Running capital, amount required and rate of profit.....	Doscher, 94; Post, 152, 160
Causes of combination—	
Excessive competition and unremunerative prices before.....	Smith, 71; Havemeyer, 123; Atkins, 811
Closing of refineries.....	Thurber, 5; Doscher, 99; Havemeyer, 110, 124
Coffee, competition of American Sugar Company.....	Havemeyer, 113, 114; Jarvie, 140
Commercial travelers, displacement by sugar combination.....	Dowe, 29
Competing refineries (see also <i>Arbuckle Bros., Doscher, Mollenhauer, Nash, National, Spreckles</i>)—	
History and effect on prices.....	Havemeyer, 107, 108; Post, 147-149, 165
Existing, names and capacity.....	Havemeyer, 108, 113
Relation to American Sugar Refining Company.....	Thurber, 14; Post, 163
Attitude of American Company toward.....	Havemeyer, 108, 120; Doscher, 88, 89
Advantage of large corporation in crushing.....	Havemeyer, 109
Operation restricted by low prices.....	Post, 163
Increase in number would not be beneficial.....	Post, 159
Preference of dealers for particular brands.....	Post, 149
Successful competition not probable.....	Atkins, 811, 812
Competition (see also <i>Prices</i>)—	
Excessive, leading to formation of trust.....	Smith, 71; Havemeyer, 123
Reasons for excessive.....	Jarvie, 145, 146
Prices made so low as to prevent.....	Havemeyer, 108
Cooperage, competition in furnishing.....	Post, 164
Furnished by American Company to Arbuckle Company.....	Havemeyer, 128
Cost of refineries, estimated.....	Doscher, 91, 92; Havemeyer, 111; Jarvie, 139; Post, 151, 152
Cost of refining (see also <i>Economies</i>)—	
Estimated and discussed generally.....	Doscher, 88, 93; Jarvie, 139, 142; Post, 150, 151; Atkins, 806, 807
Elements to be considered.....	Atkins, 807
Amount of refined from 100 pounds raw.....	Buynitsky, 44, 47-49; Doscher, 93; Post, 150, 151
Present and past, estimated.....	Havemeyer, 112
Reduced by combination.....	Havemeyer, 103; Atkins, 811, 812
Little reduction within five years.....	Post, 151
Improvement in methods, recent.....	Doscher, 91
Arbuckle Brothers.....	Jarvie, 139
Relative advantages of different plants.....	Doscher, 100
Foreign countries, reasons for lower cost.....	Havemeyer, 106, 107, 122; Jarvie, 142, 143; Post, 151

Sugar combinations—Continued.

	Page.
Cuba—	
Conditions and amount of production.....	Havemeyer, 128, 129; Post, 159, 160, 62
Production, decrease through effect of war.....	Atkins, 807
Impossibility of competing with untaxed sugar.....	Atkins, 802, 808
Little capital being invested in sugar.....	Atkins, 807
Responsibility of United States for commercial prosperity.....	Atkins, 811
Dividends—	
Amount of.....	Thurber, 15; Havemeyer, 136
Source of present, referred to.....	Havemeyer, 132; Post, 163
Doscher, Claus—	
Former sale of refinery to trust.....	Doscher, 98, 100
Capacity and cost of refinery.....	Doscher, 91, 92
Competition of refinery.....	Smith, 57; Doscher, 90
Attempts of American Company to purchase refinery.....	Doscher, 89, 90, 98
Drawbacks. (See <i>Tariff</i>.)	
Economies of combination—	
Ability of different refiners combined.....	Havemeyer, 110
Large plants, advantages of....	Doscher, 91; Havemeyer, 109, 110; Post, 151
Closing of refineries.....	Thurber, 5; Doscher, 99; Havemeyer, 124
Continuous working at full capacity....	Havemeyer, 109, 110; Post, 151, 162
Employees, reduction of number.....	Havemeyer, 110
Raw sugar, purchase when prices lowest.....	Post, 158
Reduction of cost by combination.....	Atkins, 811, 812
England, refineries destroyed by competition of beet sugar.....	Havemeyer, 133
Europe, reasons for greater cheapness of refining.....	Havemeyer, 106, 107, 133; Jarvie, 142, 146; Post, 153
Glucose (see also <i>Glucose Sugar Refining Company</i>)—	
American Sugar Refining Company, relation to.....	Mas, 81, 82; Havemeyer, 114
Extensive use in sirups.....	Havemeyer, 114
Grocers, wholesale (see also <i>Rebates</i>)—	
Agreement as to prices and rebates.....	Thurber, 13, 14; Smith, 55-59; Doscher, 95
Excessive cutting of prices by.....	Smith, 55, 66, 67; Jarvie, 142
Profits destroyed by recent competition of refineries.....	Havemeyer, 126
Exclusive handling of trust sugar not required....	Smith, 57, 67; Jarvie, 142
Havemeyer & Elder, capacity of plant and economy.....	Post, 151
Value of brand.....	Havemeyer, 111
Hawaii, refining of sugar in.....	Atkins, 810
Conditions of sugar production, duty, etc.....	Atkins, 801, 802, 810
Labor—	
Conditions of work in refineries.....	Havemeyer, 128, 129; Post, 161
Cuba, conditions in.....	Post, 162
Employment, effect of combination.....	Thurber, 5, 23; Havemeyer, 122; Post, 158, 161
Organization of workmen.....	Post, 163
Unskilled labor chiefly employed.....	Havemeyer, 128, 129
Wages.....	Thurber, 5, 23; Havemeyer, 128, 129
Lexow Committee, New York, testimony before, quoted..	Havemeyer, 125, 126
Louisiana, production of sugar, protection and conditions.....	Buynitsky, 49; Havemeyer, 130, 131; Atkins, 806, 806
Mollenhauer Refinery—	
Capacity and cost.....	Post, 148, 151, 152
Not now running at full capacity.....	Smith, 57; Post, 154
Relation to American Company.....	Smith, 57; Doscher, 99; Havemeyer, 126; Post, 150
Monopoly. (See <i>Output, Prices</i>.)	
Nash Refinery, relation of American Company to.....	Havemeyer, 128
National Refining Company.....	Post, 148, 150, 151, 154
New York Sugar Refining Company. (See <i>Doscher, Claus</i> .)	
Output, refined—	
Amount and proportion controlled by combination.....	Havemeyer, 107, 117, 124, 126; Jarvie, 141
Control of, as purpose of combination, discussed....	Havemeyer, 125, 126; Jarvie, 146; Post, 154, 160
Closing of refineries by combination.....	Doscher, 99; Havemeyer, 124

Sugar combinations—Continued.

	Page.
Organization of combination—	
History of	Havemeyer, 109
Refineries entering	Doscher, 99
Change to corporation	Havemeyer, 109, 124
Articles of incorporation	1257
Packages, sale in small, by Arbuckle Brothers	Jarvie, 141, 146
Relative cost of different kinds	Havemeyer, 106; Post, 153
Prices—	
Statistics, variations—	
Raw and refined, 1879-1898	Thurber, 5; Havemeyer, 103
History and reasons of variations in margin	Havemeyer, 108; Post, 147, 148, 165
Western markets, changes in	Post, 165
Competition and cutting—	
Methods of cutting	Doscher, 95, 96
Special cuts to dispose of surplus stock	Post, 149
Policy of American Company	Havemeyer, 118, 120, 135; Post, 158
Influence of competing refineries in keeping down	Post, 158, 159
Louisiana and Hawaii, competition of	Havemeyer, 130, 131
Arbuckle Brothers, cutting by	Thurber, 14, 22; Dowe, 28, 29; Smith, 57; Jarvie, 138, 142, 146
Control by combination—	
Degree of, discussed	Thurber, 14; Doscher, 95, 96; Havemeyer, 125, 126; Atkins, 811
Method of fixing	Post, 149
Principles of trust in fixing	Post, 158; Havemeyer, 118, 120, 135, 136
Reduction, recent, intended to crush competing refineries	Doscher, 88, 89
Increase, intention after crushing competition	Havemeyer, 115
Danger of complete control by one combination	Post, 159
Effect of combination—	
Discussed generally	Havemeyer, 126; Post, 148, 165
Reduced by	Thurber, 2, 22; Smith, 70; Havemeyer, 103; Post, 156, 165, 166
Policy of combination	Havemeyer, 110, 120, 135, 136
Margin, amount necessary for profits	Doscher, 97; Havemeyer, 136; Jarvie, 139, 140; Post, 160, 161
Tariff, change of, effect	Post, 148
Profits of refining—	
Losses and failures before trust organized	Havemeyer, 109
Fair rate, discussed	Doscher, 97; Havemeyer, 136; Post, 160, 161
Raw sugar, profits from changes in price	Post, 158, 161
High profits due to economies	Havemeyer, 103
Protection. (See <i>Tariff</i> .)	
Railways—	
Apportionment of freights among	Havemeyer, 113
Rebates and privileges not received from	Havemeyer, 118, 112; Jarvie, 142
Free storage at terminal points	Doscher, 90; Havemeyer, 112
Raw sugar (see also <i>Beet sugar</i>)—	
Polariscope test, best degree for refining	Buynitsky, 44
Profits by change in price	Post, 158, 161
Stocks carried on hand	Post, 152
Wholesale grocers do not handle	Smith, 69
Amount of consumption and sources of supply	Atkins, 803
Cuba, effect of war	Atkins, 802, 807, 808
Puerto Rico, Hawaii, and Philippines, sugar from, free of duty	Atkins, 801, 810
Louisiana, production in	Buynitsky, 49; Havemeyer, 130, 131; Atkins, 805, 806
Production—	
Amount of, different countries, table	Havemeyer, 104
Reduction of, causes	Post, 159, 160
Sources of supply	Havemeyer, 128; Post, 152; Doscher, 96
Louisiana sugars, superiority	Buynitsky, 49
Refiners, interest in production	Post, 160
Prices—	
Influences affecting	Havemeyer, 107; Post, 153
Effects of combination	Thurber, 12, 23; Post, 153; Havemeyer, 103
Amounts obtainable by producers of different countries	Atkins, 803

Sugar combinations—Continued.

Raw sugar—Continued.

	Page.
Tariff rates.....	Buynitsky, 44
Excessive protection to local producers.....	Havemeyer, 102, 113, 130, 131; Atkins, 803-809
Rebates to dealers—	
Establishment, history.....	Smith, 56; Havemeyer, 126-128
Method described.....	Post, 154; Havemeyer, 126-128
Affidavit abandoned, reasons.....	Smith, 57-59, 67; Havemeyer, 128
Rates of rebate stated.....	Smith, 56, 58, 66; Doscher, 95
Uniform to all purchasers.....	Smith, 58
Freight rates, adjustment of prices for equalizing.....	Smith, 58
Cutting of prices still continues.....	Smith, 58; Havemeyer, 128; Post, 154
Competition of new refineries, effect of.....	Smith, 57, 58, 67
Arbuckle and Doscher refineries have established system.....	Smith, 57, 67; Jarvie, 147
Illinois and Ohio, special system adopted.....	Post, 155-157
Refineries (see also <i>Competing refineries</i>)—	
Cost of plants estimated.....	Doscher, 91, 92; Havemeyer, 111; Jarvie, 139; Post, 151, 152
Senate committee on bribery, testimony before.....	Havemeyer, 125
Sirup—	
Quantity obtained and value.....	Doscher, 94; Post, 150, 151
Tariff on.....	Buynitsky, 44
Drawbacks on exportation.....	Buynitsky, 46, 51
Spanish war—	
Effect on conditions of sugar business.....	Atkins, 801, 802, 807, 808
Spreckels refinery, capacity and economy of operation.....	Post, 151
Competition of.....	Havemeyer, 108
Tariff—	
Rates existing.....	Buynitsky, 44
Countervailing duties—	
Schedule of rates.....	Buynitsky, 52, 53
Rates satisfactory.....	Post, 157
Differential duty, refined—	
Amount of, estimated.....	Buynitsky, 46-49; Post, 161, 162
Consumers not injured by.....	Buynitsky, 49; Atkins, 808
Protection has built up refining industry.....	Havemeyer, 133
Foreign competition at present excluded, reasons.....	Havemeyer, 130; Jarvie, 141, 144; Post, 157
Importation of foreign sugars, conditions favoring.....	Post, 157
Insufficiency of present.....	Havemeyer, 102, 106, 115, 118, 132; Jarvie, 143, 144; Atkins, 806
Increase detrimental to refiners.....	Post, 162
Reduction of, effect discussed.....	Havemeyer, 115, 132; Jarvie, 145
Foreign competition, cheapness of production.....	Havemeyer, 106, 107, 133; Jarvie, 142, 146; Post, 153
Drawbacks—	
Rates and methods of fixing.....	Buynitsky, 44-46, 51
Hawaii, reciprocity treaty with.....	Buynitsky, 54
Raw sugar—	
Rates.....	Buynitsky, 44
Excessive protection and local competition.....	Atkins, 803-809; Havemeyer, 102, 113, 130, 131
Present duty chiefly intended to protect beet sugar.....	Atkins, 801
Farmer receives little advantage in price of beets.....	Atkins, 804
High protection makes improvements in production unneces- sary.....	Atkins, 805, 806
Removal would not affect refiners.....	Atkins, 807
Reduction by treaty as to British colonies.....	Atkins, 801, 802
Effect of Spanish war on rates from different countries.....	Atkins, 801, 802, 807, 806
Internal revenue tax to offset, advocated.....	Havemeyer, 102
Stocks on hand, influence of changes.....	Post, 156
Western sugar refinery, ownership.....	Havemeyer, 113
Tariff:	
Competition, effect in increasing.....	Havemeyer, 137
Combination, cause of.....	Havemeyer, 101, 116, 118, 133, 137; Gary, 999; Wiss, 1046
Not cause of tin-plate combination.....	Reid, 881; Griffiths, 912

Tariff—Continued.

	Page.
Cost of living and wages in America and Europe.....	Gary, 1014
Germany, government assistance to exportation.....	Gates, 1016
Monopolized articles, reduction or removal of, discussed.....	Buynitsky, 50; Rice, 730; Gary, 998-1000
Monopoly, protection should not permit creation of.....	Gary, 999
Protection needed in certain industries.....	Gary, 998, 999
Shears, protection necessary.....	Wiss, 1046
Steel, necessity of protection, discussed.....	Havemeyer, 118; Reis, 947; Guthrie, 955; Gary, 997, 998; Gates, 1013-1016
Sugar, raw, effect of.....	Havemeyer, 102, 113, 130, 131; Post, 148, 158; Atkins, 801-808
Rates.....	Buynitsky, 44
Sugar, refined—	
Countervailing duties.....	Buynitsky, 52, 53; Post, 157
Effect and sufficiency discussed.....	Buynitsky, 46, 49; Havemeyer, 102, 106, 115, 118, 132; Jarvie, 142, 146; Post, 157, 161, 162
Rates.....	Buynitsky, 44
Ten per cent uniform duty, sufficient for protection.....	Havemeyer, 102, 106
Tin plate, effect and need of.....	Graham, 854, 855, 861; Reid, 878-881; Griffiths, 909, 910, 915, 921; Greer, 926; Taylor, 934, 940
Trusts, lobbying by, to influence.....	Thurber, 15
Chief cause of.....	Havemeyer, 101, 102, 116, 118, 133, 137

Taxation:

Inheritance tax as remedy for combinations.....	Lee, 206
---	----------

Taxation of corporations:

Assessment, evils of arbitrary.....	Dill, 1081, 1082
Congress, powers regarding.....	Allen, 1207, 1208; Huffcut, 1217, 1218
Constitutionality of special taxes on trusts.....	Havemeyer, 122
Delaware, rates and advantage.....	Smith, 1122
Enforcement, difficulty of.....	Lee, 290
Federal Government, control by means of.....	Allen, 1194; Huffcut, 1217, 1218
Graduated tax, legality of.....	Allen, 1207, 1208
Illinois, inequality in.....	Pam, 1036
Internal, on products of trusts, advocated.....	Mas, 84
Interstate commerce, State can not tax corporations as regards.....	Huffcut, 1213
Justification of special, discussed.....	Thurber, 17; Dos Passos, 1172
New York, franchise tax, referred to.....	Monnett, 327
New Jersey, rates of tax.....	King, 1108; Dill, 1086
Reasonableness, cause of organization of corporations in.....	Thurber, 21; Gary, 996; Stetson, 975; Dill, 1081
Ohio, franchise tax described.....	Monnett, 327
Organization tax, pro rata, check on overcapitalization.....	Thurber, 21
Profits, confiscation above certain rate, deprecated.....	Thurber, 17

Taxation of spirits—

Alcohol, remission of tax when used in arts or exported.....	McNulta, 227
Beer and wine, increase advocated.....	McNulta, 225, 226
Capacity tax, injustice of.....	McNulta, 233
Discriminating taxes against other countries, advocated.....	McNulta, 228, 229
Exportation, hampered by regulations.....	McNulta, 227, 235; Cook, 245, 248; Bradley, 824, 828; Rice, 846, 849
Illicit manufacture, encouraged by high rates.....	McNulta, 231; Cook, 243; Bradley, 824-826; Rice, 841-846
Rates, reduction of, advocated.....	McNulta, 229-234; Luyties, 252, 256; Bradley, 824; Rice, 841-844
Should be proportioned to amount of alcohol.....	McNulta, 225, 226
Storage and transportation, changes in method advocated.....	McNulta, 228-230; Bradley, 828; Rice, 848

Tin:

Prices.....	Graham, 859; Reid, 868; Taylor, 941
-------------	-------------------------------------

Tin plate. (See American Tin Plate Company.)**Tobacco:**

Commercial travelers, displacement by combination.....	Dowe, 23
Dealers, rebates for exclusive handling of product.....	Thurber, 14

	Page.
Trade unions:	
Advantages and disadvantages to workmen, discussed....	Havemeyer, 104, 119; Lee, 289; Archbold, 542
Monopolistic character, discussed	Thurber, 6; Allen, 1198-1200
Rapid development and effects.....	Thurber, 5, 6
Recognition by combinations.....	Post, 163; Graham, 853; Reid, 869; Griffiths, 904-907; Greer, 928; Gary, 983; Gates, 1011; Dodd, 1052; Watrous, 1064
Tramp corporations:	
Definition and evil	Dill, 1077
Transportation. (See <i>Freights, Railways, Water transportation.</i>)	
Trust conference, Chicago:	
Conclusions, referred to.....	Dos Passos, 1157, 1158
Trusts:	
Advantage of form of organization.....	Dos Passos, 1141, 1142
Combination, element of, necessary to constitute	Allen, 1180
Definition of term as at present applicable	Allen, 1180-1182
Early English religious and similar trusts.....	Allen, 1178
Existence denied	Smith, 68; Dos Passos, 1142
Financial interests, combination must include	Allen, 1181
Illegality, held by courts.....	Dos Passos, 1142
Legal significance of form	Dos Passos, 1141
Monopolistic purpose of early English trusts	Allen, 1179
Monopoly, purpose of creating must exist	Allen, 1181, 1182
Origin of the trust form.....	Allen, 1178
Overcapitalization, evasion of laws through	Myers, 1131, 1134, 1135
Secrecy of form of organization.....	Dos Passos, 1141; Allen, 1179
Trust agreement, Distillers' and Cattle Feeders' Trust	McNulta, 198-200
Standard Oil Company	1221
Type founders:	
Commercial travelers, displacement by combination.....	Dowe, 29
Voting trusts:	
Purpose and character.....	Dos Passos, 1174, 1175; Myers, 1131, 1134
Pure Oil Company. (See under <i>Standard Oil Company.</i>)	
Wages, effect of combinations on:	
Advances made for purpose of disarming opposition	Dowe, 33; Lee, 289
American Tin Plate Company	Graham, 853, 860; Reid, 869-874, 879; Griffiths, 903
American Steel and Wire Company	Gates, 1011, 1012
Federal Steel Company.....	Gary, 983, 991
Effects generally.....	Clarke, 185
Increase through combination.....	Thurber, 5, 24; Moore, 965
International Silver Company.....	Dodd, 1052, 1056; Watrous, 1064-1066; Rogers, 1072, 1074
National Shear Company	Wiss, 1045
National Steel Company.....	Reis, 946
Officials, salaries of, saving by.....	Dowe, 37; Gary, 983, 991; Gates, 1029
Rates paid by combination not higher.....	Lee, 289
Rates, fair, due to policy.....	Lee, 289
Sugar combination.....	Thurber, 5, 23; Havemeyer, 128, 129
Whisky combinations	Clarke, 185
Wealth:	
Concentration, advantages to public.....	Thurber, 18; Clarke, 186
Distribution, equality impossible	Thurber, 18
Distribution, increase by combination.....	Dos Passos, 1165
Importance of incentive to accumulate.....	Dos Passos, 1165
West Virginia:	
Agents of corporations in State, requirements concerning....	Nevins, 1112, 1115
Capital, limit and provisions as to payment.....	Nevins, 1114-1116
Corporation laws, described.....	Nevins, 1111-1118
Advantages of	Nevins, 1117-1119
Liberality of.....	King, 1110, 1111
Corporations, roving character of.....	Dill, 1078, 1079
Taxation, provisions concerning.....	Nevins, 1113, 1118
West Virginia Corporation Trust Company:	
Methods of business.....	Nevins, 1114

Whisky combinations:

	Page
Historical summary of trust and corporations.....	167
Advantages of combination. (See <i>Economies of combination</i> .)	
Adulteration, freedom of cheap whisky from unhealthful.....	Clarke, 179, 180; McNulta, 205, 230, 231
Aging of whisky, losses by evaporation	Clarke, 182, 183
American Spirits Manufacturing Company—	
Organization and purchase of property of Distilling Company..	McNulta, 235; Rice, 831, 832
Capitalization and value of plants.....	Clarke, 175, 176; McNulta, 235; Rice, 832, 833
Stocks, value of	Rice, 833
No undue secrecy in business.....	Rice, 840
Business never flourishing	Rice, 840
Stockholders nearly unanimous for further consolidation.....	Rice, 840
Barrels, waste and injury by storage in	McNulta, 228-230; Rice, 848
Brands, each distillery continues its own.....	McNulta, 204
Importance as regards beverage whiskies	Bradley, 829; Rice, 845
By-products, relation of cattle feeding to distilling	Clarke, 168
Drying of residue for feed	Luyties, 258
Capitalization—	
Amount of capital of different companies	Bradley, 818; Rice, 834, 835
American Spirits Manufacturing Company	Clarke, 175, 176; McNulta, 235; Rice, 832, 833
Distillers and Cattle Feeders' Trust	Clarke, 169, 170; McNulta, 193-197, 201
Distilling and Cattle Feeding Company	Clarke, 173; McNulta, 195, 238
Distilling Company of America.....	Bradley, 819, 820, 822; Rice, 838
Kentucky Distilleries and Warehouse Company.....	Bradley, 818
Standard Distilling and Distributing Company.....	Clarke, 177; Cook, 249; Rice, 834, 835
Cattle feeding, relation to distilling business.....	Clarke, 168
Drying of residue, advantages.....	Luyties, 258
Causes of combination (see also <i>Economies of combination</i>)—	
Excessive competition	Luyties, 255; Bradley, 828
Competing distilleries—	
Number and proportion of output—	
Number of independent spirits distilleries.....	Bradley, 816, 817
Erection by distillers formerly joining trust.....	McNulta, 197, 218
Construction due to excessive prices.....	McNulta, 207; Luyties, 251
Output, present proportion controlled by	Clarke, 178, 189; Cook, 248; Bradley, 814, 815; Rice, 835, 836
Merchants' Distilling Company.....	Cook, 244; Luyties, 255; Bradley, 815; Rice, 835
Purchase by combination described.....	Clarke, 183, 185; McNulta, 197, 218
Managers, payment of salary to prevent competition..	McNulta, 203, 218, 238
Competition and effects of—	
Prices and profits cut by.....	Clarke, 176, 178; McNulta, 208, 209; Luyties, 254
Advantages of moderate capital	Luyties, 255
Preference of purchasers for independents	Clarke, 184; Cook, 245; Luyties, 253
Competition—	
Purpose of early combinations to control	McNulta, 238, 240; Cook, 246; Rice, 836
Policy of present combinations as to	Bradley, 814, 815, 827; Rice, 847
Cost of production must be reduced to prevent.....	McNulta, 217, 240; Clarke, 189
Prices, cutting by combination.....	Clarke, 170, 181-183
Special cuts to customers of competitors.....	Clarke, 170, 181-183; McNulta, 208; Luyties, 253; Bradley, 815; Rice, 847
Special cuts abandoned at present	Bradley, 815; Rice, 847
Advantages of trust in underselling	Luyties, 253
Compounding of whisky. (See <i>Rectification</i> .)	
Consumption of spirits, increase in prosperous times.....	Rice, 845
Corn, effect of combination on price	Thurber, 12; McNulta, 226
Plan to increase price by developing distilling..	McNulta, 225, 226; Rice, 846

Whisky combinations—Continued.

	Page.
Cost of production—	
Average for distilleries in combination, 1891-1895.....	McNulta, 211-213
Coal, cost of.....	Clarke, 185
Aim of present combinations to reduce.....	McNulta, 240; Bradley, 814, 815, 827; Rice, 847
Reduction only means of controlling market.....	McNulta, 217, 240
Reduction, Kentucky whiskies.....	Bradley, 827
Cost of distilleries, estimated.....	Cook, 249
Distillers and Cattle Feeders' Trust—	
Capitalization and value of plants... Clarke, 169, 170; McNulta, 193-199, 201	
Capitalization of constituent distilleries	McNulta, 193, 194
Conduct of business—	
Closing of plants by..... Clarke, 170, 175; McNulta, 203, 216, 218, 238	
Distilleries, additional, purchase of.....	McNulta, 197
Effect of distillers who entered.....	McNulta, 236, 237
Records and papers, destruction.....	McNulta, 195, 196
Dividends, rates and proportion to actual cost.....	Clarke, 187
Organization and history—	
Method and form of organization.....	Clarke, 169, 170
Distilleries entering trust, list, etc	McNulta, 193-197
Trust agreement, synopsis.....	McNulta, 198-200
Illegality of trust form.....	Clarke, 174
Change to corporation	Clarke, 171, 173; McNulta, 218-224
Bill of sale to Distilling Company	McNulta, 221
Trust certificates, method of issue	McNulta, 193-199
Fluctuations in value	Clarke, 174
Trustees, names of	McNulta, 198
Legal position and powers..... Clarke, 169, 173, 174; McNulta, 189, 199	
High prices received for distilleries belonging to.....	McNulta, 200, 201
Distilling and Cattle Feeding Company—	
Capitalization and value of plants, discussed... Clarke, 173; McNulta, 195, 238	
Bonds, amount issued and purposes.....	McNulta, 195
Conduct of business—	
Products manufactured by	McNulta, 195, 204
Methods of controlling constituent distilleries	McNulta, 206
Records and papers, difficulty of securing	McNulta, 195, 196
Salary, monthly account.....	McNulta, 224
Directors, election of first	McNulta, 220
Dividends and profits.....	McNulta, 216
Organization, history and method.....	Clarke, 171, 173; McNulta, 195, 218-224; Rice, 831, 832
Bill of sale of Distillers' Trust to.....	McNulta, 221
Receivership, history..... Clark, 175; McNulta, 192; Rice, 831, 832	
Policy regarding prices.....	McNulta, 208-210
Reorganization, difficulty in accomplishing.....	McNulta, 210
Sale to American Spirits Manufacturing Company.....	McNulta, 235
Stocks, subscriptions for.....	McNulta, 219, 220
Variations in value.....	McNulta, 207; Rice, 833
Speculation and manipulation.....	Clarke, 174, 175; McNulta, 198, 209, 210; Rice, 832
Distilling and Cattle Feeding Company v. People, case referred to... McNulta, 216	
Distilling Company of America—	
Incorporation and purposes.....	Bradley, 819; Rice, 837
Capital, amount issued, and disposition.....	Bradley, 819, 820; Rice, 838
Exchange of stock for stock of constituent companies.....	Bradley, 819-821; Rice, 838
Annual interest charged, effect of combination.....	Bradley, 822; Rice, 838
New Jersey, reasons for incorporation in.....	Bradley, 823
Promoters' profit from organization.....	Bradley, 820-822; Rice, 838, 839
Holds stock of other companies, does not operate... Bradley, 819; Rice, 837	
Advantages of consolidating different branches of trade.....	Bradley, 819
Distributors of spirits (see also Rectification)—	
List of leading	McNulta, 206
Rectification and compounding by	Clarke, 180
Relation to combination. McNulta, 206, 210; Cook, 244; Clarke, 188; Rice, 835	

Whisky combinations—Continued.**Distributors of spirits—Continued.**

Page.

Association and incorporation of.....	Clarke, 188
Erection of distilleries by.....	Cook, 244
Dividends, payment by different distilling combinations.....	Bradley, 822

Economies of combination—**Generally—**

Advantages of combination, generally, discussed..	Clarke, 188, 184, 186;
	Luyties, 255
Efficiency of management, relative.....	Luyties, 255
No advantage from merely combining scattered distilleries..	McNulta, 238
Kentucky whiskies, reduction of cost of manufacture.....	Bradley, 827
Continuous operation, closing of plants.....	Clarke, 170, 191;
	McNulta, 203; Luyties, 254
Foreign markets, advantage in securing.....	Clarke, 184
Large plants.....	Clarke, 184; McNulta, 203; Luyties, 254
Location of plants—	
Favorable places sought by combination.....	McNulta, 201, 202
Closing of badly located distilleries.....	Clarke, 170, 191; McNulta, 203
Relation to raw material.....	McNulta, 238
Processes, increased production by improved.....	McNulta, 202-204;
	Bradley, 826
Experiments, improvements in yeast making, etc.....	Clarke, 186, 187;
	McNulta, 202
Purification of spirits by improved.....	McNulta, 204, 205
Raw materials, saving in purchase.....	Clarke, 184; McNulta, 201
Salesmen, advertising, etc., saving in.....	Bradley, 829
Superintendence, reduction of amount required.....	McNulta, 203
Transportation, advantage in, discussed.....	McNulta, 201; Luyties, 254
Exportation—	
Surplus output exported at loss.....	Clarke, 169; McNulta, 200
Reasons for small amount.....	Cook, 245, 246; McNulta, 235
Beneficial effects on the price of corn.....	Rice, 846
Large foreign consumption of alcohol.....	Bradley, 828; Rice, 847
No tax levied on spirits exported.....	Cook, 246
Remission of tax in case of, advocated.....	McNulta, 227, 229
Hindered by obstructive tax regulations.....	McNulta, 235;
	Cook, 245, 248; Bradley, 824, 828; Rice, 846, 848
Bonded-warehouse system, description of working.....	Clarke, 182, 183
Beverage whisky exported temporarily to evade tax.....	Rice, 848
Germany, control of whisky output by Government.....	Luyties, 257
Gin, process of manufacture described.....	McNulta, 204
Great Western Distillery, capacity and advantages.....	McNulta, 217
Green v. United States, case referred to.....	Clarke, 188
Greenhut, J. B., charges against.....	Clarke, 175
Illicit distilling. (See <i>Taxation</i> .)	
Individual owners, reduced to mere agents by trust.....	Clarke, 181
Kentucky, Distillers' and Warehouse Association, referred to.....	Clark, 188
Kentucky Distilleries and Warehouse Company—	
History of organization, capitalization, etc.....	Bradley, 818
Purchase of distilleries, prices, etc.....	Bradley, 818
Proportion of Kentucky output controlled by.....	Bradley, 818; Rice, 836
Kentucky whiskies—	
Necessity of aging.....	Rice, 836
Importance of brands.....	Bradley, 829; Rice, 845
Cheap grade, manufacture by combination.....	Bradley, 826
Prices, possibility of maintaining high.....	Bradley, 829; Rice, 845
Reduction by combination.....	Bradley, 827
Quality improved by combination.....	Bradley, 830
Labor—	
Displacement by combination.....	Clarke, 185; McNulta, 203; Cook, 249
Organization of workmen.....	Clarke, 189
Wages, increase in certain cases.....	Clarke, 185
Lobbying, use of funds by trusts.....	McNulta, 225
McNulta, John, actions as receiver of Distilling Company.....	Clarke, 175;
	McNulta, 192-194, 206

Whisky combinations—Continued.

	Page.
New Jersey, advantages of incorporation in	Bradley, 823
Distilling companies have complied with law	Bradley, 823, 824
Output—production—	
Amount and relation to consumption—	
Total for United States and for combination, 1890-1894....	McNulta, 215
Spirits compared with "straight" whisky.....	Luyties, 258
Stocks of spirits on hand	Cook, 247
Capacity excessive	Cook, 245, 246
Consumption per capita	Luyties, 252; Rice, 845
Increase, possibility by changes in taxation.....	McNulta, 225-230; Cook, 243; Rice, 846
Average yield per bushel of corn....	McNulta, 215; Bradley, 826; Rice, 844
Control by combinations. (See also <i>Rebate system</i> .)	
Purpose of combination as to control.....	McNulta, 238, 240; Cook, 246; Rice, 836
Rebate system intended to control.....	McNulta, 207
Limitation under pools	Clarke, 168, 169
American Spirits Manufacturing Company, control by.....	Clarke, 176
Distillers' trust, control by.....	Clarke, 176
Control by leasing ground of distilleries.....	McNulta, 216, 218, 238
Sales by trust, monthly, 1889-1895	McNulta, 214
Distilling and Cattle Feeding Company, control by	McNulta, 212, 213, 215
Distilling Company of America—	
Proportion controlled by.....	Clarke, 178, 189; Cook, 248; Bradley, 814, 815; Rice, 835, 836
Kentucky whiskies, proportion controlled by.....	Bradley, 818; Rice, 836
Number of present competing plants	Bradley, 816, 817
Policy of	Rice, 836
Cost of production, cheapening, proper means to control..	McNulta, 207
Pools of distilleries, history and working	Clarke, 168, 169; McNulta, 200; Cook, 241
Prices—	
Average monthly, 1884-1899.....	Bradley, 816
Average quarterly, 1891-1895.....	McNulta, 211
Variation according to price of corn.....	McNulta, 209, 239
Brands, special, influence on.....	Clarke, 189; Bradley, 829; Rice, 845
Control by combinations. (See also <i>Rebate system</i> .)	
Degree and effect, earlier combinations.....	Clarke, 189; McNulta, 207; Cook, 249
Present policy regarding.....	Bradley, 814, 815, 827; Rice, 847
Purpose of trust to control.....	Cook, 246
Distributers, fixing of prices.....	Clarke, 180, 188; McNulta, 210; Cook, 242, 246, 250
Stock speculation, influence in breaking down.....	McNulta, 209, 210
Joint agreement of receiver and competing distilleries..	McNulta, 208, 210
Standard Distilling Company, attempt to secure excessive..	Cook, 248, 249
No discrimination in favor of compounders	Bradley, 828
Cutting of—	
Competing distillers, cutting by.....	Clarke, 170, 176, 178, 181-183; Bradley, 815; Rice, 847
Special cuts to customers of competing distillers..	Clarke, 170, 181-183; McNulta, 208; Luyties, 253; Bradley, 815; Rice, 847
Abandoned at present.....	Bradley, 815; Rice, 847
Effect of changes—	
On dealers and consumers, discussed.....	Clarke, 178, 179; McNulta, 236; Cook, 242-245; Luyties, 256; Bradley, 830; Rice, 846
Special brands, effect of changes in price.....	Cook, 243, 245
Effect of combination—	
Distillers' trust	Cook, 241; Clarke, 171, 186
Variation in proportion to price of corn	Bradley, 827; Rice, 847
Reduction, recent, due to competition	Luyties, 254
Present policy to reduce.....	Bradley, 814, 815, 827; Rice, 847
Kentucky whiskies, possibility of maintaining high.....	Bradley, 829; Rice, 846

Whisky combinations—Continued.**Prices—Continued.**

	Page
Margin of profit, proper amount discussed	McNulta, 238; Cook, 246, 248, 249
Processes of manufacture, described	Clarke, 168
Improvements by combination	McNulta, 202-205; Clarke, 186, 187; Bradley, 826

Profits—

Great fluctuations in	Bradley, 828
Possibility of securing high	Cook, 246
Proper amount per gallon	McNulta, 238; Cook, 248, 249
Distillers' trust	Clarke, 171, 181
Distilling and Cattle Feeding Company	McNulta, 211, 212, 213
Individual distillers have mostly lost by combination	McNulta, 236, 237
Promotion, profits from, Distilling Company of America	Bradley, 820-822; Rice, 838-840

Quality, improved by combination	Bradley, 830
Railways, rebates and special rates	Clarke, 184; McNulta, 201

Rebate system—

History and description	Clarke, 171, 172; McNulta, 210, 211; Cook, 241, 242; Bradley, 813
Form of vouchers	McNulta, 206
Rates allowed	Clarke, 171, 172, 181; McNulta, 207, 210, 211; Luyties, 250; Rice, 834
Total amount by years	McNulta, 210, 211
Standard Distilling Company, system under	Clarke, 181; Cook, 244
American Spirits Manufacturing Company, discontinued by	McNulta, 207; Bradley, 814; Rice, 844
Abandoned by present combination	Bradley, 814; Rice, 847
Control of dealers by means of	Clarke, 172; McNulta, 207; Luyties, 251; Bradley, 813
Objection of rectifiers and wholesale dealers to system	Clarke, 180, 181; McNulta, 207
Advantages to distributors belonging to trust	Cook, 244
Use of rebate fund for buying distilleries	Clarke, 172
Failure of trust to pay rebates	Cook, 242; Luyties, 251
Bonds issued to protect holders of rebates	Clarke, 173

Rectification and compounding—

Processes and profits	Clarke, 179, 180; Bradley, 827; Rice, 835
Character of whisky made by	McNulta, 205; Luyties, 256
Importance of control of business to distilleries	Rice, 835
Proportion of business controlled by combination	Rice, 835

Rectifiers (see also Distributors)—

Objection to dealing with combination	Clarke, 180
Distilling Company makes no discriminations in sale	Bradley, 828

Retail dealers—

Prices, effect of changes upon	Clarke, 178, 179; McNulta, 236; Cook, 242-245; Luyties, 256; Bradley, 830; Rice, 846
Profits, amount estimated	Clarke, 179

Rye whisky—

Source of raw product	McNulta, 202
Importance and number of brands	Rice, 837
Purchase of distilleries by combination	Bradley, 822; Rice, 837, 839
Output, proportion controlled by combination	Bradley, 818; Rice, 837
Shufeldt Distillery, special products and reason for purchase by trust	McNulta, 204

Speculation—

Trust certificates, extensive speculation in	Clarke, 174
Offices of Distillers' Trust, manipulation by	Clarke, 174, 175; McNulta, 198; Rice, 832
Influence on prices of spirits	McNulta, 209, 210

Spirits—

High wines and proof spirits, significance of terms	Bradley, 827
Quantity produced compared with "straight" whisky	Luyties, 255
Marketable immediately, uses	Clarke, 182
Importance of rectification and distribution	Rice, 838

Whisky combinations—Continued.**Spirits—Continued.**

Page.

Character of whisky made from	McNulta, 205
Purity under modern processes	McNulta, 204, 205
Spirits Distributing Company—	
Organization, capitalization, and purpose	Bradley, 814; Rice, 834
Standard Distilling and Distributing Company—	
Organization and relation to American Company	Clarke, 177, 178
Capitalization and value of plants	Clarke, 177; Cook, 249; Rice, 834, 835
Proportion of spirits produced by	Bradley, 814; Rice, 834, 835
Storage and packing, changes in methods advocated	McNulta, 228-230;
	Bradley, 828; Rice, 848

Taxation, internal revenue—

Annual receipts, 1889-1891	Rice, 844
Bonded warehouse system, description and working	Clarke, 182, 183
Capacity tax, injustice of	McNulta, 233
Output per bushel of corn underestimated	Rice, 844
Enforcement and regulations—	
Unnecessary strictness of rules	McNulta, 232
Leakage, adjustment of tax to provide for	Luyties, 252, 254
Time of paying tax	Clarke, 182, 183
Dealers, payment by, effect discussed	McNulta, 234
Barrels, injurious effect on alcohol	McNulta, 228-230; Rice, 848
Handling and transportation in metal tanks, advantage ..	McNulta, 228-
	230; Bradley, 828; Rice, 848

Exportation of spirits—

Remission on alcohol exported	Cook, 246;
	McNulta, 227, 229; Bradley, 824
Hindered by obstructive tax regulation	McNulta, 235;
	Cook, 245-248; Bradley, 824, 828; Rice, 846, 848
Bonds required by Government excessive	Luyties, 259
Bonded warehouse system, description of working	Clarke, 182, 183
Beverage whisky exported temporarily to postpone tax ..	Rice, 848
Germany, rate in	Luyties, 257

Illicit manufacture—

Amount of .. McNulta, 231; Cook, 243; Bradley, 824-826; Rice, 841-844	
Fostered by excessive tax	McNulta, 231;
	Cook, 243; Bradley, 824-826; Rice, 841, 844
Excessive profits from	Bradley, 825
Sale of illicit under standard brands	Bradley, 825, 826
Evasion by large establishments slight	McNulta, 234
Untaxed production by registered stills	Rice, 841, 844
High license necessary to prevent	Bradley, 824; Rice, 844
Government should have officer in every still	Bradley, 825

Manufactures—

Use of spirits in, increase by lowering tax	McNulta, 227; Cook, 243
Remission on alcohol used in arts, advocated	McNulta, 227
Difficulty of remitting tax	Luyties, 252; Bradley, 829
Officers, revenue, removal of judicial functions	McNulta, 232

Rates and their working—

Amount of revenue under different rates	Rice, 843, 844
Consumption, effect of changes of rates	Cook, 247;
	Luyties, 252; Rice, 843
Present rate excessive	Luyties, 252, 256
Increase of rate, effect of	Rice, 841; Cook, 242-245
Prepayment of tax to evade	Cook, 247
Reduction of rate, increase of production and revenue by	
McNulta, 229, 234; Cook, 243, 247; Bradley, 824; Rice, 841	
Effect on dealers and consumers	McNulta, 230-236
Adjustment to proportion of alcohol, advocated	McNulta, 225, 226
United States Spirits Company, organization and purposes ..	Clarke, 188
Western Exporters' Association	McNulta, 200
Wholesale dealers, prices, effect of changes on	Clarke, 178, 179;
	McNulta, 202, 236; Cook, 242-245; Luyties, 256; Rice, 846

Wine:

Taxation in proportion to alcohol contained, advocated	McNulta, 226
--	--------------

Crude oil—Continued.

Production, output—Continued.

Statistics—Continued.

	Page
Production and proportion by countries, 1897	Archbold, 567
Production and proportion by States, 1896, 1897	Archbold, 568
Total amount of production, importance	Rice, 687
Production chiefly from small wells	Lee, 294
Sources of statistics	Boyle, 485
Variations in production, causes, etc.	Lee, 283; Boyle, 409-428, 473
Overproduction and effect	Lee, 280; Lockwood, 396; Boyle, 445, 451, 452, 456
Restrictions of production, early	Boyle, 426-428, 454-458
Restriction of 1887—	
History and effect	Lee, 284; Boyle, 428-432, 460, 461
Established at instance of producers only	Archbold, 540
Relation of Standard Oil Company to	Boyle, 429, 430
Boundary line drilling contract, text	Boyle, 459
Interior drilling contract, text	Boyle, 460
Effect on prices	Lee, 288; Boyle, 429
Oil set aside for benefit of drillers	Lee, 284; Boyle, 482, 483
Effect on drillers	Boyle, 431, 483
Speculation in—	
Methods used to influence prices	Davis, 362; Boyle, 436, 450
Losses to producers through	Boyle, 451
Depression of prices to producers by	Boyle, 449
Suppression by Standard Oil Company	Boyle, 449, 451
Standard Oil Company (see also <i>Prices</i>)—	
Proportion of output controlled by	Lee, 263, 281, 282; Monnett, 318, 319; Lockwood, 402; Boyle, 489; Archbold, 560, 561, 571
Purchase of lands by, methods	Davis, 354; Lockwood, 408; Phillips, 592
Lease of oil lands by	Lee, 285
Effect of production by	Lee, 285
Effect on producers injurious	Lee, 281-284; Phillips, 599
Denied	Boyle, 433-435, 485; Archbold, 538-540, 553
Texas oil field—	
Relation of Standard to	Page, 792
Derrick's Handbook of Petroleum:	
Character of statistics in	Boyle, 485
Economies of combination in production:	
Superior methods of Standard, generally	Smith, 71; Havemeyer, 116; Cook, 248; Archbold, 563, 570; Dodd, 799; Rockefeller, 796; Monnett, 318; Boyle, 486-490; Westgate, 372
Denied	Lockwood, 392
Large capital, economy of, generally	Archbold, 570
Capital of \$500,000 sufficient for best production	Lee, 269
Ability, command of superior	Archbold, 563; Westgate, 372
Superintendents, high salaries	Lee, 286
Directors have had little practical experience	Lee, 271
Superintendents, less skillful than independent refiners	Lee, 269
Improvements and inventions in refining	Westgate, 372; Boyle, 486, 488; Emery, 624
Closing of plants less favorably situated	Monnett, 309
By-products, utilization by Standard	Emery, 627, 628; Phillips, 602; Archbold, 570; Davis, 355
Sale and marketing of products, superior skill in	Boyle, 488-490; Archbold, 562, 570
Denied	Phillips, 600
Foreign markets, need of aggregation of capital to secure	Archbold, 562, 563
Coal, economy in purchase	Lee, 278
Denied	Archbold, 553
Pipe lines, consolidation of system	Boyle, 489; Rockefeller, 796
Standard can not transport more cheaply	Lee, 269
Transportation, improved methods introduced by Standard	Archbold, 563
Advantages by favorable location of refineries	Page, 770, 776-778
Advantages of many distributing points	Page, 786
Tank ships and schooners owned by Standard	Page, 781
Quality of oil. (See below, <i>Quality</i> .)	

OIL COMBINATION.

Lewis:	Page.
Driven out of business by Standard.....	Emery, 648
United States Pipe Line, relations to, etc.....	Emery, 650-653
Foreign markets—Exportation:	
Export trade—statistics—	
Amount of oil exported.....	Lee, 277, 278; Archbold, 535-537, 568; Emery, 622, 623
Relative value of exported oil for different years.....	Boyle, 435, 436
Benefit of export trade to country.....	Davis, 363
Domestic prices maintained by.....	Lee, 282
Quality of export oil.....	Lee, 274, 277, 278; Emery, 623, 626
Competition in—	
Excessive cuts and prices to drive out independents.....	Lee, 273; Westgate, 381; Archbold, 531; Phillips, 593
Special cuts to extend trade justifiable.....	Boyle, 433
Cutting below cost in far East.....	Archbold, 570
Methods of Standard Oil Company in controlling.....	Monnett, 319
Government control of competition.....	Lee, 276, 277; Archbold, 532; Emery, 616, 617, 623
France, trade chiefly controlled by Standard.....	Lee, 277
Germany—	
Conditions of business and competition.....	Lee, 273, 275; Phillips, 601
Purchase of Poth Agency by Standard.....	Boyle, 443
Purchase of independent tankage by Standard.....	Emery, 617
New tankage, etc., established by independents.....	Emery, 617
Emery, Lewis, experience in.....	Emery, 616, 617, 623
Prevention of unfair competition by Government.....	Lee, 273, 277, Emery, 616, 617, 623; Archbold, 532
Attitude of Government toward Standard.....	Rice, 747
Profits in, due to fair railway rates.....	Lockwood, 397
Independent refiners—	
Extent of operations in foreign markets.....	Lee, 273-276, 285; Archbold, 535-538, 568
Importance of foreign shipments to.....	Westgate, 380; Emery, 631
Methods of shipment.....	Lockwood, 397, 398
Prices, compared with domestic.....	Archbold, 559, 560
Necessity of moderation.....	Boyle, 430
Russian oil—	
Crude and refined output.....	Archbold, 567
Relative amount exported.....	Archbold, 533, 534
Amount of business.....	Emery, 623, 626, 632
Strength of competition.....	Archbold, 546, 557, 566; Page, 791
Suffers from Standard competition.....	Emery, 623
Standard Oil Company—	
Amount of export business.....	Archbold, 533-537, 568
Extension of foreign markets by.....	Archbold, 562-568, 579; Emery, 618, 628; Page, 792
Not pioneer in securing.....	Phillips, 600
Tin cans, exportation and manufacture abroad.....	Lee, 282; Archbold, 533, 534
Export oil refined at seaboard.....	Lockwood, 398
Grades. (See Quality.)	
Independent refineries and organizations. (See Competing Refineries;	
Pipe Lines, Independent; Pure Oil Company.)	
Interstate Commerce Act. (See Railway discriminations.)	
Labor:	
Effect of Standard combination—	
Satisfactory relations.....	Archbold, 542, 543, 565
Employees of Standard competent and well paid.....	Lee, 289
Displacement by dismantling plants.....	Monnett, 312
Dependence on a single employer, evil effects.....	Lee, 286, 289
Wages paid by.....	Lee, 285, 286; Clark, 348; Gall, 680
Superintendents and foremen, high wages paid.....	Lee, 286
Hours, at distributing stations.....	Clark, 349; Mathews, 494
Oil well drillers—	
Combinations of.....	Boyle, 431, 433
Wages paid.....	Davis, 364; Boyle, 433
Restriction of 1887, effect on.....	Boyle, 431, 432, 433

1814 THE INDUSTRIAL COMMISSION.—INDEX.

Linseed oil:	Page.
Alleged adulteration by Standard Company.....	Clark, 333, 334; Mathews, 495.
Logan, Emery & Weaver:	
Suit for discriminations	Lee, 287; Emery, 633-635, 639
Lubricating oils:	
Character, value	Emery, 627
Compounding, processes, qualities	Clark, 333, 334; Davis, 356
Different prices for same quality	Clark, 333, 334; Davis, 356
Denied	Mathews, 502, 505
Frauds in branding	Clark, 333, 334
Denied	Mathews, 495, 502
Monopoly, practical, of Standard Oil Company	Davis, 355
Prices and discriminations between customers, discussed	Mathews, 502, 505
Railways, discriminations in purchase from Standard Oil Company	Lee, 268; Davis, 355; Rice, 699, 700
Denied	Archbold, 516; Page, 757-759
Superior quality of Galena oils	Page, 757, 758
Contracts of Galena Oil Company, as to cost of lubrication	Page, 757, 758
Standard's prices uniform to all purchasers	Page, 757, 758
Canada, amount produced and imported	Gall, 683
Matthews—Buffalo Refinery:	
Alleged attempt to blow up	Lockwood, 389; Archbold, 553
Methods of business of Standard Oil Company:	
Suits by stockholders to ascertain condition of business	Boyle, 444
Amount of oil sold at certain stations	Mathews, 499
Inspection of accounts, etc., by local agents	Clark, 342, 343; Mathews, 504
Deductions from salaries of agents for errors	Clark, 345
Letters answered by indorsement	Clark, 348
Oral instructions in place of writing	Clark, 346, 347
Amount of daily deliveries from tanks, etc.	Clark, 342; Mathews, 496
Miners' oil:	
Compounding, adulteration in	Clark, 334; Mathews, 495
Monopoly of Standard, degree of:	
Monopolistic character of Standard Oil Company	Phillips, 600
Standard has no legal advantages	Phillips, 596
Growth of Standard Oil Company, 1870-1879	Emery, 646; Rice, 689
Proportion controlled by Standard, 1870-1879	Rice, 689
Proportion controlled by Standard, 1879	Emery, 646
Proportion controlled by Standard, 1894-1898	Archbold, 560
Proportion of refining controlled by Standard	Lee, 286; Lockwood, 402; Emery, 605
Canada, proportion of oil refined by Standard	Archbold, 572, 573
National Transit Company. (See <i>Pipe lines</i> .)	
Ohio Oil Company:	
Purposes of organization	Monnett, 299
Petroleum Producers' Association:	
Organization and purposes	Boyle, 419, 454, 455
Petroleum Producers' Agency:	
Attempt to maintain prices, 1870	Boyle, 455-458
Pipe lines:	
Buckeye Pipe Line Company—nature and working	Monnett, 298, 299, 311
Business, customs, and methods—	
Described	Lee, 285
Deductions and assessments for losses by fire	Davis, 354
Gauging and deductions for evaporations	Davis, 354
Charges and cost of piping—	
Relative charges of Standard and independent lines ..	Lee, 271; Westgate, 381
Charges excessive	Rice, 734
Reasonableness of charges	Thurber, 23; Rogers, 581, 583, 589
Not reduced by combination	Lee, 280, 284
Ohio, rates in	Monnett, 311
Cost of transporting oil, estimated	Lee, 284; Archbold, 553; Rogers, 588; Phillips, 594; Emery, 606; Rice, 734
Consolidation by Standard Oil Company—	
History—	
Combinations, early, described	Boyle, 424; Emery, 604
Absorption by Standard, described	Lee, 262, 263; Boyle, 424-426; Emery, 630

Pipe lines—Continued.

Consolidation by Standard Oil Company—Continued.

History—Continued.

Page.

- Competition, excessive, cause of Boyle, 424-426
- Purchase of independent lines by Standard Lockwood, 395; Archbold, 561
- Purchase made up by reduced oil prices Phillips, 592
- Western and Atlantic Pipe Lines, purchase by Standard... Lockwood, 395
- Standard's methods in—
 - Described Lee, 254; Monnett, 321; Lockwood, 394; Emery, 605
 - Discriminations and rebates by railways Lockwood, 395; Boyle, 424; Emery, 641; Rice, 695, 696
 - Premiums on oil Lockwood, 394; Boyle, 475; Archbold, 576; Rogers, 582
- Degree and effects of monopoly—
 - Proportion and effects of control Lee, 264, 265; Rice, 689
 - Control of different lines by Standard Davis, 361
 - Difficulty of establishing competing lines Monnett, 310, 311
 - Control of competition by means of Monnett, 299, 312, 315
 - Railway rates increased to prevent competition with Monnett, 317
 - Crude oil, price controlled by Monnett, 325; Davis, 362; Lee, 285
 - Advantages of consolidation.... Boyle, 471-474, 489, 490; Archbold, 553
 - Necessity of large capital Rockefeller, 797
 - Distances to which lines are laid to reach wells..... Rogers, 581, 588
- Eminent domain for—
 - Opposition of Standard and railways to Lee, 262; Boyle, 474; Archbold, 513; Emery 605, 659, 660
 - New York and New Jersey, laws lacking Lee, 267; Emery, 653, 654
 - Law granting, advocated Emery, 662
- History, early..... Lee, 262; Boyle, 409, 413, 423-426, 480-482; Emery, 603-605
- Immediate shipments, significance of practice..... Boyle, 482
- Independent organizations, existing (see also *Producers' Oil Company, Pure Oil Company, United States Pipe Line*)—
 - Organization and relations—
 - Names and history..... Lee, 261; Lockwood, 297; Rogers, 581
 - History, organization and effects..... Boyle, 442-445
 - Relations to one another..... Lee, 261; Boyle, 462-471; Rogers, 584
 - Capital and profits..... Phillips, 591, 592, 600
- Effects on oil industry—
 - Raising of prices to producers by..... Lee, 293; Boyle, 444, 445; Phillips, 592, 598, 599
 - Advantages to refiners..... Phillips, 598, 599
 - Rates of pipage, Standard and independent lines. Lee, 271; Westgate, 381
 - Seaboard lines, advantages of..... Lee, 265
 - Wastefulness and inability to meet demands..... Boyle, 404, 442, 443, 445, 475; Rogers, 589
- Attempts of Standard to control—
 - Purchase of stock by Standard..... Lee, 270; Westgate, 370, 382; Boyle, 442; Archbold, 529, 531, 577, 578; Rogers, 584; Phillips, 590
 - Control sought through buying refineries..... Westgate, 370, 371
 - Combination with Standard, propositions..... Archbold, 530, 531; Phillips, 383; Emery, 659
- Opposition of Standard—
 - Opposition to free pipe-line law..... Lee, 262, 267; Boyle, 474; Archbold, 513; Emery, 605, 659, 660
 - Opposition to laying pipes..... Lee, 264, 267; Lockwood, 397; Boyle, 445, 474, 475; Emery, 651
 - Opposition of Rice to National Transit Company's lines..... Boyle, 486
 - Purchase of wells reached by independent lines..... Westgate, 380
- Railways, opposition to crossing of pipe lines—
 - Described..... Lee, 264, 267; Lockwood, 397; Emery, 650-655; Rice, 739
 - Opposition due to Standard Company..... Phillips, 593
 - Reasons for Archbold, 529
 - Attempt to secure permission of Standard to cross railways. Emery, 659

Pipe lines—Continued.**Independent organizations, existing—Continued.****Refined oil—**

Page.

Transportation by independent pipe lines	Lee, 267; Lockwood, 398; Boyle, 445; Emery, 651
Early transportation of	Boyle, 413
Monopoly. (See above, <i>Consolidation</i> .)	
National Transit Company—	
Charter, manner of securing	Rogers, 585, 588; Emery, 607, 619–622
Charter, character and powers	Emery, 608, 609, 621, 622
Capitalization	Rogers, 587
Agreement with Tidewater Pipe Company for division of traffic	Rice, 738
Contracts with railways for division of traffic	Emery, 663–667; Rice, 701, 702; Page, 759–763
Efficiency in meeting demands of McDonald field	Boyle, 471, 473
Capacity of lines	Boyle, 481; Rogers, 583, 584
Credit balances, outstanding, 1889–1899	Rogers, 583
Residuum, statement of, published monthly	Rogers, 583
Premiums on oil—	
Paid to injure competing lines	Lockwood, 394
Sometimes paid to meet competition	Boyle, 475; Archbold, 576; Rogers, 582
Paid for superior quality	Boyle, 475; Archbold, 576; Rogers, 582
Purchases of oil by pipe lines—effects	Lee, 285; Davis, 352, 354, 362; Boyle, 420, 424
Rebates and discriminations by—	
Early	Boyle, 423, 476–479
Attempt to recover by suits	Boyle, 427, 428, 476–479
Relation to premiums on oil	Boyle, 479
Corning fields, discrimination against	Davis, 352
Refined oil, transportation by United States pipe line	Lee, 287, 268; Lockwood, 398; Boyle, 413, 445; Emery, 651

Press:

Attitude toward Standard generally	Rogers, 587
Unfairness of certain papers toward Standard	Boyle, 487
Oil City Derrick, relation to Standard	Boyle, 404
Suits for libel against	Boyle, 487
Opposition to independent interests	Rice, 754
Subsidizing by Standard	Monnett, 312, 321; Lockwood, 398
* Material furnished by Standard	Monnett, 321

Prices:**Statistics—**

Export prices, average by years, 1870–1898	Thurber, 4; Boyle, 435; Archbold, 547
Variations by months and days, 1891–1899	Boyle, 437–439
Exported oil, relative value for different years	Boyle, 436
Average, New York, Chicago, and Cincinnati, 1885–1899	Archbold, 547, 548
Cincinnati prices of refined oil	Boyle, 447, 448
Statistics based on export oil misleading	Westgate, 371, 372
Foreign prices compared with domestic	Archbold, 546, 559, 560; Emery, 631, 633; Rice, 734; Page, 791
Domestic, difficulty of securing	Boyle, 446–448
Sources of	Boyle, 485
Transportation, early fluctuations due to	Boyle, 419
Causes of recent fluctuations	Lockwood, 395, 403
Restriction of crude output, effect upon	Boyle, 430
Influences affecting—	
Crude prices, relation to refined	Boyle, 446, 447; Archbold, 571; Gall, 674, 689
Relation to price of crude and to competition	Lockwood, 395
Margin made more uniform by Standard	Boyle, 437–439
Domestic prices, influences affecting	Boyle, 448
By-products, influence of	Davis, 355, 360; Westgate, 368, 371; Archbold, 570
Barrels, influence of	Boyle, 437; Westgate, 371
Railway discriminations, reduction by reason of	Archbold, 529, 536; Rockefeller, 755

Prices—Continued.

Effect of combination—

	Page.
Possibility of raising above competitive rates, discussed	Lee, 292;
Control by Standard Company, degree and effects of	Archbold, 569, 570
Lee, 276, 286;	
Lockwood, 403; Archbold, 531, 568-570	
Rates sufficient for profit, stated	Lee, 296; Rice, 735
Relative prices of independents and Standard	Clark, 345, 348
Increase by	Lee, 296, 292; Monnett, 323; Lockwood, 403; Rice, 734-736
Canada, increase through Standard	Gall, 674
Extra profits from Ohio oil	Rice, 735, 736
California, excessive prices in	Emery, 633
Reduction not due to Standard	Lee, 275, 276;
Monnett, 317; Lockwood, 394; Rice, 734	
Reduced through Standard	Smith, 71;
Thurber, 43; Havemeyer, 116; Cook, 248; Archbold, 564	
Policy of Standard to reduce	Page, 792
Destruction of Standard would not lower	Archbold, 531
Excessive cutting of	Lee, 265, 266, 273; Westgate, 365, 370
Sometimes necessary, but deprecated	Archbold, 568, 569
Should be prohibited	Westgate, 383
Special cuts in particular localities—	
Existence of practice and instances	Lee, 277;
Monnett, 313, 317; Clark, 337, 350; Westgate, 365, 367; Lock-	
wood, 402; Boyle, 433, 485; Emery, 629-632; Rice, 704	
Competitive and noncompetitive points, differences in prices	Lee, 265,
266, 269; Monnett, 302, 317; Clark, 350	
Differences in prices according to degree of competition	Westgate, 367
New York City, against Pure Oil Company	Lee, 265, 266;
Westgate, 365; Lockwood, 402; Archbold, 528	
Philadelphia, cuts in	Lee, 266; Emery, 629, 631, 632
Foreign markets, cuts in	Lee, 273; Westgate, 381; Lockwood, 398;
Boyle, 433; Archbold, 531, 570; Phillips, 593; Emery, 616	
Governmental regulation, foreign markets	Lee, 276, 277;
Archbold, 532; Emery, 616, 617, 623	
Threats of cuts	Westgate, 369, 370;
Clark, 337; Archbold, 550, 552	
Usually made by Standard first	Emery, 629, 630, 632
Made first by competitors	Mathews, 506
Discussion of facts	Mathews, 491, 492, 496, 499, 505
Justification in certain cases	Archbold, 569; Boyle, 433, 443
Increase of prices after competition is crushed	Clark, 350; Archbold, 572
Special cuts to customers of competitors—	
Practice, existence, and instances	Clark, 331-345;
Davis, 357; Westgate, 366, 368-370; Rice, 704	
Special agents to reach	Monnett, 313
Agents not allowed to make	Clark, 339; Mathews, 494, 499
Reasons for and amount of differences	Mathews, 499, 500, 505

Producers. (See Crude oil):

Producers and Refiners' Oil Company:

Organization and effects on refiners and producers	Lockwood, 397;
Boyle, 442-445, 462	
Relations to Producers' Oil Company	Boyle, 462
Failure to pay dividends	Boyle, 442

Producers' Oil Company:

Purchase of stock by Standard Company	Lee, 270;
Archbold, 577, 578; Rogers, 584; Phillips, 590	
Carter, Colonel, relation to	Lee, 270;
Archbold, 577, 578; Rogers, 584; Phillips, 590	
Producers and Refiners' Oil Company, relation	to Boyle, 462; Rogers, 584

Producers' Protective Association:

Organization and purposes	Boyle, 428
Restriction of production by, 1887	Boyle, 428-432
Erection of refineries	Boyle, 441, 442
Organization of pipe lines by	Boyle, 462

Producers' Protective Union:

Organization and working	Boyle, 427, 428
--------------------------------	-----------------

Profits of refining (see, also, *By-products and cost of refining*):

Average profit per barrel, Standard Company	Lee, 273; Archbold, 532; Phillips, 591, 592
Ten cents per barrel sufficient	Lee, 269, 271
Not sufficient on refined oil alone	Boyle, 441
Effect of variations of price of crude	Boyle, 452, 456
Influences affecting, by-products, etc	Davis, 355, 360; Westgate, 368; Boyle, 441; Archbold, 571

Profits of Standard Oil Company:

Amount and rate estimated	Boyle, 480; Phillips, 591, 592
Relative, past and present	Archbold, 571
Not reduced by overproduction of crude oil	Boyle, 480
Relative of Standard and independents	Archbold, 532; Phillips, 602
Ohio oil	Monnett, 311; Archbold, 544; Rice, 735, 736
Pipe lines, high profits from	Davis, 360

Prosecutions. (See *Suits*.)**Pure Oil Company:**

History and form of organization—	
Described	Lee, 273; Westgate, 365; Boyle, 463-467; Archbold, 507-513
Capitalization	Phillips, 600
Different classes of shares and regulations concerning them	Boyle, 469, 470
Stock, value of	Phillips, 592
Purpose and nature—	
Purpose of organization	Lee, 273; Westgate, 365; Boyle, 463, 464, 469; Archbold, 509; Phillips, 596; Emery, 657, 659
Trust character of organization	Boyle, 443, 463, 464; Archbold, 507-513; Rogers, 584
Denied	Phillips, 591, 595-597; Emery, 657, 658
No monopoly sought by	Phillips, 597
Relations to other independent organizations	Rogers, 584
Attempt of Standard to control	Phillips, 590
Voting trust described and discussed	Boyle, 464-466; Archbold, 508-513; Phillips, 598; Emery, 657, 659
Object of	Phillips, 590, 596; Emery, 657, 659
Different from "trust" in character	Phillips, 591

Quality, grades, tests:

Canadian oil, relative quality	Gall, 681
Export oil, quality and tests	Lee, 274, 277; Emery, 623-626
English agitation as to test of American oil	Monnett, 319; Archbold, 546
Grades and brands—	
American Refining Company, grades manufactured by	Westgate, 366
Special brands made for special customers	Davis, 357; Westgate, 366
Different grades sold from same tank	Monnett, 313; Clark 331, 333, 338, 341, 342
Denied	Mathews, 492-495
Lubricating oils	Clark, 333, 334; Davis, 356, Mathews, 495
Ohio oil, inferiority discussed	Clark, 346; Gall, 681; Rice, 735, 736; Emery, 624, 625; Archbold, 532
Russian oil, inferior quality	Archbold, 546; Emery, 626, 632
Standard's product, deterioration of	Lee, 275, 291; Westgate, 372; Clark, 346; Archbold, 552

Tests of oil—

Tests of different grades	Clark, 333
Methods and significance of testing	Emery, 624, 625
Relative value and safety of oils of different tests	Emery, 624-626
Fire test does not determine illuminating quality	Mathews, 495
Tests in lamps, deceptive methods	Clark, 346
Denied	Mathews, 500-502

Railways:

Oil regions, first construction in	Boyle, 410, 411
Ownership of railways by Standard	Monnett, 318; Rice, 688, 703
Oil well supplies, excessive rate on	Lockwood, 391, 393
Report of shipments of oil by competitors	Westgate, 367; Emery, 614, 615
Standard agents, local, have no direct dealings with	Clark, 347

Railway discriminations and rebates (see also *South Improvement Company*):

Early history, generally—	Page.
Described.....	Lee, 263, 264, 287; Lockwood, 384, 385, 387, 399; Boyle, 453
Standard originator of system.....	Rice, 741
Rate of rebates referred to, 1872-1879.....	Emery, 647, 660
Violation by railways of contract of 1872.....	Emery, 641, 642
Raising of rates, 1874, letter regarding.....	Emery, 641
Rebate on refined to offset crude transportation.....	Emery, 641
Amounts during 1877-1879.....	Lee, 287; Lockwood, 386, 387; Boyle, 453; Rice, 696, 697
Method of calculating.....	Archbold, 514, 515; Emery, 660, 661
Avowed purpose of railways to maintain.....	Rice, 698, 699
Universality of practice before interstate commerce act.....	Archbold, 517, 526; Page, 756; Rockefeller, 795;
Offers originated with railway companies.....	Archbold, 527
Standard has never fixed rates for other shippers.....	Page, 789
Standard did not receive rebates on competitors' shipments.....	Page, 790; Rockefeller, 795
Rebates received by competitors of Standard.....	Page, 790; Rockefeller, 795
Existing conditions—	
Discussed.....	Lockwood, 396; Boyle, 487
Discriminations believed to exist.....	Lee, 292; Davis, 352; Phillips, 601
Standard Oil Trust dictates tariffs.....	Rice, 717
Denied.....	Page, 768
Pennsylvania Railroad, rebates paid by, up to 1893.....	Emery, 634, 645, 646
Despeaux v. Pennsylvania R. R., testimony referred to.....	Rice, 700-703; Page, 759-763
Baltimore and Ohio Railroad, letter showing existence.....	Emery, 637, 638; Page, 770
Baltimore and Ohio Southwestern, discriminations by.....	Davis, 351, 352
Damages assessed by Interstate Commerce Commission up to 1893.....	Lee, 287; Westgate, 380; Emery, 645, 646
Standard Oil officials, interest in railways.....	Monnett, 318; Rice, 688, 703; Page, 768
Corning field, high rates on crude oil from.....	Davis, 353
Illegality under common law.....	Rice, 708
Discrimination since interstate commerce act denied.....	Archbold, 516-528; Page, 778; Rockefeller, 795
Letters from railway officials denying existence.....	Archbold, 517-526; Rice, 747; Page, 787
Difficulty of securing evidence.....	Emery, 634, 635
Possibility of ignorance of discriminations by high officials.....	Emery, 642, 643
No difference in rates per hundred.....	Westgate, 372
Commission on freight received by Standard.....	Rice, 727
Denied.....	Page, 769
Proportion of oil tonnage to the total railway tonnage.....	Page, 787
Barrel shipments. (See <i>Tank cars</i> .)	
Campbell, R. B.—	
Discriminations in favor of.....	Emery, 635, 636
Contract with Pennsylvania Railroad, 1879.....	Emery, 662
Canada—	
Increase in rates to, and causes.....	Lee, 297; Westgate, 378, 379; Archbold, 573; Rogers, 582; Gall, 675-678, 683-685; Page, 788
Higher charge for shorter haul.....	Gall, 676-678
Difference in rates between American and Canadian oil.....	Gall, 675-677
Rebates believed to be paid to Standard.....	Gall, 676, 677
Appeal to railway committee.....	Gall, 676, 677, 685
Carload lots. (See <i>Tank cars</i> .)	
Competitors, rebates on oil shipped by—	
South Improvement Company, contract.....	Emery, 612-614
Rice case.....	Archbold, 556-559; Rice, 706-709
Payment, denied.....	Archbold, 579; Page, 790; Rockefeller, 795
Effects of discriminations—	
Chief cause of Standard Oil monopoly.....	Lockwood, 384, 394, 400; Phillips, 593; Emery, 609, 644, 645; Rice, 688, 741
Profits of Standard secured from, estimated.....	Lockwood, 386

Railway discriminations and rebates—Continued.**Effects of discriminations—Continued.**

	Page.
Practice, former, injurious to Standard Company	Archbold, 526, 528
Prices to customers reduced by reason of	Archbold, 526, 528; Rockefeller, 795
Competing refineries driven out of business by	Emery, 616, 644, 646
Chief obstacle to competition	Westgate, 382, 383
Fear to establish independent refineries on account of	Lockwood, 400
Differences in rates, effect on profits	Westgate, 378
Crude oil, price diminished by	Monnett, 325
Division of petroleum business—	
South Improvement Company, division among railways	Emery, 610, 611
National Transit Company, division between pipe lines and rail- ways	Emery, 663-667; Rice, 701, 702, 738, 739; Page, 759-763
Emery, Lewis—	
Twice driven out of business by	Emery, 616, 648
Rebates received by, in 1870	Emery, 670
Empire Transportation Company—	
Driven out by discriminations	Lee, 263; Rice, 696
Reasons for purchase by Standard Oil Company	Archbold, 513, 514
Discriminations by, in favor of certain refineries	Archbold, 514
Exclusive transportation of Standard's oil—	
Special arrangements made with railway managers for	Emery, 630, 631
Independent refineries and pipe lines—	
Discriminations in favor of competitors of Standard suspected ..	Archbold, 578
Denied	Phillips, 601
United States Pipe Line, freight rates to New York	Archbold, 529, 530 Phillips, 601; Emery, 655
Interstate commerce act—	
Secured by refiners	Lockwood, 389
Suits and decisions of commission, concerning rebates	Lee, 287; Westgate, 379, 380; Emery, 636; Rice, 714-716, 729
Relation of commission to Standard	Lockwood, 398
Disregard by railways and trusts	Lockwood, 389
Refusal to obey orders of commission	Westgate, 380
Baltimore and Ohio Railroad, letter regarding maintenance of rates, Emery, 637	
Evidence as to New Haven and Hartford underbilling case	Page, 771-774
Strictly obeyed by Standard	Archbold, 516, 527, 579; Page, 756, 778, 787
Logan, Emery & Weaver—	
Suit against Pennsylvania Railroad	Lee, 287; Emery, 633-635
Reasons for settling suit	Emery, 669
Lubricating oil—	
Preference in purchase from Standard ...	Lee, 292; Davis, 355, 364; Rice, 699
Effect on other buyers	Davis, 359
Excessive prices paid Standard for	Lee, 268, 291; Rice, 699, 700
Denied	Archbold, 516; Page, 757-759
Pipe lines—	
Rebates by railways on oil from certain	Boyle, 424 Emery, 641; Rice, 695, 696
Railway rates increased to prevent competition with	Monnett, 317; Rice, 739
Absorbed by means of discriminations	Lockwood, 386, 388
National Transit Company, contract of 1881 with railways	Rice, 701, 702
True character discussed	Page, 759-763
Contract of 1884	Emery, 663-667; Rice, 702; Page, 759-763
Still in force	Emery, 667
Reasons for	Rice, 738, 739; Page, 761
Amounts of rebates paid under contracts of 1881 and 1884 ..	Rice, 701, 702
Purchase of oil (see also <i>Lubricating oil</i>)—	
Preference in purchase of refined oil by railways	Davis, 359
Prices fixed by central railway officers	Clark, 347
Rates—	
Tariff rates changed by numerous circulars, etc.	Rice, 732
Changes made without warning to injure Standard's competitors, Rice, 719-727; Page, 769	
Changes made for convenience of stocking up	Rice, 719-727; Page, 769

Railway discriminations and rebate—Continued.**Rates—Continued.**

Page.

Transcontinental Association, correspondence with Standard concerning..... Rice, 719-727; Page, 769

Excessive—

Contract of pipe lines and railways for maintenance ... Emery, 663-667

Existing from oil regions to seaboard Emery, 667

Risk of shipment of oil, estimated..... Westgate, 378, 379;

Rice, 716; Page, 769

Discrimination between places of shipment—

Competitive points, disadvantage in rates from..... Lee, 266;

Monnett, 309, 316

Difference in rates for places at same distances Westgate, 374-377;

Rice, 710

Rates from Standard shipping points lower Westgate, 375, 376

Rates not ranged to favor Standard shipping points..... Page, 768

Advantage of Standard from nearer location Page, 770

Arbitrary rates discussed regardless of classifications and tariffs,

Westgate, 374-377

Increase of rates to competitors' points, instances of Monnett, 322

New York and New England points, excessive rates. Westgate, 374-379;

Page, 775-777

Through rates to New England points discontinued.. Westgate, 374-377

Reasons for, discussed..... Page, 776

Not due to influence of William Rockefeller Page, 777

Advantage of seaboard refineries in distributing to Eastern points,

Page, 776, 777

New York, rates per ton per mile in Westgate, 375

Whiting, Ind., lower rates on shipments from, referred to.. Monnett, 309;

Rice, 731

Reasons for Page, 777, 778

Pacific coast, increase of rates to Westgate, 376

Long and short haul—

Instances of discrimination in favor of terminal points.. Rice, 718, 719,

736-738

Stop-over privileges on tanks billed to terminal points..... Rice, 718

Refusal to give rates—

Independent shippers refused rates..... Westgate, 374; Lockwood, 401

Independent shipments not solicited by railways Westgate, 378

Fast freight lines refuse to handle independent oil Westgate, 374

Refusal of cars for carrying independent oil..... Emery, 648, 649

Receivers—

Discriminations by, case of George Rice Rice, 706-709

Remedies (See also *Railway discriminations* in general index)—

Competition possible under fair rates Lockwood, 385; Emery, 633

Fixed classification for oil advocated Westgate, 379

Courts afford no remedy..... Lockwood, 388, 389

Courts, charges against, unjustifiable Archbold, 553

Difficulty of compelling testimony concerning Emery, 635

Books, compulsory production, demanded..... Westgate, 383; Emery, 643

Rice, George—

Discriminations against..... Lockwood, 390, 401; Rice, 687-719

Discriminations by Southern railways up to 1888..... Rice, 704, 710-716

Only between tank and barrel shipments..... Page, 765

"Please turn another screw" letter..... Rice, 705, 747, 748; Page, 763, 764

Manner of securing letter..... Page, 785

Cleveland and Marietta Railway case..... Rice, 706-709

Discussed..... Archbold, 556-559

Referred to..... Page, 793

Discriminations by Louisville and Nashville Railroad..... Rice, 704, 705

Discussed..... Page, 763, 785

Forced to discontinue refining Rice, 729

Tank cars—**Rates compared with barrel shipments—**

Oil in barrels formerly carried at same rate..... Rice, 716

Rates per barrel lower than for barrel shipments..... Monnett, 229;

Lockwood, 388; Rice, 712, 734, 735

Railway discriminations and rebates—Continued.**Tank cars—Continued.****Rates compared with barrel shipments—Continued.**

	Page.
Comparative rates stated.....	Rice, 714, 715
Not specially in favor of Standard.....	Page, 785
Order requiring same rates for barrels.....	Page, 785, 789
Refusal of railways to obey.....	Page, 789
Justice of charging for weight of barrels.....	Page, 787
Standard ships largely in barrels.....	Page, 785, 789
Difficulty of purchase by independent refiners.....	Rice, 712
Railways should be required to furnish to shippers.....	Rice, 713
Injustice of requiring.....	Page, 785
Comparative advantages to railways—	
Discussed.....	Rice, 716, 717; Page, 785-767, 789
Relative quantity carried, as compared with box cars.....	Page, 787
Risk of shipping oil by, relative.....	Rice, 716, 717; Page, 789
Loading and unloading, comparative advantages.....	Rice, 717; Page, 787
Charge made for full capacity of car.....	Page, 786

Miscellaneous discriminations—

Discriminations in favor of Union Tank Line Company....	Monnett, 299
Denied.....	Archbold, 543
Reasons for returning free.....	Page, 767
Weight of oil shipped by Standard underbilled.....	Westgate, 373; Rice, 731
Denied.....	Archbold, 550, 552; Page, 770-773
Weight of oil per gallon underestimated.....	Rice, 732
Method of arriving at average weight.....	Page, 766
Contents officially stated in handbook....	Archbold, 551; Page, 766
Profits from mileage rate paid by railways.....	Rice, 732; Page, 778-784
Deduction of 62 gallons in estimating freights.....	Rice, 716
Reasons for.....	Page, 766
Charge for weight of car where used for storage.....	Rice, 718
Reasons for.....	Page, 769
Accepted only where consignees have facilities for unloading....	Rice, 618, 719
Justification of.....	Page, 789
Discriminations in favor of Standard's patent car.....	Rice, 719
Justification of.....	Page, 769
Stop-over privileges on oil billed to terminal points.....	Rice, 718
Charges on cotton-seed oil lower than on petroleum.....	Rice, 715, 716
Number owned by Standard and other owners.....	Page, 779-781
Union Tank Line Company, low profits.....	Page, 779-781

Terminal facilities—

Controlled by Standard.....	Lockwood, 388; Rice, 698
Facilities and advantages given to Standard.....	Monnett, 323
Allowances for loading and unloading oil.....	Monnett, 299

Tidewater Pipe Line Company—

Discriminations against.....	Rice, 696, 697
------------------------------	----------------

Underbilling of tank cars—

Weight of oil shipped by Standard underbilled.....	Westgate, 373; Rice, 731
Denied.....	Archbold, 550, 552; Page, 770-773
Correct weight furnished by Standard.....	Page, 774, 775
Underbilling by New Haven and Hartford.....	Rice, 731
Explained as due to errors.....	Page, 770-775
Shipments within the State.....	Page, 772-773

Refineries and refining (see, also, *Competing refineries, Cost of refining, Economics*):

Early establishment and numbers.....	Boyle, 407; Emery, 603
Fuel, early high prices.....	Boyle, 415, 418
Associations of refiners, early.....	Boyle, 420
Processes, early discovery.....	Boyle, 407; Emery, 624, 625
Methods of distillation and production, described.....	Emery, 624, 625
Amount of refined oil from crude.....	Emery, 626
Pennsylvania, superior advantages for location of.....	Lee, 268; Emery, 649, 650
Production of refined oil and proportion by countries, 1897.....	Archbold, 567

Rice, George (see, also, under *Railway discriminations*):

Negotiations with Standard for sale of property.....	Archbold, 559;
--	----------------

Rice, 749-754, 798; Page, 789

Experiences in competition.....	Rice, 704, 709, 711
---------------------------------	---------------------

Rockefeller, Andrews & Flagler:

History of firm Emery, 606

Seep Purchasing Agency:

Methods and relation to Standard Boyle, 436, 446

South Improvement Company:**Organization—**

Early history Boyle, 421-423

Charter in full Emery, 607, 608

Repeal of charter Emery, 639

Extensive powers Emery, 608

Railways, originated by Boyle, 421, 422

Officers interested in Rice, 691

Relations to Standard Lockwood, 400; Emery, 609, 610; Rice, 690, 691

List of shareholders and holdings Emery, 619; Rice, 690, 691

Discriminations and rebates—

Described Lee, 283; Lockwood, 385, 400; Rice, 689-695

Contract with Pennsylvania Railroad in full Emery, 610-615

Signature of contract Emery, 618

Contract never operative Archbold, 540, 560

Amount of rebates on shipments of competitors Rice, 694, 695

Agreement of railways to protect from competition Lockwood, 385;

Emery, 616; Rice, 691

Impossible for others to obtain equal advantages Emery, 616

Results—

Protest of producers against Emery, 639

Petroleum Producers' Union, report concerning Emery, 639

Crude oil, prices depressed by Lee, 283

Contract of railways with producers not to discriminate Lockwood, 401;

Emery, 640; Rice, 693

Violation of this agreement Emery, 641, 642

Standard did not continue methods of Archbold, 540, 553, 560

Speculation. (See *Crude oil, speculation.*)**Standard Oil Company, history, organization, etc.:****Standard Oil Company of Ohio—**

Organization, capital Monnett, 299

Incorporation and early history Emery, 606; Rockefeller, 795

Railway officers interested in Emery, 608

Dividends, accumulations and depreciation of property Monnett, 302, 303

Stock certificate, form of Monnett, 320

Tank cars, sale of Monnett, 302

Entrance into Standard Oil Trust Monnett, 300

Standard Oil Company of Pennsylvania—

Original shareholders of Emery, 619

Standard Oil Trust—

Corporations and firms entering Monnett, 300

Capitalization—

Actual value basis of trust certificates Monnett, 300

Excessive prices paid for refineries purchased Emery, 630

Valuation of plants entering, method Monnett, 300

Organization described Dodd, 799

Trust agreement in full 1220-1228

Trust certificates—

Amount issued, referred to Archbold, 543; Dodd, 799

Large proportion still outstanding Monnett, 303, 307

Amount outstanding and value Archbold, 574, 575

Value, present, according to income Monnett, 309

Trustees—

Stock assigned to Monnett, 300

Names of original Monnett, 301

Term of office Monnett, 301

Trust certificates, more than half owned by Monnett, 307

Constituent companies, controlled by Monnett, 307

Rockefeller, controlled by Monnett, 307

Existing organization—**Description—**

Present form described Archbold, 574, 575

Constituent companies and their relation to trust Monnett, 301,

307, 308, 322

Standard Oil Company, history, organization, etc.—Continued.**Existing organization—Continued.****Description—Continued.**

Page.

Harmony preserved despite dissolution of trust	Archbold, 574
Ohio organizations belonging to combination	Monnett, 298, 299
Transfer of trust certificates for stock in companies, form ..	Monnett, 320
Conversion into stock chiefly by large holders	Monnett, 307
Fractional shares receive no dividends, reasons	Monnett, 307; Rogers, 583, 587
New Jersey corporation, new, character of	Archbold, 574, 575
Articles of incorporation	1228
Rockefeller, J. D., control of trust and constituent companies by	Monnett, 307
Capitalization—	
Amount and value of stocks	Archbold, 575, 576; Boyle, 480; Monnett, 301; Dodd, 799
Dividends—	
Amount paid since 1882	Rice, 688, 689, 754; Dodd, 799
Standard Oil Company of Ohio, amount of	Monnett, 302
Amount of each since 1892	Monnett, 308
Constituent companies, statement of dividends, 1897	Monnett, 302
Form of resolution declaring on trust certificates	Monnett, 308
Stocks—	
Holdings of	Archbold, 538, 575
Value of	Monnett, 301; Boyle, 480; Archbold, 575, 579; Rice, 754
Not subject to speculation	Archbold, 575
Managers have not speculated in	Archbold, 575
Suits and prosecutions against combination:	
Books and records—	
Burning of, Ohio suits	Monnett, 303-306
Denied	Archbold, 543
Refusal to produce, Ohio suits	Monnett, 306, 307
Pennsylvania Railroad, production in Logan, Emery & Weaver case	Emery, 635, 669
Bribery of court officers—	
Alleged	Monnett, 313, 316
Denied	Archbold, 544
Testimony—	
Difficulty of securing	Clark, 345
Difficulty of proving railway discriminations ...	Emery, 634, 635; Rice, 705
Refusal to answer questions	Monnett, 298, 314, 315; Lockwood, 385
Witnesses should not be held to incriminate themselves	Monnett, 315
Specific suits—	
Commonwealth v. Pennsylvania Railroad, referred to	Emery, 660
Despeaux v. Pennsylvania Railroad, testimony referred to ...	Rice, 700-703; Page, 759-763
Commonwealth v. John D. Rockefeller, referred to	Emery, 662
Logan, Emery & Weaver, case of, summarized	Emery, 633-635, 669
Ohio v. Standard Oil Company, of Ohio, suit described	Monnett, 297, 298, 303-307
Present status	Monnett, 314, 315
Injurious to interests of State	Archbold, 543
Producers' Protective Union, suits against Standard	Boyle, 428
Rice, George—	
Payment of counsel against the Standard Company, by ..	Archbold, 561
Suits regarding discriminations	Archbold, 556-558; Rice, 707-710, 715
Tariff:	
Canada, amount and effects	Gall, 680, 682
Proposal to remove on monopolistic articles	Gall, 686
No oil imported into United States	Lee, 296
Taxation:	
Internal-revenue tax on oil—	
History	Boyle, 412, 417
Depreciated	Boyle, 417
Tests of oil. (See <i>Quality</i> .)	

Clearwater Pipe Company:	Page
Railway discriminations against.....	Rice, 696, 697
Value of stock.....	Boyle, 480
Turpentines:	
Gasoline mixed with.....	Clark, 331
Denied.....	Mathews
Union Tank Line Company (see also <i>Railway discriminations</i>):	
Nature and working.....	Monnett, 299
Tank cars referred to.....	Monnett, 302, 303
Discriminations in favor of.....	Monnett, 299
Denied.....	Archbold, 550, 552; Page, 778, 786
Excessive profits from mileage.....	Rice, 732
Low rate of profits.....	Page, 779, 784
Mileage from railways sole source of income.....	Page, 784
Relation to Standard.....	Page, 781-784
United States Pipe Line Company:	
Purpose of organization.....	Archbold, 507
Advantages to refiners and producers.....	Lee, 265
Failure to pay dividends.....	Boyle, 443
Relation to Producers and Refiners' Oil Company.....	Boyle, 462, 463, 471
Standard Oil Company, relation to.....	Archbold, 529
Purchase of stock by.....	Lee, 270;
Westgate, 370, 382; Archbold, 529, 577; Phillips, 590; Emery, 656	
Representation of Standard on board.....	Emery, 656
Voting trust, reasons for forming.....	Emery, 656
Contract in full.....	Archbold, 507, 508
Opposition of Standard and railways to laying of pipes.....	Lee, 264, 267;
Lockwood, 397; Boyle, 445, 474, 475; Archbold, 529;	
Phillips, 593; Emery, 650-655, 659	
Philadelphia, necessity of building to.....	Emery, 662
Freight rates from terminus to New York.....	Archbold, 529, 530; Emery, 655
Vacuum Oil Company:	
Mathews case, suits against, described.....	Archbold, 554, 556
Vandergrift & Forman Company:	
Relation to early pipe lines.....	Boyle, 426
Wages. (See <i>Labor</i> .)	
Water transportation:	
Early methods.....	Boyle, 410
Competition possible because of.....	Lee, 269
Canada, Standard employees for shipment to.....	Gall, 683
Relation of Standard and independents to.....	Monnett, 319
Competition lowers rates.....	Monnett, 316

